

**CITY OF STEVENSON
SMC 18 SHORELINE MANAGEMENT**

Regarding a request by FDM Development Inc. to construct up to 19 cabins that will serve as nightly and weekly lodging, as well as an event space to be used for private weddings, reunions, and parties. On-site parking, public pedestrian access, landscaping, and enhancements to the riverbank will also be provided. Additionally, a plat vacation is proposed to provide a more cohesive property under one ownership group.

SHORELINE SUBSTANTIAL
DEVELOPMENT PERMIT

January 22nd, 2024

PROPOSAL: The applicant requests a Shoreline Substantial Development Permit (SSDP) to construct up to 19 cabins that will serve as nightly and weekly lodging, as well as an event space to be used for private weddings, reunions, and parties. On-site parking, public pedestrian access, landscaping, and enhancements to the riverbank will also be provided. Additionally, a plat vacation is proposed to provide a more cohesive property under one ownership group.

APPLICANT: Brad Kilby, AICP
Harper Houf Peterson Righellis Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202
(503) 221-1131

ENGINEER: Bruce Haunreiter, P.E.
Harper Houf Peterson Righellis Inc.
1220 Main Street, Suite 150
Vancouver, WA 98660
(360) 750-1131

OWNER: Den Maldonado
FDM Development Inc.
PO Box 353
Ridgefield, WA 98642
(360) 719-0276

LOCATION: 968 SW Rock Creek Drive. 40 SW Cascade Avenue. The site has been assigned Tax Lot Numbers 02-07-01-0-0-1302-00 and 20-07-01-0-0-1303-00 by the County Assessor.

SHORELINE WATERBODY: Rock Cove

SHORELINE ENVIRONMENT DESIGNATION: Active Waterfront

SHORELINE USE PROPOSED: Commercial & Industrial (Water-Enjoyment), Land Division, Recreational (Trail Parallel to the Shoreline, View Platform), Transportation & Parking Facilities (Accessory Parking)

SHORELINE MODIFICATION PROPOSED: Vegetation Removal

BACKGROUND: Previously a veneer mill, the development site has been vacant for decades. Part of this time the site was under county ownership. In 1999, Skamania County divided the site into 3 legal lots. It remained vacant and was informally used for physical access to Rock Cove. In 2019, the County sold the property to an investment group. That investment group obtained a Mitigated Determination of Non-Significance under City File SEPA2020-01 for a proposal

involving “a three-phased development, beginning with the condo-style units. Phase 2 will add the commercial venue space and restore waterside portions of the property for enhanced, publicly-accessible observation and enjoyment. Phase 3 completes the development with the studio-sized units.”

A Shoreline Substantial Development Permit (SSDP) was issued for phase 1 of that proposal under City File SHOR2020-01. The SSDP was issued under the *Skamania County Shoreline Management Master Program* as it was adopted by the City in August 1975. The project was delayed during the COVID pandemic and SHOR2020-01 expired.

This proposal is for a new SSDP. The project’s site plan is different from the previous approval and construction is proposed under a single phase. The proposal is subject to the *Stevenson Shoreline Master Program* as it was adopted in March 2022.

STANDARDS, FINDINGS AND CONCLUSIONS

SMC 18 SHORELINE MANAGEMENT

Chapter 18.08 of the Stevenson Municipal Code is separated into 17 sections relating to management of shoreline water bodies (Columbia River, Rock Cove, Rock Creek). These sections adopt the Stevenson Shoreline Master Program (SMP) and detail procedures for obtaining approvals under the SMP. The SMP contains 7 chapters detailing submittal requirements, policies and regulations applicable when review activities are proposed in Shoreline Jurisdiction. Certain review activities require approval by the Shoreline Administrator, others require approval by the Stevenson Planning Commission, still others require approval by the Stevenson Planning Commission and the Washington Department of Ecology. The sections below relate to Shoreline Substantial Development Permits (SSDP), the mechanism involved when the Planning Commission approves review activities.

SMC 18.08 – Shoreline Management

Chapter 18.08 of the Stevenson Municipal Code (SMC) establishes procedural standards for implementation of the City’s shoreline management program. The chapter is separated into 17 sections detailing program administration and project review. There are 14 sections reviewed prior to issuance of a Substantial Development Permit, 6 of which are the responsibility of the applicant. Findings and conclusions related to each section are detailed below.

CRITERION §18.08.010 – ADMINISTRATION AUTHORIZED. “A. The “shoreline administrator” or “administrator” or that person’s designee, is hereby vested with: [5 specific duties/authorities]
B. The City of Stevenson Planning Commission is hereby vested with:
1. Authority to issue shoreline permits as required herein. “Shoreline permits” include shoreline substantial development permits, shoreline conditional use permits, and shoreline variances.”

FINDING(S): a. The proposal submitted involves activities, developments, and/or uses requiring issuance of a shoreline permit.
b. The Planning Commission is authorized to issue this shoreline permit.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.010 subject to the review conducted herein.

CRITERION §18.08.020 – SHORELINE MASTER PROGRAM AND MAP ADOPTION. “A. There is made a part of this chapter a

management plan which shall be known as the "Stevenson Shoreline Master Program," adopted March 17th, 2022, as well as a map which shall be officially known as the "Stevenson Shoreline Environment Designation Map." These documents shall be made available to the general public upon request.

B. The Shoreline Environment Designation Map generally shows the shoreline areas of the city which are under the jurisdiction of the Act and the shoreline environments as they affect the various lands and waters of the city. The precise location of shoreline jurisdiction and shoreline environment boundaries shall be determined according to the appropriate provisions of the SMP."

- FINDING(S):**
- a. The proposal is subject to review according to the provisions of the Stevenson Shoreline Master Program.
 - b. The proponents' application included precise locations of shoreline jurisdiction and shoreline environment boundaries pursuant to the Stevenson Shoreline Management Program.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.020 without conditions.

CRITERION §18.08.050 – APPLICABILITY OF PROVISIONS, SHORELINES DESIGNATED. "A. Unless specifically exempted by state statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and the Stevenson Shoreline Master Program.

B. This chapter applies to all areas within shoreline jurisdiction as designated in the SMP, including:

- 1. That portion of the Columbia River shoreline which lies within city limits. This chapter will apply to any Columbia River shoreline which lies within city limits. This chapter will apply to any Columbia River shoreline which is annexed into the city. The entire Columbia River shoreline is a Shoreline of State-Wide Significance;
- 2. The Rock Cove shoreline;
- 3. That portion of the Rock Creek shoreline which lies within city limits. This chapter will apply to any Rock Creek shoreline which is annexed into the city.
- 4. Any portion of the Ashes Lake shoreline which is annexed into the city; provided, the annexed shoreline has been predesignated within the SMP."

- FINDING(S):**
- a. The proposal is not specifically exempted by state statute.
 - b. The proposal is located within the shoreline jurisdiction of a portion of Rock Cove lying within city limits.
 - c. The proposal must conform to the Shoreline Management Act and the Stevenson Shoreline Management Program.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.050 without conditions.

CRITERION §18.08.080 – SHORELINE PERMITS & APPROVALS—REQUIRED WHEN. "A. Any person wishing to undertake activities requiring a Minor Project Authorization or a Shoreline Permit (Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance) within shoreline jurisdiction shall apply to the Shoreline Administrator for appropriate approval.

B. In addition to the provisions contained herein, the authorization to undertake use or development in shoreline jurisdiction is subject to review according to the applicability, criteria, and process described in the SMP, especially SMP Chapter 2."

- FINDING(S):**
- a. The proponents wish to undertake an activity requiring a Shoreline Permit and submitted a complete application for a Substantial Development Permit on August 11th, 2023 and supplemented through December 11, 2023.
 - b. Review according to SMP Chapter 2 is addressed below.

CONCLUSIONS OF LAW: This will comply with SMC 18.08.080 without conditions.

CRITERION §18.08.100 – PERMITS—APPLICATION PROCEDURE. "A. Any person required to comply with the Shorelines

Management Act of 1971 and this chapter shall obtain the proper application forms from the city planning department. The completed application shall then be submitted to the shoreline administrator.

B. Upon receipt of an application, the shoreline administrator shall determine which category of proposal has been submitted:

1. Category A applications involve requests for all shoreline permits, including a) Shoreline Substantial Development Permits, b) Shoreline Conditional Use Permits, c) Shoreline Variances, and d) revisions to any previously authorized Category A proposal.

2. Category B applications involve requests for a) a Minor Project Authorization issued pursuant to WAC 173-27-050, b) limited utility extensions and bulkheads approved pursuant to WAC 173-27-120, c) revisions to any previously authorized Category B proposal, and d) extensions of shoreline substantial development permits and Minor Project Authorizations”

C. After determining the application category, the administrator will then review the application for completeness according to this chapter and the SMP.

FINDING(S): a. The proponents submitted a complete application on August 11, 2023 and supplemented through December 11, 2023.
b. Upon submission of the application, the Shoreline Administrator determined the application as complete for a proposal involving a Category A Shoreline Permit.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.100 without conditions.

CRITERION §18.08.110 – PERMITS—NOTICE PUBLICATION. “A. Within 14 days after a determination of completeness under SMC 18.08.100, the Shoreline Administrator shall provide a notice of application for all Category A proposals as follows:

1. Content. The content of the notice shall be identical to that set forth in WAC 173-27-110(2). In addition, the notice shall state the time and place of the open record public hearing to be held for the Category A proposal.

2. On-Site Notice. No less than 2 notices shall be posted by the administrator in conspicuous places on or adjacent to the subject property.

3. Mailing. The notice shall be mailed to a) the land owner, b) all property owners of record within a radius of 300 feet of the exterior boundaries of the subject property, c) all agencies with jurisdiction per chapter 43.21C RCW, and d) individuals, organizations, tribes, and agencies that request such notice in writing.

4. Newspaper. The notice shall be published at least once a week, on the same day of the week, for two consecutive weeks in a newspaper circulating and published within the city.

B. Category B proposals reviewed under WAC 173-27-120 require the same notice of application as Category A proposals. All other Category B proposals do not require notice of application.”

FINDING(S): a. The notice prepared for this proposal includes the content set forth in WAC 173-27-110(2).
b. The notice was posted on site on August 22, 2023. On August 26, 2023 staff observed that the notice was removed. On August 29, 2023, the notices were replaced.
c. The notice was mailed to the required recipients on or about August 22, 2023.
d. The notice was published in *The Columbian* on August 29 and September 5, 2023.
e. Based on the continuation of the hearing, new notices were posted (November 16), mailed (November 16), and published (November 22 & 29).

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.110 without conditions.

CRITERION §18.08.120 – PERMITS—FEES. “A. An application for an approval under this chapter shall be accompanied by an application fee payable to the city in an amount established and periodically adjusted by the city council.

B. Payment of an application fee does not guarantee that a permit will be issued.

FINDING(S): a. The proponents submitted the applicable fee on August 11th, 2023.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.120 without conditions.

CRITERION §18.08.140 – PERMITS—INTERESTED PARTIES—COMMENT PERIOD. “A. For any Category A proposal, any member of the public may provide written comments for thirty days after the last publication of the notice of application.
B. For Category B proposals reviewed under WAC 173-27-120, any member of the public may provide written comments for twenty days after the last publication of the notice of application.
C. During the public comment periods established in this section, any member of the public may also request to be notified of the action taken by the city.

FINDING(S): a. The City received written comments from:
1. The Washington Department of Ecology,
2. The Washington Department of Fish & Wildlife.
b. The City received requests to be notified of action from: (none).

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.120 without conditions.

CRITERION §18.08.180 – PLANNING COMMISSION ACTION—CATEGORY A PROPOSALS. “A. No authorization to undertake proposed Category A use or development shall be granted by the planning commission until at least one open record public hearing has been held and the proposed use and development is determined to be consistent with the policy and provisions of the SMA and the SMP.
B. At the public hearing scheduled for consideration of a Category A proposal by the planning commission, the commission shall, after considering all relevant information available and evidence presented to it, either grant, conditionally grant, or deny the permit.
C. In granting or revising a permit, the commission may attach thereto such conditions, modifications and restrictions regarding the location, character and other features of the proposed development as it finds necessary. Such conditions may include the requirement to post a performance bond assuring compliance with other permit requirements, terms and conditions.
D. The decision of the planning commission shall be the final decision of the city on all applications for Category A proposals. The commission shall render a written decision including findings, conclusions and a final order, and transmit copies of its decision to the persons who are required to receive copies of the decision pursuant to Section 18.08.190.

FINDING(S): a. The Planning Commission held an open record public hearing on October 9, 2023 which was continued to November 13, 2023 and December 1, 2023.
b. The open record for this application review was closed after the final public hearing on December 11th, 2023 whereat the proposal was approved subject to the adoption of findings.
c. This document catalogues the Planning Commission’s consideration of information available and evidence presented regarding this Category A proposal.
d. The Planning Commission has not required the posting of a performance bond to assure compliance with the permit.
e. This document constitutes the written decision of the Planning Commission and the City’s final decision on this permit.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.120 upon satisfaction of the conditions contained herein.

CRITERION §18.08.185 –SHORELINE ADMINISTRATOR ACTION—CATEGORY B PROPOSALS. [THIS SECTION APPLIES TO A

DIFFERENT TYPE OF PROJECT THAN HAS BEEN PROPOSED. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §18.08.190 –NOTIFICATION AND FILING OF ACTION. [THIS SECTION APPLIES TO CITY PROCEDURES AFTER A DECISION IS MADE. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §18.08.200 – APPEAL FROM PERMIT DECISION. “Any person aggrieved by the granting or denying of a substantial development permit, conditional use permit, variance, or by the rescinding of a permit pursuant to the provisions of this chapter may seek review from the shorelines hearing board. Such an appeal must be filed as a request for the same within twenty-one days of receipt of the final order and by concurrently filing copies of such request with ecology and the attorney general’s office. The state hearings board regulations of RCW 90.58.180 and Chapter 461-08 WAC apply. A copy of such appeal notice shall also be filed promptly with the City of Stevenson. Upon issuance of a final order after an appeal, the city shall provide said order to ecology according to WAC 173-27-130(10).

- FINDING(S):
- a. The appeal process applies to the proponent and any person aggrieved by the City decision.
 - b. The appeal period coincides with the timelines established in SMC 18.08.210.
 - c. A condition is appropriate to provide guidance on this procedure.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.120 upon satisfaction the condition below.

CONDITIONS:

- 1. Timely appeals shall be filed by the proponent within 21 days of Receipt of the Final Decision.

CRITERION §18.08.205 –APPEAL FROM ADMINISTRATOR DECISION. [THIS SECTION APPLIES TO A DIFFERENT TYPE OF PROJECT THAN HAS BEEN PROPOSED. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §18.08.210 – PERMIT ISSUANCE AND EFFECT. “A. The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6).
B. Each shoreline permit shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing with ecology, per WAC 173-27-190 or as subsequently amended, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated.
C. Issuance of a permit does not obviate the applicant from meeting requirements of other federal, state and county permits, procedures and regulations.

- FINDING(S):
- a. A condition is appropriate to incorporate SMC 18.08.210(B) into the permit decision.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.210 upon satisfaction of the conditions contained herein.

CONDITIONS:

- 2. **Construction pursuant to this Permit shall not begin** and is not authorized until 21 days from the date of filing with Ecology, per WAC 173-27-190 or as subsequently amended, or until all review proceedings initiated within 21 days from the date of such filing have been terminated.

CRITERION §18.08.220 – PERMIT DURATION—EXTENSIONS. “A. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of an authorization or shoreline permit issued under this chapter. However, the city may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to ecology and parties of record on the original authorization or permit.
B. Authorization to conduct development activities shall terminate five years after the effective date of an authorization or shoreline permit. However, the city may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notices of the proposed extension is given to ecology and parties of record on the original authorization or permit.
C. Upon a finding of good cause, based on the requirements and circumstances of the specific project proposed and consistent with the policies and provisions of the SMP and WAC 173-27, the city may adopt different time limits from those set forth above as a part of action on a shoreline permit.
D. The time periods in this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

FINDING(S):

- a. Timelines differing from this set forth in SMC 18.08.220(A) & (B) are not necessary for this permit.
- b. Conditions are appropriate to incorporate the timelines of SMC 18.08.220(A), (B), and (D) into the permit decision.
- c. Conditions are necessary to ensure permit timelines continue to be met in the face of unforeseen delays under SMC 18.08.220(D).

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.220 upon satisfaction of the conditions contained herein.

CONDITIONS:

3. **Within 2 years of the effective date of this permit,** construction activities associated with this permit shall commence or a written request for a maximum 1-year extension shall be submitted to the City. If construction activities do not commence accordingly, the permit shall expire.
4. **Within 5 years of the effective date of this permit,** all development activities associated with this permit shall terminate or a written request for a maximum 1-year extension shall be submitted to the City.
5. **Prior to the start of construction,** the proponent shall submit the City documentation sufficient to establish an accurate timeline of any activity justifying an extension of the permit’s duration based on SMC 18.08.220(D). No such documentation will be accepted by the City after construction commences.

CRITERION §18.08.235 –VARIANCE AND CONDITIONAL USE PERMITS—ECOLOGY REVIEW. [THIS SECTION APPLIES TO A DIFFERENT TYPE OF PROJECT THAN HAS BEEN PROPOSED. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §18.08.250 – ENFORCEMENT—PENALTIES. “All provisions of this chapter shall be enforced by the shoreline administrator and/or a designated representative. The enforcement procedures and penalties contained in WAC 173-27 and RCW Chapter 90.58 are hereby incorporated by reference.”

FINDING(S): a. A condition is appropriate to incorporate SMC 18.08.250 into the permit decision.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.250 upon satisfaction of the conditions contained herein.

CONDITIONS:

6. **Throughout the Duration of this Permit**, the proponents shall provide reasonable access to the Shoreline Administrator to ensure enforcement of this permit and the SMP.
7. **Throughout the Duration of Construction**, the proponents shall contact the Shoreline Administrator prior to constructing any change to the proposal to determine whether the change should be permitted and whether the permission should be through a revision to this Minor Project Authorization or through a Shoreline Permit.
8. **Prior to the Start of Construction** the applicants shall provide construction documents for approval by the Shoreline Administrator. The review shall be limited, ensuring the project's consistency with the proposal and ensuring the conditions of City permits have been appropriately incorporated. Should the Administrator fail to respond within 7 days of receipt, the construction documents shall be presumptively approved.

Stevenson Shoreline Master Program

The *Stevenson Shoreline Master Program* (SMP) is adopted by SMC 18.08.020 Chapter 18.08. The program is divided into 7 chapters. Each chapter contains several sections of standards addressing specific aspects of shoreline management. Findings and conclusions related to each section are detailed below.

CHAPTER 1 - INTRODUCTION

CRITERIA §1.1, §1.2, §1.3.1, §1.3.2, §1.4, §1.6, §1.7, §1.8, §1.9, §1.10. [THESE SECTIONS CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §1.3.3 – SHORELINE ENVIRONMENT DESIGNATION MAP. "The approximate shoreline jurisdictional area and the Shoreline Environment Designations (SEDs) are delineated on the map(s), hereby incorporated as a part of this SMP that shall be known as the "Stevenson Shoreline Environment Designation Map" (See Appendix A). The boundaries of the shoreline jurisdiction on the maps are approximate. The actual extent of shoreline jurisdiction for specific project proposals shall be based upon the actual location of the OHWM, floodway, and the presence and delineated boundaries of associated wetlands as determined after an on-site inspection and in accordance with SMP Sections 1.3.1 and 1.3.2, Chapter 3, Chapter 7, and RCW 90.58.030."

- FINDING(S):
- a. The Critical Areas Report prepared by Ecological Land Services, Inc. and submitted with this proposal includes a map of shoreline jurisdiction based on the actual location of the OHWM as observed in the field.
 - b. The proposal is located within an area designated as Active Waterfront and extends through an area designated Aquatic on the Stevenson Shoreline Environment Designation Map.

CONCLUSIONS OF LAW: This project will comply with SMP 1.3.2 without conditions.

CRITERION §1.5 – SHORELINE MASTER PROGRAM APPLICABILITY TO DEVELOPMENT. "The SMP shall apply to all land and waters under the jurisdiction of Stevenson as identified in SMP Sections 1.3.1, 1.3.2, and 1.3.3 above.

This SMP shall apply to every person (i.e., individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated) that uses, develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the SMA. The SMP shall not apply to federal agency activities on federal lands.

See SMP Chapter 2 below for more information on when a permit is required. The SMP applies to all review activities (i.e., shoreline uses, development, and modifications) proposed within shoreline jurisdiction. Some review activities under this program do not require a shoreline substantial development permit. However, such activities must continue to demonstrate compliance with the policies and regulations contained in this SMP in accordance with WAC 173-27-040(1)(b) and be authorized by a minor project authorization."

FINDING(S): a. The SMP is applicable to this proposal by this proponent, for a project occurring within the jurisdiction of Stevenson as identified herein.

CONCLUSIONS OF LAW: This project will comply with SMP 1.5 without conditions.

CHAPTER 2 – ADMINISTRATIVE PROVISIONS

CRITERIA §2.1, §2.2, §2.3.2, §2.4.1, §2.5, §2.7, §2.8, §2.9. [THESE SECTIONS CONTAIN GUIDANCE APPLICABLE TO ALL AND/OR DIFFERENT TYPES OF PROJECT THAN HAS BEEN PROPOSED. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §2.3.1 – PRE-APPLICATION CONFERENCE—REQUIRED. "A pre-application conference for all proposed review activities within shoreline jurisdiction is required. The Shoreline Administrator may waive this requirement if the applicant requests such in writing and demonstrates that the usefulness of a pre-application meeting is minimal."

FINDING(S): a. A series of pre-application conferences, emails, and phone calls throughout the Spring and Summer of 2023 occurred in advance of this project's application.

CONCLUSIONS OF LAW: This project will comply with SMP 2.3.1 without conditions.

CRITERION §2.3.3 – DETERMINATION OF ORDINARY HIGH WATER MARK. "For any development where a determination of consistency with the applicable regulations requires a precise location of the OHWM, the mark shall be located precisely with assistance from Ecology and City staff, or a qualified professional, and the biological and hydrological basis for the location shall be included in the development plan. Where the OHWM is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest OHWM of a shoreline."

FINDING(S): a. The Critical Areas and FWHCA Report prepared by Ecological Land Services, Inc., a qualified professional, and submitted with this proposal includes a determination of the OHWM as observed in the field.

CONCLUSIONS OF LAW: This project will comply with SMP 2.3.3 without conditions.

CRITERION §2.4.2 – APPLICATION CONTENTS. [THIS SECTION CONTAINS 2 LISTS OF REQUIRED SUBMITTALS FOR APPROVAL OR PROJECTS IN SHORELINE JURISDICTION AND PROVIDES THE SHORELINE ADMINISTRATOR AUTHORITY TO REQUIRE ADDITIONAL INFORMATION. FOR BREVITY, THE FULL TEXT OF THIS SECTION IS OMITTED.]

FINDING(S): a. The findings of SMC 18.08.100 related to the acceptance of a complete application are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.3.3 without conditions.

CRITERION §2.4.3 – APPLICATION REVIEW & PROCESSING. “1. When an application is deemed complete, the Administrator may request third-party peer review of any report, assessment, delineation, or mitigation plan by a qualified professional and/or state or federal resource management agency. Such request shall be accompanied by findings supporting the Administrator’s decision, which is appealable to the City Council. The City may incorporate recommendations from such third-party reports in findings approving or denying an application. In general, the cost of any third-party review will be the responsibility of the applicant; however, where a project would provide a beneficial public amenity or service, on a case-by-case basis by City Council action, costs may be shared by the City.
2. The Shoreline Administrator shall review the information submitted by the applicant and, after an optional site visit shall determine the category of project proposed according to SMC 18.08.100.
3. Applications shall be processed according to the timelines and notice procedures listed in SMC 18.08.100 through SMC 18.08.190, the review criteria of this Chapter, and WAC 173-27.
4. The City shall use an existing, or establish a new, mechanism for tracking all project review actions in shoreline areas, and a process to evaluate the cumulative effects of all authorized development on shoreline conditions.”

- FINDING(S):**
- a. Third-party peer review occurred during the 2020 permitting process. No additional third-party peer review was deemed necessary by the Shoreline Administrator for this proposal.
 - b. The Shoreline Administrator determined this project is a Category A Shoreline Substantial Development Permit.
 - c. The findings of related to the Stevenson Municipal Code related to application and review procedures are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.4.3 without conditions.

CRITERION §2.6.1 – SHORELINE SUBSTANTIAL DEVELOPMENT PERMITS – PURPOSE – APPLICABILITY – CRITERIA. “The purpose of a Shoreline Substantial Development Permit (SSDP) is to assure consistency with the provisions of the SMA and this SMP. In authorizing a SSDP, the City may attach conditions to the approval as necessary to assure the project is consistent with all applicable standards of the SMA and this SMP. The following criteria shall assist in reviewing proposed SSDPs:
1. SSDPs may not be used to authorize any use that is listed as conditional or prohibited in a shoreline designation.
2. SSDPs may not be used to authorize any development and/or use which does not conform to the specific bulk, dimensional, and performance standards set forth in this SMP.
3. SSDPs may be used to authorize uses which are listed or set forth in this SMP as permitted uses.
4. To obtain a SSDP, the applicant must demonstrate compliance with all of the following review criteria as listed in WAC 173.27.150:
a. That the proposal is consistent with the SMA;
b. That the proposal is consistent with WAC 173-27 – Shoreline Management Permit and Enforcement Procedures;
and
c. That the proposal is consistent with this SMP and SMC 18.08 – Shoreline Management.”

- FINDING(S):** a. The sum of the findings contained herein are relevant to review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.6.1 upon fulfillment of the conditions contained herein.

CRITERION §2.6.2 – SHORELINE SUBSTANTIAL DEVELOPMENT PERMITS – PERMIT PROCESS. “Proposals for SSDPs are subject to the City’s permit procedures articulated in SMC 18.08 – Shoreline Management and the State’s permit procedures articulated in WAC 173-27 – Shoreline Management Permit and Enforcement Procedures.”

- FINDING(S):** a. The findings of SMC 18.08 are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.6.2 without conditions.

CHAPTER 3 – SHORELINE ENVIRONMENT DESIGNATIONS

CRITERIA §3.1, §3.2.1, §3.2.2, §3.2.3, §3.2.4. [THESE SECTIONS CONTAIN GUIDANCE APPLICABLE TO ALL AND/OR DIFFERENT LOCATIONS THAN HAS BEEN PROPOSED. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §3.2.5 – ACTIVE WATERFRONT ENVIRONMENT. “1 Purpose: The purpose of the Active Waterfront Environment is to recognize the existing pattern of mixed-use development and to accommodate new water-oriented commercial, transportation, recreation, and industrial uses while protecting existing ecological functions of open space, floodplain, and other sensitive lands and restoring ecological functions in areas that have been previously degraded.

2. Location Criteria: The Active Waterfront SED may apply to shorelands that 1) currently support or 2) are appropriate and planned for water-oriented commercial, transportation, recreation, and industrial development that is compatible with protecting or restoring of the ecological functions of the area.

3. Management Policies:

a. Prefer uses that preserve the natural character of the area or promote preservation of open spaces and sensitive lands, either directly or over the long term. Allow uses that result in restoration of ecological functions if the use is otherwise compatible with the purpose of the environment and the setting.

b. Give priority to water-oriented uses, with first priority to water-dependent, then second priority to water-related and water-enjoyment uses. For shoreline areas adjacent to commercially navigable waters, give highest priority to water-dependent uses.

c. Prohibit new non-water-oriented uses, except: i) As part of mixed use development; ii) In limited situations where they do not conflict with or limit opportunities for water-oriented uses; iii) On sites where there is no direct access to the shoreline; iv) As part of a proposal that result in a disproportionately high amount of restoration of ecological functions.

d. Assure no net loss of shoreline ecological functions as a result of new development through shoreline policies and regulations. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply in accordance with any relevant state and federal law.

e. Require public visual and physical access and implement public recreation objectives whenever feasible and where significant ecological impacts can be mitigated.”

FINDING(S):

- a. The proposal is located in the Active Waterfront Shoreline Environment Designation (SED) and involves water-enjoyment commercial, a use preferred in the SED.
- b. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.
- c. Public visual and physical access is feasible on this site where significant ecological impacts can be mitigated and avoided.

CONCLUSIONS OF LAW: This project will comply with SMP 3.2.5 without conditions.

CHAPTER 4 – GENERAL PROVISIONS FOR ALL SHORELINE ACTIVITIES

CRITERIA §4.1, §4.4.5, §4.5, §4.8. [THESE SECTIONS CONTAIN GUIDANCE APPLICABLE TO ALL AND/OR DIFFERENT LOCATIONS OR PROJECT TYPES THAN HAS BEEN PROPOSED. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §4.2.3 – [CULTURAL RESOURCES] REGULATIONS. “1 Site Inspections, Evaluations, and Surveys – Required When:

a. When a shoreline use or development is within 500 feet of an area documented to contain, or likely to contain, archaeological, cultural, or historic resources based on information from DAHP, a prior archaeological report/survey, or a state or federal register, the applicant shall provide a site inspection and evaluation report prepared by a qualified cultural resource professional prior to issuance of any Shoreline Permit or approval, including a Minor Project Authorization. Work may not begin until the inspection and evaluation have been completed, and the City has issued its permit or approval.

b. A survey to identify archaeological, cultural, and historic resources 50 years of age and older may be required to be conducted based on the recommendations of a cultural resources professional contained in the site inspection and

evaluation report. The cultural resource survey process shall conform to the most recent update of DAHP's Standards for Cultural Resource Reporting found at this link:

<https://dahp.wa.gov/sites/default/files/CR%20Update%20August%202018%20final.pdf>

2. Cultural Resources Avoidance. If an archaeological site inspection or evaluation identifies the presence of significant archaeological, cultural, or historic resources at the site, the applicant shall first seek to avoid impacts to the resource.

3. Cultural Resources Management Plan. If an archaeological site inspection or evaluation identifies the presence of significant archaeological, cultural, or historic resources that will be impacted by a project and if recommended by a qualified cultural resource professional, a cultural resource management plan shall be prepared prior to the City's approval of the project. A qualified cultural resource professional(s) shall prepare the cultural resource management plan. Cultural resource management plans shall be developed in consultation with DAHP and affected Tribes. In addition, a permit or other requirement administered by DAHP pursuant to RCW 27.44 and RCW 27.53 may apply. If the cultural resource professional determines that impacts to an archaeological, cultural, or historic resource can be adequately avoided by establishing a work limit area within which no project work or ground disturbance may occur, then a cultural resources management plan is not required.

4. Inadvertent discovery. If any item of possible archaeological interest (including human skeletal remains) is discovered on site during construction or site work, all the following steps shall occur:

a. Stop all work in the immediate area (initially allowing for a 100' buffer, this number may vary by circumstance) immediately;

b. Implement reasonable measures to protect the discovery site, including any appropriate stabilization or covering;

c. Take reasonable steps to ensure the confidentiality of the discovery site;

d. Take reasonable steps to restrict access to the site of discovery;

e. Notify the City, DAHP, and Yakama, Nez Perce, Warm Springs, Umatilla, and Cowlitz tribes of the discovery.

f. A stop-work order will be issued.

g. The Shoreline Permit will be temporarily suspended.

h. All applicable state and federal permits shall be secured prior to commencement of the activities they regulate and as a condition for resumption of development activities.

i. Development activities may resume only upon receipt of City approval.

j. If the discovery includes human skeletal remains, the Skamania County Coroner and local law enforcement shall be notified in the most expeditious manner possible. The County Coroner will assume jurisdiction over the site and the human skeletal remains, and will make a determination of whether they are crime-related. If they are not, DAHP will take jurisdiction over the remains and report them to the appropriate parties. The State Physical Anthropologist will make a determination of whether the remains are Native American and report that finding to the affected parties. DAHP will handle all consultation with the affected parties as to the preservation, excavation, and disposition of the remains "

FINDING(S):

a. A cultural resources study, was prepared for this site on February 4, 2020 by Applied Archaeological Research, Inc. which recommended an inadvertent discovery plan be followed.

b. In 2020 under City File SEPA2020-01, a Mitigated Determination of Nonsignificance (MDNS) was issued on the basis of that report, and a mitigation measure incorporated an Inadvertent Discovery Policy into the project's expectations. The City received comments on the MDNS from DAHP requesting preparation and implementation of a monitoring plan. In its final decision on the Shoreline Substantial Development Permit under the old SMP, the City Council disregarded the DAHP request and no monitoring plan was required.

c. Construction activities completed under the 2020 approvals involved installation of underground utilities.

d. The Planning Commission considered and ultimately rejected conditioning the project based on submittal of an archaeological monitoring plan for review by the Department of Archaeology and Historic Preservation.

CONCLUSIONS OF LAW:

This project will comply with SMP 4.2.3 without conditions.

CRITERION §4.3.3 – [ENVIRONMENTAL PROTECTION & NO NET LOSS] REGULATIONS.

“1. Mitigation Sequence. In order to ensure that review activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, applicants shall describe how the proposal will follow the sequence of mitigation as defined below:

- a. Avoid the impact altogether by not taking a certain action or parts of an action;
 - b. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps (e.g., project redesign, relocation, timing to avoid or reduce impacts, etc.);
 - c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
 - d. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
 - e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - f. Monitor the impact and the compensation projects and take remedial or corrective measures when necessary.
2. The mitigation sequence is listed in the order of priority. Applicants shall consider and apply lower priority measures only where higher priority measures are determined to be infeasible or inapplicable.
3. SEPA Compliance. To the extent SEPA applies to a proposal, the analysis of environmental impacts and mitigation related to the proposal shall be conducted consistent with WAC 197-11—SEPA Rules and SMC 18.04—Environmental Policy.
4. Cumulative Impacts. As part of the assessment of environmental impacts subject to this SMP, new uses, developments, and modifications shall evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions. Evaluation of cumulative impacts shall consider:
- a. Current circumstances affecting the shorelines and relevant natural processes;
 - b. Reasonably foreseeable future development and use of the shoreline; and
 - c. Beneficial effects of any established regulatory programs under other local, state, and federal laws.
5. Mitigating for Impacts. When impacts related to a proposal require mitigation, the following shall apply:
- a. The proposal shall achieve no net loss of ecological functions.
 - b. The City shall not require mitigation in excess of that necessary to assure the proposal 1) results in no net loss of ecological function and 2) does not have a significant adverse impact on other shoreline functions fostered by this SMP.
 - c. Compensatory mitigation shall give preference to measures that replace the impacted function directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation located elsewhere in the same reach or watershed that addresses limiting factors or identified critical needs for shoreline resource conservation may be authorized, including appropriate actions identified in the Restoration Plan.
 - d. Unless waived by the City, authorization of compensatory mitigation shall require appropriate safeguards, terms or conditions (e.g. performance bonding, monitoring, conservation covenants) as approved by the City Attorney and necessary to ensure no net loss of ecological functions.
6. Environmental protection and no net loss shall be achieved by complying with the combination of use regulations, shoreline setbacks, critical area buffers, and vegetation removal restrictions:
- a. Shoreline Allowances & Setbacks – Table 5.1 establishes a list of permitted, conditional, and prohibited uses in each shoreline environment designation (SED). This table also establishes the minimum shoreline setback applicable to each use, activity, or development within each SED where development cannot occur; and
 - b. Critical Areas Buffers – Section 4.4 Critical Area provisions, including separately incorporated SMC 18.13 provisions that establish Wetland and Riparian buffer standards as additional areas where mitigation sequencing must be applied and unavoidable impacts must be mitigated; and
 - c. Modifications & Vegetation – Shoreline modification standards, vegetation standards, and prescriptive mitigation measures of Chapter 6 apply to all vegetation impacts occurring within shoreline jurisdiction.

FINDING(S):

- a. The application contains detailed narratives, stormwater, landscape and mitigation plans contending consistency with this criterion.
- b. Via written comment, the Washington Department of Ecology contended the applicant had not met its the burden of proof in describing the mitigation sequence was followed for in the site plan’s first iteration.
- c. The mitigation sequence—more fully described through supplemental

information submitted into the record prior to the December 11th public hearing on this application—involved the elimination of one cabin from the site program and minimized impacts from remaining cabins.

d. Follow-up written comment from the Department of Ecology indicated the changes adequately addressed the previous comments.

e. The mitigation sequence required of this section has been appropriately followed.

f. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 4.3.3 upon fulfillment of the conditions contained herein.

CRITERION §4.4.3 – GENERAL CRITICAL AREA REGULATIONS. “1 The City of Stevenson shall not issue any Shoreline Permit (i.e., SSDP, SCUP, shoreline variance) or Minor Project Authorization (MPA), or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a shoreline critical area or associated buffer, without first assuring compliance with the requirements of this section and SMC 18.13, as applicable.

2. Early Disclosure and Verification. When an applicant submits an application for any development proposal, it shall indicate whether any critical areas or buffers are located on or within 300 feet of the site. The presence of critical areas may require additional studies and time for review. However, the City shall review proposals involving critical areas protection under a single application, timeline, fee, and permit as the required Shoreline Permit or MPA. Early disclosure of critical areas will reduce delays during the permit review process. If the applicant states there are no known critical areas, the City should review and confirm whether critical areas exist, and, if critical areas are present, require the applicant to complete a critical areas report.

3. Studies generated as part other federal or state permit processes (e.g., SEPA submittals, biological opinions, biological evaluations, etc.) shall be provided and may be determined by the Administrator as adequate to satisfy the critical areas report requirements of this SMP if the project has been developed in enough detail to have evaluated site-specific impacts and mitigation measures.

4. New development and the creation of new lots are prohibited in all SEDs when they would cause foreseeable risk from geological conditions, or require structural flood hazard reduction measures in the floodway or CMZ, during the life of the development, consistent with SMP Section 5.4.8 Land Division, and other provisions of this Program.”

FINDING(S):

a. The application contains detailed narratives, stormwater, landscape and mitigation plans contending consistency with this criterion.

b. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.

c. The applicant’s narratives and reports responding to SMP 4.3, SMP 4.4, and SMC 18.13 result in protective buffers from Rock Cove. However, the submittals do not document the project’s consistency with buffer demarcation requirements of SMC 18.13.057(A-C).

d. The applicants supplied a Critical Areas Report in support of the 2020 permit request, which was subsequently reviewed and determined consistent with the Stevenson Critical Areas Code (SMC 18.13) by an independent third-party.

e. Updated Critical Areas Report supplied in support of the current permit request retains the key findings of the previous assessment, while addressing additional development phases for which a permit was not previously requested.

f. Via written comment, the Washington Department of Ecology contended the applicant’s original proposed on-site mitigation is insufficient to satisfy the Stevenson Critical Areas Code (SMC 18.13).

e. Off-site mitigation, as more fully described through supplemental information submitted into the record prior to the December 11th public hearing on this application, is proposed via a payment in-lieu of mitigation. The payment sufficient to address the additional development phases and satisfy the Stevenson Critical Areas Code.

f. Via written comments, the Washington Department of Fish and Wildlife expressed concern over the functionally isolated determinations made for the critical area buffers. The determinations were made on the basis of rip rap.

g. No data is available to establish a specific installation date of the rip rap.

h. The applicants' supplied documentation of site disturbance from a former mill operating at this site between 1952 and 1973. The site has not had an economically productive use since that time.

i. The City's first SMP was prepared in 1974.

CONCLUSIONS OF LAW: This project will comply with SMP 4.4.3 upon fulfillment of the conditions below.

CONDITIONS:

9. **Prior to the Start of Construction** the applicants shall update the Critical Areas and FWHCA Report to include construction staking and permanent demarcation of the functionally isolated buffer consistent with SMC 18.13.057(A and C) and, where appropriate, incorporate it into project construction documents.
10. **Prior to the Start of Construction** the property owner shall record a deed notice related to the critical habitat area. This approval, together with the updated Critical Areas Report and Buffer Enhancement Plan shall be attached to the notice.
11. **Prior to the Start of Construction** the applicant shall supply a payment in-lieu of on-site mitigation to an entity involved in habitat restoration (e.g., Lower Columbia Fish Enhancement Group, Columbia River Wetland Mitigation Bank, etc). The payment shall be no less than \$5,280. A receipt of the payment by the restoration entity shall be supplied to the City.

CRITERION §4.4.4 – FISH & WILDLIFE HABITAT CONSERVATION AREA REGULATIONS. "1 Any use, development, or modification proposed within or adjacent to an FWHCA with which state or federally endangered, threatened, or sensitive species have a primary association, shall ensure the FWHCA is protected as required by this SMP. If the Shoreline Administrator determines that a proposal is likely to impact an FWHCA adversely, additional protective measures (e.g., protective buffer standards, mitigation, and monitoring programs under SMC 18.13) may be required..

2. Applicants shall provide a preliminary FWHCA assessment for all proposals involving riparian areas. The assessment must recognize the buffer necessary to ensure no net loss of ecological functions occurring at the reach-scale for the riparian area in question.

3. The City shall condition the approval of activities located in the FWHCA or its buffer as necessary. Approval conditions shall require the applicant to mitigate any potential adverse impacts according to the approved critical area report, mitigation, and monitoring plans.

4. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided, as necessary, to allow the upstream and downstream migration of all salmonid life stages and shall prevent juveniles migrating downstream from being trapped or harmed."

- FINDING(S):**
- a. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.
 - b. The proposal involves no structures preventing migration of salmonids.

CONCLUSIONS OF LAW: This project will comply with SMP 4.3.3 upon fulfillment of the conditions contained herein.

- CRITERION §4.6.3 – PUBLIC ACCESS REGULATIONS.** “1 Consistent with legal/constitutional limitations, provisions for adequate public access shall be incorporated into all proposals for Shoreline Permits that have one or more of the following characteristics:
- a. The proposed development or use will create a demand for, or increase demand for public access;
 - b. The proposed use is water-enjoyment, water-related, or non water-dependent, except for individual single-family residences not part of a development planned for 5 or more parcels;
 - c. The proposed use involves the subdivision of land into 5 or more parcels;
 - d. The proposed development or use will interfere with existing access by blocking access or discouraging use of existing access;
 - e. The proposed development or use will interfere with public use of waters of the state;
 - f. The proposed development or use will involve public funding or occur on public lands, provided that such access would not result in a net loss of ecological function. Public funding includes any funds from federal, state, municipal or local taxation districts.
2. Additional public access will not be required where suitable public access is already provided by an existing public facility on or adjacent to the site and the Planning Commission makes a finding that the proposed development would not negatively impact existing visual or physical public access nor create a demand for shoreline public access that could not be accommodated by the existing public access system and existing public recreational facilities in the immediate vicinity.
3. Public access will not be required where the applicant demonstrates it is infeasible due to at least one of the following:
- a. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;
 - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - c. The cost of providing the access, easement, or an alternative amenity are unreasonably disproportionate to the total long-term cost of the proposed development or other legal/constitutional limitations preclude public access;
 - d. Unacceptable environmental harm will result from the public access which cannot be mitigated;
 - e. Significant unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.
4. To meet any of the conditions under Regulation 3 above, the applicant must first demonstrate to the satisfaction of the Planning Commission that all reasonable alternatives have been exhausted including, but not limited to, the following:
- a. Regulating access by such means as maintaining a gate and/or limiting hours of use;
 - b. Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazings, hedges, landscaping);
 - c. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system;
 - d. Sharing the cost of providing and maintaining public access between public and private entities.
5. For projects that meet the criteria of Regulation 3 above, the City may consider off-site public access or, if approved by the Planning Commission and agreed to by the applicant, the applicant may contribute a proportional fee to the local public access fund (payment in lieu).
6. If the City determines that public access is required pursuant to Regulation 1 above, the City shall impose permit conditions requiring the provision of public access that is roughly proportional to the impacts caused by the proposed development or use. The City shall demonstrate in its permit decision document that any such public access has a nexus with the impacts of the proposed development and is consistent with the rough proportionality standard.
7. When required, public access shall:
- a. Consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launch, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays, view easements, and/or decreased building bulk through height, setback, or façade limitations;
 - b. Include features for protecting adjacent properties from trespass and other possible adverse impacts;
 - c. Be fully developed and available for public use at the time of occupancy of the proposed use or activity;
 - d. Result in no net loss of shoreline ecological functions.

8. When required, physical public access shall be constructed to meet the following requirements for location, design, operation and maintenance:
- a. Public access sites shall be connected directly to the nearest public street or non-motorized trail through a parcel boundary, tract, or easement, wherever feasible;
 - b. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations.
 - c. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running in perpetuity with the land, provided, that the Planning Commission may authorize a conveyance that runs contemporaneous with the authorized land use for any form of public access other than parallel pedestrian access. Said recording with the County Auditor's Office shall occur at the time of permit approval.
 - d. Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or nonprofit agency through a formal agreement approved by the City and recorded with the County Auditor's Office.
 - e. Public access sites shall be made barrier-free for the physically disabled where feasible, and in accordance with the ADA.
 - f. Any trail constructed shall meet the conditions described for shoreline areas in any trail or parks plan officially adopted by the City Council.
9. Views of the shoreline from public properties or substantial numbers of residences shall be protected through adherence to height and setback limits specified in this SMP. Where new development would completely obstruct or significantly reduce the aesthetic quality of views from public properties or substantial numbers of residences, mitigation shall be required as follows:
- a. The City may require administrative modifications to standard setbacks, clustering of proposed structures, and modifications to landscaping and building massing when the Planning Commission determines that such modifications are necessary to maintain public views of the shoreline.
 - b. The City shall work with the applicant to minimize the economic impacts of view mitigation. While upper story setbacks and other changes to building placement and form may be required to provide view corridors, in no case shall the applicant be required to reduce the maximum building height for more than 30% of the building's width.
 - c. The City may require specific public access improvements (e.g., public viewing decks, etc.) as mitigation in lieu of more significant modifications to site and building design when the Planning Commission finds such modifications would be an unreasonable financial burden on the applicant.
10. Where there is a conflict between water-dependent shoreline uses or physical public access and maintenance of views from public properties or substantial numbers of residences that cannot be resolved using the techniques in Regulation 9 above, the water-dependent uses and physical public access shall have priority, unless the Planning Commission finds a compelling reason to the contrary.
11. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided."

FINDING(S):

- a. The proposal has one or more of the characteristics requiring public access.
- b. The application contains detailed narratives, stormwater, landscape and mitigation plans contending consistency with this criterion.
- c. The site is subject to numerous public access easements which conflict with and/or where no public access project is proposed, however, the application makes no contention regarding the infeasibility of providing such public access.
- d. Via early written comment, the Washington Department of Ecology contended the proposal has not appropriately addressed public access.
- e. Public access, as more fully described through supplemental information submitted into the record prior to the December 11th public hearing on this application, has been adequately provided at this site.
- f. Via verbal testimony, the applicants contend infeasibility of an ADA compliant connection between this property and an existing public easement to the south, and construction absent participation by the City and adjacent property owner.
- g. Follow-up written comment from the Department of Ecology after the site plan was amended indicated the changes adequately addressed the previous comments.

- h. The Planning Commission concurs with the applicants' contentions regarding the disproportionate share and feasibility of barrier-free access for the physically disabled (ADA) where the public pedestrian pathway would connect to the adjacent public pathway easement south of the site.
- i. The Planning Commission contends the applicant bears responsibility for its proportionate share of the eventual improvement and approves a payment in-lieu of this improvement into a City public access fund.
- j. The public access provided related to this proposal bears a rational nexus with its impacts and is roughly proportional thereto.
- i. The findings, conclusions and conditions related to Chapter 5 are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 4.6.3 upon fulfillment of the conditions below.

CONDITIONS:

- 12. **Prior to the Start of Construction** the applicants shall, subject to review and approval by the shoreline administrator:
 - a) make a payment in-lieu of providing a trail connecting to the public pathway easement south of the site, or
 - b) enter into an agreement with the City to support development at a later date of a trail connecting to the public pathway easement south of the site.
- 13. **Prior to Occupancy** all public access amenities shall be fully developed and available for public use.
- 14. **Prior to Occupancy** the applicants shall provide signage at conspicuous locations indicating the public's right of access to shoreline areas.

CRITERION §4.7.3 – WATER QUALITY & NON-POINT SOURCE POLLUTION REGULATIONS. "1 Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quality in accordance with all applicable laws, so that there is no net loss of ecological functions.

2. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities or recreational opportunities do not occur. A significant impact to aesthetics or recreation would occur if a stormwater facility and accessory structures (e.g., fences or other features) have the potential to block or impair a view of shoreline waters from public land or from a substantial number of residences per RCW 90.58.320, or if water quality were degraded so as to discourage normal uses (e.g., swimming, fishing, boating, viewing, etc.).

3. Shoreline development and uses shall adhere to all required setbacks, buffers, and standards for stormwater facilities.

4. All review activities shall comply with the applicable requirements of all applicable City stormwater, drinking water protection, and public health regulations and the Stormwater Management Manual for Western Washington, including using low impact development techniques whenever feasible.

5. Sewage management. To avoid water quality degradation, sewer service is subject to the requirements outlined below.

- a. Any existing septic system or other on-site system that fails or malfunctions will be required to connect to the City sewer system if feasible, or make system corrections approved by Skamania County Community Development Department.
- b. Any new development, business, or multifamily unit shall connect to the City sewer system if feasible, or install an on-site septic system approved by Skamania County Community Development Department.

6. Materials requirements. All materials that may come in contact with water shall be untreated or treated wood, concrete, plastic composites or steel as approved by the USACE or WDFW, that will not adversely affect water quality or aquatic plants

or animals.”

- FINDING(S):**
- a. The proposal includes a Stormwater Report prepared consistent with the Stormwater Management Manual for Western Washington.
 - b. The findings related to Chapter 5 are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 4.7.3 without conditions.

CHAPTER 5 – SHORELINE USE REGULATIONS

CRITERIA §5.1, §5.3, §5.4.1, §5.4.2, §5.4.3, §5.4.5, §5.4.6, §5.4.7, §5.4.10, §5.4.12, §5.4.13. [THESE SECTIONS CONTAIN GUIDANCE APPLICABLE TO ALL AND/OR DIFFERENT LOCATIONS OR PROJECT TYPES THAN HAS BEEN PROPOSED. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §5.2.2 – PROVISIONS APPLICABLE TO ALL USES. “1. When determining allowable uses and resolving use conflicts within the City’s shoreline jurisdiction, the following preferences shall apply in the order listed below:

- a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
- b. Reserve shoreline areas for water-dependent and associated water-related uses.
- c. Allow mixed uses projects that include or support water-dependent uses.
- d. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
- e. Located single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.
- f. Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the SMA.

2. New use and development shall be subject to the setback requirements and height limitations contained in Section 5.3 Shoreline Use Table, including Table 5.1 – Shoreline Use & Setback Standards.”

- FINDING(S):**
- a. No Use conflicts are identified in association with this proposal.
 - b. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 5.2 upon satisfaction of the conditions contained herein.

CRITERION §5.4.4.4 – COMMERCIAL & INDUSTRIAL REGULATIONS. “a. Water-dependent commercial and industrial uses shall be given preference over water-related and water-enjoyment commercial and industrial uses. Second preference shall be given to water-related and water-enjoyment commercial and industrial uses over non-water-oriented commercial and industrial uses.

- b. Prior to approval of water-dependent uses, the City shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-dependent use.
- c. When allowed, industrial development shall be located, designed and constructed in a manner that assures no net loss of shoreline ecological functions.
- d. Commercial development that is not water-dependent shall not be allowed over water except where it is located within the same existing building and is necessary to support a water-dependent use.
- e. Overwater and in-water construction of non-water-oriented industrial uses is prohibited. This provision is not intended to preclude the development of docks, piers, or boating facilities, or water-related uses that must be located in or over water (e.g., security worker booths, etc. that are necessary for the operation of the water-dependent or water-related use).
- f. Only those portions of water-oriented industrial uses that require over or in-water facilities shall be permitted to locate waterward of the OHWM, provided they are located on piling or other open-work structures, and they are limited to the minimum size necessary to support the structure’s intended use.

- g. Water-related and water-enjoyment uses shall avoid impacts to existing navigation, recreation, and public access.
- h Non-water-oriented commercial and industrial development shall not be allowed unless:
 - i. The use is part of a mixed-use project that includes water-dependent uses, and provides a significant public benefit with respect to provisions of public access or ecological restoration; or
 - ii. Navigability is severely limited at the proposed site, and the commercial use provides a significant public benefit with respect to provision of public access or ecological restoration; or
 - iii. The site is designated for commercial use and is physically separated from the shoreline by another property or a public right-of-way.
- i. New commercial and industrial developments shall provide public access to the shorelines, subject to SMP Section 4.6.
- j. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water dependent development unless such improvements are demonstrated to be infeasible or inappropriate.
- k. New industrial developments shall mitigate for the impacts of the use's intensity by providing shoreline restoration consistent with the shoreline restoration plan adopted by the City.

- FINDING(S):**
- a. The application contains detailed narratives, stormwater, landscape and mitigation plans contending consistency with this criterion.
 - b. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 5.4.4 upon fulfillment of the conditions contained herein.

CRITERION §5.4.8.4 – LAND DIVISION REGULATIONS. “a Plats and subdivisions shall be designed, configured and developed in a manner that assures no net loss of ecological functions results from the plat or subdivision at full build-out of all lots..

- b. The layout of lots within 1) new plats and subdivisions, 2) plat amendments, or 3) boundary line adjustments shall:
 - i. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.
 - ii. Not result in lots containing inadequate buildable space due to critical areas and/or their buffers.
- c. To ensure the success of restoration and long-term maintenance, the City may require that critical areas and/or aquatic lands be placed in a separate tract which may be held by an appropriate natural land resource manager (e.g., homeowner’s association, land trust, natural resource agency, etc.).”

- FINDING(S):**
- a. The application contains detailed narratives, stormwater, landscape and mitigation plans contending consistency with this criterion.
 - b. The proposed action under the City’s Land Division Code is a combination of lots via boundary line adjustment. No additional lot is proposed.
 - c. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 5.4.8 without conditions.

CRITERION §5.4.9.4 – RECREATIONAL REGULATIONS. “a Water-oriented recreational development shall be given priority and shall be primarily related to access, enjoyment, and use of the water and shorelines.

- b. Non-water-oriented recreational developments may be permitted only where it can be demonstrated that:
 - i. A water-oriented use cannot feasibly locate on the proposed site due to topography and/or other physical features, surrounding land uses, or the site’s separation from the water;
 - ii. The proposed use does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses;
 - iii. The proposed use will be of appreciable public benefit by increasing ecological functions together with public use, enjoyment, or access to the shoreline.
- c. Non-water-oriented accessory uses (e.g., offices and parking areas that are part of recreational facilities) should be

located landward of water-oriented facilities.

d. Recreational facilities shall include features such as buffer strips, screening, fences, and signs, if needed to protect the value and enjoyment of adjacent or nearby private properties and natural areas from trespass, overflow and other possible adverse impacts.

e. Recreation facilities shall demonstrate that they are located, designed, and operated in a manner consistent with the purpose of the shoreline environment designation in which they are located and will result in no net loss of shoreline ecological functions.

f. Where fertilizers and pesticides are used in recreational developments, waters in and adjacent to such developments shall be protected from drainage and surface runoff.

- FINDING(S):**
- a. The application contains detailed narratives, stormwater, landscape and mitigation plans contending consistency with this criterion.
 - b. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.
 - c. The proposal does not involve nonwatery-oriented recreational development, recreational conflicts with adjacent uses, or persistent use of fertilizers or pesticides.

CONCLUSIONS OF LAW: This project will comply with SMP 5.4.9 upon fulfillment of the conditions contained herein.

CRITERION §5.4.11.4 – TRANSPORTATION & PARKING FACILITIES REGULATIONS. “a. Applications for redevelopment of transportation facilities in shoreline jurisdiction shall include:

- i. Analysis of alternative alignments or routes, including, where feasible, alignments or routes outside of shoreline jurisdiction;
 - ii. Description of construction, including location, construction type, and materials; and, if needed,
 - iii. Description of mitigation and restoration measures..
- b. Proposed transportation projects shall plan, design, and locate where routes:
- i. Will have the least possible adverse effect on unique or fragile shoreline features,
 - ii. Will not result in a net loss of shoreline ecological functions, and
 - iii. Will not adversely impact existing or planned water-dependent uses.
- c. Alternative designs for transportation facilities that have less impact on shoreline resources (i.e., narrower rights-of-way, realignment) shall be considered in compliance with the SMC.
- d. Roads and railroads of all types shall cross shoreline jurisdiction by the most direct route feasible, unless such a route would result in greater impacts on wetlands and fish and wildlife habitat conservation areas, or channel migration than a less direct route.
- e. Wherever feasible and in compliance with the SMC, transportation facilities, including local access roads and surface parking facilities, shall be shared across shoreline uses to reduce the need for redundant facilities.
- f. New, replacement and enlarged transportation facilities shall provide public access pursuant to SMP Section 4.6.
- g. The City shall seek opportunities to obtain public easements and construct pedestrian connections over or under the railroad and state highway. The City shall place the pedestrian connection in its capital improvement plan and may require it as a condition of approval for Shoreline Permits, including permits involving new or replacement bridges and other transportation facilities.
- h. Primary parking facilities (pay parking lots, park-and-rides) are not allowed within shoreline jurisdiction. Accessory parking (including parking for vista purposes) and loading facilities necessary to support an authorized shoreline use are permitted.
- i. All of the following conditions shall be met when an accessory parking facility is proposed in the shoreline jurisdiction:
- i. The facilities shall be located landward, adjacent to, beneath or within the building being served.
 - ii. Upland parking facilities shall provide safe and convenient pedestrian circulation from the parking area to the shoreline.
 - iii. Loading spaces for development in the shoreline jurisdiction shall be located on the landward or side wall of non-water-dependent uses or activities.
 - iv. All facilities shall provide parking suitable to the expected usage of the facility, with preference given to pavement or other dust-free all-weather surfaces.

v. All facilities shall be screened from adjacent, dissimilar uses through the use of perimeter landscaping, fencing, or some other approved material.

- FINDING(S):**
- a. The application contains detailed narratives, stormwater, landscape and mitigation plans contending consistency with this criterion.
 - b. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.
 - c. The proposal does not involve new, replacement, enlarged or redeveloped transportation facilities, roads, railroads, or primary parking facilities.

CONCLUSIONS OF LAW: This project will comply with SMP 5.4.11 without conditions.

CHAPTER 6 – SHORELINE MODIFICATION PROVISIONS

CRITERIA §6.1, §6.4.2, §6.4.3, §6.4.4, §6.4.5, §6.4.6. [THESE SECTIONS CONTAIN GUIDANCE APPLICABLE TO ALL AND/OR DIFFERENT LOCATIONS OR PROJECT TYPES THAN HAS BEEN PROPOSED. NO CONSISTENCY REVIEW IS NECESSARY.]

CRITERION §6.2.2 – GENERAL PROVISIONS FOR ALL SHORELINE MODIFICATIONS - REGULATIONS. "All proposed shoreline modifications shall:

- a. Meet the mitigation sequencing requirements in SMP Section 4.3.
- b. Satisfy all specific shoreline modification provisions of this chapter.

FINDING(S): a. The findings of SMP Chapters 4, 5, and 6 are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 6.2.2 upon satisfaction of the conditions contained herein.

CRITERION §6.3 – GENERAL PROVISIONS FOR ALL SHORELINE MODIFICATIONS - REGULATIONS. "The shoreline modification table below determines whether a specific shoreline modification is allowed within each of the shoreline environments. This table is intended to work in concert with the specific modification policies and regulations that follow, however, where there is a discrepancy between this table and the text of the SMP, the text shall take precedence...[Table 6.1 – Allowed Shoreline Modifications omitted for brevity]"

FINDING(S): a. The proposal involves Vegetation Removal, a permitted modification in the Active Waterfront SED.

CONCLUSIONS OF LAW: This project will comply with SMP 6.3 upon satisfaction of the conditions contained herein.

CRITERION §6.4.1.3 – VEGETATION REMOVAL - REGULATIONS. "a. Vegetation removal shall be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP. This includes the design, location, and operation of the structure or development, including septic drain fields, which shall minimize vegetation removal and meet all applicable requirements.

b. If removal of shoreline vegetation is unavoidable, vegetation removal shall be mitigated in accordance with the requirements in SMP Table 6.2 – Mitigation for Vegetation Removal within Shoreline Jurisdiction. Exceptions:

- i. The removal of native vegetation within established gardens, landscaping that serve a horticultural purpose shall not require mitigation under SMP Table 6.2.
- ii. Mitigation plans prepared by a qualified professional may establish mitigation ratios that deviate from SMP Table 6.2.

c. No tree containing an active nest of an eagle, osprey, or other protected bird (as defined by WDFW or the Bald and Golden Eagle Protection Act) shall be removed and the nest shall not be disturbed unless the applicant obtains approval from WDFW.

- d. Vegetation removal conducted for the purposes outlined in SMC 18.13.025(D)(1)(a through d) shall comply with the regulations therein.
- e. Aquatic weed control shall be allowed only where the presence of aquatic weeds will affect native plant communities, fish and wildlife habitats, or an existing water dependent use adversely. Aquatic weed control efforts shall comply with all applicable laws and standards. [Table 6.2 – Mitigation for Vegetation Removal within Shoreline Jurisdiction omitted for brevity]
- f. Mitigation Area, Location. The location of the mitigation area shall:
 - i. Be on site unless there is insufficient area on site;
 - ii. Improve an area of low habitat functionality;
 - iii. Be within 50 feet of the OHWM or as close as possible to the shoreline waterbody; and
 - iv. Prioritize south and west banks of waterbodies to provide shade.
- g. Mitigation Area, Monitoring.
 - i. The project shall be monitored annually for 5 years to document plant survivorship.
 - ii. Monitoring reports shall be provided to the Administrator once per year.
 - iii. The planted mitigation area shall achieve a plant survival standard of 80% at the end of 5 years.
 - iv. Monitoring results may require additional/replacement planting to meet the survival standard. If the survival standard is not met, then additional planting may be required and the monitoring period extended.
 - v. A conservation covenant may be established which prevents future development or alteration within the mitigation area.”

- FINDING(S):**
- a. The proposal involves Vegetation Removal, a permitted modification in the Active Waterfront SED.
 - b. Vegetation removal is unavoidable and subject to mitigation within and outside Fish & Wildlife Habitat Conservation Areas.
 - c. The application contains detailed narratives, landscape and mitigation plans contending consistency with this criterion and SMP Table 6.2.
 - d. The proposal does not involve trees with active nests of protected birds, vegetation removal under SMC 18.13.025(D)(1), or aquatic weed control.

CONCLUSIONS OF LAW: This project will comply with SMP 6.4.1 upon satisfaction of the conditions contained herein.

CONDITIONS:

1. Timely appeals shall be filed by the proponent within 21 days of Receipt of the Final Decision.
2. **Construction pursuant to this Permit shall not begin** and is not authorized until 21 days from the date of filing with Ecology, per WAC 173-27-190 or as subsequently amended, or until all review proceedings initiated within 21 days from the date of such filing have been terminated.
3. **Within 2 years of the effective date of this permit**, construction activities associated with this permit shall commence or a written request for a maximum 1-year extension shall be submitted to the City. If construction activities do not commence accordingly, the permit shall expire.
4. **Within 5 years of the effective date of this permit**, all development activities associated with this permit shall terminate or a written request for a maximum 1-year extension shall be submitted to the City.

5. **Prior to the start of construction**, the proponent shall submit the City documentation sufficient to establish an accurate timeline of any activity justifying an extension of the permit's duration based on SMC 18.08.220(D). No such documentation will be accepted by the City after construction commences.
6. **Throughout the Duration of this Permit**, the proponents shall provide reasonable access to the Shoreline Administrator to ensure enforcement of this permit and the SMP.
7. **Throughout the Duration of Construction**, the proponents shall contact the Shoreline Administrator prior to constructing any change to the proposal to determine whether the change should be permitted and whether the permission should be through a revision to this Minor Project Authorization or through a Shoreline Permit.
8. **Prior to the Start of Construction** the applicants shall provide construction documents for approval by the Shoreline Administrator. The review shall be limited, ensuring the project's consistency with the proposal and ensuring the conditions of City permits have been appropriately incorporated. Should the Administrator fail to respond within 7 days of receipt, the construction documents shall be presumptively approved.
9. **Prior to the Start of Construction** the applicants shall update the Critical Areas and FWHCA Report to include construction staking and permanent demarcation of the functionally isolated buffer consistent with SMC 18.13.057(A and C) and, where appropriate, incorporate it into project construction documents.
10. **Prior to the Start of Construction** the property owner shall record a deed notice related to the critical habitat area. This approval, together with the updated Critical Areas Report and Buffer Enhancement Plan shall be attached to the notice.
11. **Prior to the Start of Construction** the applicant shall supply a payment in-lieu of on-site mitigation to an entity involved in habitat restoration (e.g., Lower Columbia Fish Enhancement Group, Columbia River Wetland Mitigation Bank, etc). The payment shall be no less than \$5,280. A receipt of the payment by the restoration entity shall be supplied to the City.
12. **Prior to the Start of Construction** the applicants shall, subject to review and approval by the shoreline administrator:
 - a) make a payment in-lieu of providing a trail connecting to the public pathway easement south of the site, or
 - b) enter into an agreement with the City to support development at a later date of a trail connecting to the public pathway easement south of the site.
13. **Prior to Occupancy** all public access amenities shall be fully developed and available for public use.
14. **Prior to Occupancy** the applicants shall provide signage at conspicuous locations indicating the public's right of access to shoreline areas.

FINAL ORDER

The preceding discussion describes the City's review of the information relevant to the SHOR2023-02

"Rock Cove Hospitality". The findings and conclusions of this document justify issuance of this Shoreline Substantial Development Permit under SMC 18.08.180. The project will be consistent with the policy and provisions of the SMA and the SMP upon satisfactions of the conditions listed herein.

DATED this ____ day of January 2024

Jeff Breckel, Chair
City of Stevenson Planning Commission