

CITY OF STEVENSON
Council Authorized Update to SMC 18.08 – Shoreline Management

Regarding a request by the City of Stevenson to update revise)
the Shoreline Substantial Development Permit issued for the Rock)
Creek pump station (PS), 8" force main suspended from SW Rock)
Creek Drive Bridge, 12" force main in Rock Creek Drive and)
replacement of some existing sanitary and storm sewer lines)
within and connecting to the Rock Creek PS. The proposed)
revision involves replacement, upgrades, and expansion of several)
components of the Wastewater Treatment Plant within shoreline)
jurisdiction of Rock Creek, a shoreline of the City on Tax Lot 1201)
in Section 1, Township 2N, Range 7E, W.M, City of Stevenson,)
Skamania County, Washington, 98648.)

SHORELINE
SUBSTANTIAL
DEVELOPMENT PERMIT
REVISION
July 18th, 2022

PROPOSAL: The permittee proposes to "amend the 2021 SSDP to specifically address the Shoreline implications of the improvements more fully to the sanitary treatment plant...Permanent improvements to the WWTP will occur within the same footprint as the existing treatment plant. All proposed improvements to the WWTP are above the ordinary high water mark (OHWM) setback. Proposed improvements within the 200-foot Shoreline jurisdiction line include: a new UV channel, new aeration basin, and new mixed liquor splitter box. Proposed improvements outside of shoreline jurisdiction include the blower building, headworks, and gate and access driveway. All work will be conducted landward of the functionally isolated riparian buffer of Rock Creek."

LOCATION: No site address was available for original permitted project site, which was located in the existing/expanded right-of-way for Rock Creek Drive. The site of the proposed revision is located at 686 SW Rock Creek Drive, Tax Parcel Numbers 02-07-01-2-0-0100 and 02-07-01-2-0-1201.

USES: Utilities.

SHORELINE ENVIRONMENT DESIGNATIONS: Active Waterfront.

KEY ISSUES: Shoreline Permit Revisions

APPLICANT: Wallis Engineering
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Owner: City of Stevenson Public Works
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CITY STAFF: Ben Shumaker Leana Kinley Carolyn Sourek Scott Anderson
Shoreline Administrator City Administrator Public Works Director Mayor

BACKGROUND: The proposal was identified in the City's 2017 General Sewer Plan and Wastewater

Facilities Plan Update. All proposed improvements were issued a mitigated determination of non-significance under City File #SEPA201-03. Federal involvement required independent reviews under their National Environmental Policy Act (NEPA). The original Shoreline Substantial Development Permit was approved by the Planning Commission on March 15th, 2021. The original Shoreline Permit included a critical areas report for habitats in the revision area.

STANDARDS, FINDINGS AND CONCLUSIONS

SMC 18.08 – Shoreline Management

Chapter 18.08 of the Stevenson Municipal Code 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. 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, including that listed below]

4. Authority to issue written administrative interpretations of this chapter after consultation with the Department of Ecology.

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. A written administrative interpretation of the Administrator is attached and is related to this request.
 - c. The Planning Commission is authorized to issue this shoreline permit.

CONCLUSIONS OF LAW: This 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 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 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 Creek lying within city limits.
- c. The proposal must conform to the Shoreline Management Act and the Stevenson Shoreline Management Program

CONCLUSIONS OF LAW: This 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.
- 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 applied on July 13, 2022.
- b. Upon submission of the application, the Shoreline Administrator determined the application as complete for a proposal involving revision to 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 Administrator's attached written interpretation is relevant to this review.
b. No notice additional notice was provided related to the proposed revision.

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. City Council Resolution 357 became effective on 6/1/2020 and establishes application fees for Shoreline Permits.
b. Transfer of funds between the City sewer department and planning department is an acceptable method to pay the required fees.
c. The transfer of funds between departments occurred prior to the decision.

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 30 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 20 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. No written comments were submitted during the original permit's comment period.
b. No request to be notified of the action taken by the City were submitted during the original permit's comment period.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.140 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 SMC 18.08.190."

- FINDING(S):**
- a. An open record public hearing was held by the Planning Commission on 3/15/2021.
 - b. The Planning Commission considered all relevant information available and evidence presented regarding this Category A proposal and determined the proposal's consistency with the SMA and the SMP, subject to conditions.
 - c. The Planning Commission has not required the posting of a performance bond to assure compliance with the permit.
 - d. This document supplements the Planning Commission's original permit and constitutes its written decision and the City's final decision on this permit.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.180 upon satisfaction of the conditions contained herein.

CRITERION §18.08.185 –SHORELINE ADMINISTRATOR ACTION—CATEGORY B PROPOSALS. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):**
- a. The proposal is not a Category B proposal; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.185 without conditions.

CRITERION §18.08.190 –NOTIFICATION AND FILING OF ACTION. [THIS SECTION CONTAINS DUTIES OF THE SHORELINE ADMINISTRATOR AFTER A DECISION IS MADE ON THE PROPOSAL. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):**
- a. The proponent is not responsible for satisfying this criterion.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.190 without conditions.

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 21 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 18.08.200 upon satisfaction of Condition 1, below and other conditions contained herein.

CONDITIONS:

- 1. Within 21 Days from Receipt of the Final Decision**, the proponent shall file any appeal according to SMC 18.08.200.

CRITERION §18.08.205 –APPEAL FROM ADMINISTRATOR DECISION. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. The proposal is not a Category B proposal; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.205 without conditions.

CRITERION §18.08.210 –PERMIT ISSUANCE AND EFFECT. " [THIS SECTION APPLIES TO ORIGINAL SHORELINE PERMITS BUT NOT REVISIONS AS PROPOSED. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. The criterion and findings under SMP 2.10 are relevant for the review of this section.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.210 upon fulfillment of the conditions contained herein and in the original Shoreline Permit.

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 2 years of the effective date of an authorization of 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 5 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 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. Conditions established in the original Shoreline Permit addressed these criteria.
b. No permit extension has been requested.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.220 upon fulfillment of the conditions contained herein and in the original Shoreline Permit.

CRITERION §18.08.235 –VARIANCE AND CONDITIONAL USE PERMITS—ECOLOGY REVIEW. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. The proposal does not involve a Shoreline Variance or Conditional Use Permit; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.235 without conditions.

CRITERION §18.08.250 –ENFORCEMENT—PENALTIES. “All provisions of his 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 necessary to ensure effective enforcement.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.250 upon satisfaction of Condition 6, below and other conditions contained herein.

CONDITIONS:

2. 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.

STEVENSON 2018 SHORELINE MASTER PROGRAM

The Stevenson 2018 Shoreline Master Plan (SMP) contains the policies and regulations applicable to proposals undertaken in shoreline areas. Shoreline Permit Revisions are addressed specifically in SMP 2.10, which relies on the review criteria established by the State Department of Ecology in WAC 173-27-100 – Revisions to Permits. The project demonstrated consistency with the criteria in SMP Chapters 1, 3, 4 (including review under SMC 18.13), 5, 6, and 7 in the review of the original shoreline permit issued for this proposal, City File # SHOR2021-01. Consistency with SMP Chapter 2 – Administrative Provisions is addressed below.

CHAPTER 2 – ADMINISTRATIVE PROVISIONS

CRITERION §2.1 –PURPOSE & APPLICABILITY. [This section contains guidance applicable to all criterion in the SMP but no specific regulations. The full text of this criterion is therefore omitted.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.1 without conditions.

CRITERION §2.2 –SHORELINE ADMINISTRATOR. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.2 without conditions.

CRITERION §2.3 –PRE-APPLICATION PROCEDURES.

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. On behalf of the proponents, E² Land Use Planning LLC held remote pre-application meetings via telephone and email in June and July 2022.

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

CRITERION §2.3.2 PRE-APPLICATION CONFERENCE—PURPOSE & OUTCOMES. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL PRE-APPLICATION CONFERENCES BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.3.2 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 Report* prepared by Ecological Land Services, Inc., a qualified professional, and submitted with this original 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 –PERMIT PROCESS.

CRITERION §2.4.1 PERMISSION REQUIRED. [This section contains guidance applicable to all criterion in the SMP but no specific regulations. The full text of this criterion is therefore omitted.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.4.1 without conditions.

CRITERION §2.4.2 APPLICATION CONTENTS. [THIS SECTION CONTAINS 2 LISTS OF REQUIRED SUBMITTALS FOR APPROVAL OF 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 18.08.110 related to the acceptance of a complete application are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.4.2 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. No 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 and conclusions related to SMC 18.08 are also relevant under this criterion.
d. Project as-builts are necessary to track and evaluate cumulative effects of the development authorized through this approval.

CONCLUSIONS OF LAW: This project will comply with SMP 2.4 upon satisfaction of the condition below.

CONDITIONS:

3. The permittee shall prepare an as-built drawing of all work completed under this permit. The as-built shall include specific information on status of Fish & Wildlife Habitat Conservation Areas to serve as a basis for future monitoring of the project compliance.

CRITERION §2.5 –MINOR PROJECT AUTHORIZATIONS (MPA). [THIS SECTION BROADLY APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED, HOWEVER A RELEVANT SECTION HAS BEEN INCLUDED.]

"2. If any part of proposed development is not eligible for exemption from the state process, then a SSDP is required for the entire proposed development project, per WAC 173-27-040(1)(d).

FINDING(S): a. Parts of the proposal are not eligible for exemption from the SSDP process. Therefore, all development activities associated with the development are subject to approval through an SSDP.

CONCLUSIONS OF LAW: This project will comply with SMP 2.5 without conditions.

CRITERION §2.6 –SHORELINE SUBSTANTIAL DEVELOPMENT PERMITS.

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 and within the original Shoreline Substantial Development Permit 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 and in the original Shoreline Permit.

CRITERION §2.6.2 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.

CRITERION §2.7 –SHORELINE CONDITIONAL USE PERMITS. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. The proposal does not involve a Shoreline Conditional Use Permit; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.7 without conditions.

CRITERION §2.8 –SHORELINE VARIANCES. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. The proposal does not involve a Shoreline Variance; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.8 without conditions.

CRITERION §2.9 –NONCONFORMING USE & DEVELOPMENT.

CRITERION §2.9.1 NONCONFORMING USE & DEVELOPMENT – PURPOSE – APPLICABILITY – CRITERIA. “The purpose of nonconforming use and development provisions is to recognize uses and development that have previously been established within shoreline jurisdiction. Where those uses & development were lawfully established according to the standards in place prior to the effective date of this SMP, these provisions are intended to allow the use or development to continue— or be “grandfathered”—until a later date when conformity to this SMP can be achieved. The following policies shall assist in reviewing proposals involving nonconforming use and/or development:

1. Nonconforming Use is defined herein.
2. Nonconforming uses and developments on Stevenson’s shorelines shall meet the standards of the City of Stevenson Zoning Code, SMC 17.44 – Nonconforming Uses, with the following exceptions:
 - a. A building or structure conforming as to use but nonconforming as to the shoreline setback, critical area buffer, and/or height provisions of the environment designation in which said building or structure is located may be maintained, repaired, or altered by expansion or enlargement, provided, that the alteration meets all applicable provisions of this SMP and does not further exceed or violate the appropriate shoreline setback, critical area buffer, and height provisions. (For example, a building or structure encroaching in a shoreline setback area shall not further encroach into the shoreline setback area as a result of the alteration.)
 - b. For the purposes of this SMP, any strengthening or restoring to a safe condition permitted under SMC 17.44.090(B) shall not further exceed or violate the appropriate shoreline bulk or dimensional standards of this SMP.
 - c. Proposed uses and structures that are appurtenant or accessory to nonconforming dwelling units must conform to all applicable requirements of this SMP.
 - d. A structure for which a shoreline variance (SVAR) has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
 - e. A structure that is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a SCUP. A SCUP may be approved only upon a finding that:
 - i. No reasonable alternative conforming use is practical; and
 - ii. The proposed use will be at least as consistent with the policies and provisions of the SMA and this SMP and as compatible with the uses in the area as the preexisting use.
 - f. A nonconforming structure which is moved any distance must be brought into conformance with this SMP and the SMA unless a SVAR is approved.
 - g. For the purposes of this SMP, SMC 17.44.100 applies; provided, that application is made for the permits necessary to restore the structure within one year of the date the damage occurred, all permits are obtained, and that the restoration is completed within 2 years of permit issuance.”

FINDING(S):

- a. The findings contained in the original Shoreline Substantial Development Permit are relevant to review of this criterion.
- b. Utilities in this location predate the adoption of the SMA and this SMP. Upgrades to these utilities have occurred over time, including as part of a proposal permitted under City File #SHOR1992-02.
- c. Aspects of the proposal do not conform to the shoreline setback and critical area buffer provisions of this SMP.
- d. As documented in other findings herein, the proposed maintenance, repair or alteration by expansion or enlargement meet all applicable provisions of this SMP.

e. The proposal related to these nonconforming developments does not further exceed the appropriate shoreline setback or critical area buffer.

CONCLUSIONS OF LAW: This project will comply with SMP 2.9 upon fulfillment of the conditions contained herein and in the original Shoreline Permit.

CRITERION §2.10 –SHORELINE PERMIT REVISIONS. “A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this SMP and/or the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision and may be authorized through a Minor Project Authorization. When a revision of a Shoreline Permit is sought, the applicant shall submit detailed plans and text describing the proposed changes and must demonstrate compliance with the following guidelines and standards as articulated in WAC 173-27-100:

1. If the City determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this SMP and the SMA, the City may approve a revision.
2. “Within the scope and intent of the original permit” means all of the following:
 - a. No additional over water construction is involved except that pier, dock, or float construction may be increased by 500 square feet or 10% from the provisions of the original permit, whichever is less;
 - b. Ground area coverage and height may be increased a maximum of 10% from the provisions of the original permit;
 - c. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as authorized under a variance granted as the original permit or part thereof;
 - d. Additional revised landscaping is consistent with any conditions attached to the original permit and with this SMP;
 - e. The use authorized pursuant to the original permit is not changed; and
 - f. No adverse environmental impact will be caused by the project revision.
3. Revisions to permits that have already expired (RCW 90.58.143) may be allowed only if the changes:
 - a. Are consistent with this section;
 - b. Would not otherwise require a Shoreline Permit per the SMA, WAC 173-27-100, or this SMP. If the proposed change constitutes substantial development then a new permit is required; and
 - c. The revision does not extend the time requirements of the original permit or authorize substantial development beyond the time limits of the original permit.
4. If the revision, or the sum of the revision and any previously approved revisions, cannot satisfy all the provisions itemized in subsection 2 of this section, the applicant shall be required to apply for a new Shoreline Permit.
5. Revision approval, including revised site plans and text necessary to clearly indicate the authorized changes and the final consistency ruling, shall be subject to the notice and filing procedures of SMC 18.08.190; provided, that the timelines stated in WAC 173-27-100 are to be followed in the event of any discrepancy.
6. The revised permit is effective immediately upon final decision by the City or, when appropriate, upon final action by Ecology.
7. Appeals to permit revisions shall be in accordance with SMC 18.08.200 and shall be based only upon contentions of noncompliance with the provisions of subsection 2 of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant’s own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit

FINDING(S):

- a. Unforeseeable changes occur during construction projects of the magnitude proposed.
- b. The Shoreline Administrator and not the project proponent is responsible for determining whether changes are substantive to ensure enforcement of this permit and the SMP. A condition is necessary to provide this review.
- c. The Shoreline Administrator determined the work at the WWTP site constitutes a substantive change to the Rock Creek Pump Station work approved through SHOR2021-01 and that this permit revision is required.

- d. The Planning Commission determined the proposal is the first revision reviews and is within the scope and intent of the original permit based on the following:
1. The proposed revision involves no additional over water construction.
 2. The proposed revision increases ground area coverage by 6.5%, less than 10% of that proposed in the original permit.
 3. The proposed revision does not exceed height, lot coverage, setback or other requirements of the SMP.
 4. The project retains and is consistent with the mitigation and landscaping plan prepared in November 2020 and made a condition of the March 2021 original permit.
 5. The utility use authorized under the original permit is unchanged.
 6. All adverse environmental impacts have been addressed in previous permits/authorizations. None will be caused by the project revision.
- e. The original Shoreline Permit has not expired.
- f. This revision is effective immediately upon final decision by the City and notice is required pursuant to SMC 18.08.190.

CONCLUSIONS OF LAW: This project will comply with SMP 2.10 upon fulfillment of the conditions contained herein and in the original Shoreline Permit.

CONDITIONS:

- 4. Throughout the Duration of this Permit,** 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 Minor Project Authorization or a Shoreline Permit Revision.

FINAL ORDER

A Revision to Shoreline Substantial Development shall be issued for SHOR 2021-01. The project will be consistent with the policy and provisions of the SMA and the SMP upon satisfactions of the conditions listed herein. For ease of readership, the conditions are repeated below:

Any person aggrieved by the granting of this permit by the Council may seek review from the Shorelines Hearings Board, pursuant to RCW 90.58.180.

- 1. Within 21 Days from Receipt of the Final Decision,** the proponent shall file any appeal according to SMC 18.08.200.
- 2. 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.
- 3.** The permittee shall prepare an as-built drawing of all work completed under this permit. The as-built shall include specific information on status of Fish & Wildlife Habitat Conservation Areas to serve as a basis for future monitoring of the project compliance.
- 4. Throughout the Duration of this Permit,** 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 Minor Project Authorization or a Shoreline Permit Revision.

DATED this ____ day of July 2022

For the Planning Commission,
Jeff Breckel, Chair
City of Stevenson

Attachments:

1. SHOR2021-01
2. Administrative Interpretation – Shoreline Permit Revision Notices

DRAFT

CITY OF STEVENSON
Council Authorized Update to SMC 18.08 – Shoreline Management

Regarding a request by the City of Stevenson to update existing)
 Rock Creek pump station (PS) and replace 8" force main) SHORELINE
 suspended from SW Rock Creek Dr. with a 12" force main. The) SUBSTANTIAL
 project is within existing and proposed expanded ROW.) DEVELOPMENT PERMIT
 Additionally, some existing sanitary and storm sewer lines within) March 15th, 2021
 and connecting to the Rock Creek PS will be replaced. The)
 proposal is within the shoreline jurisdiction of Rock Creek, a)
 shoreline of the City in Section 1, Township 2N, Range 7E, W.M,)
 City of Stevenson, Skamania County, Washington, 98648.)

PROPOSAL: The applicant proposes to "Update existing Rock Creek pump station (PS) and replace 8" force main suspended from SW Rock Creek Dr. with a 12" force main. Permanent improvements will occur within same general location. Existing Rock Creek PS is partially within OHWM setback from Rock creek. Force main is within existing and proposed expanded ROW. Rock Creek PS is a nonconforming development and may be altered per SMP 2.9.2; a shoreline variance is not required. Applicant will comply with final draft of 2018 SMP. Critical areas are functionally isolated. SEPA conducted earlier." Additionally, staff has identified proposals to modify, reroute, and/or replace existing underground sanitary and storm sewer lines within shoreline jurisdiction.

LOCATION: No site address is available for this project site within the existing/expanded right-of-way for Rock Creek Drive. The site is adjacent to the Skamania County motor pool building and the City Waste Water Treatment Plant at 575 and 686 SW Rock Creek Drive, Tax Parcel Numbers 02-07-01-2-0-0100 and 02-07-01-2-0-1201.

USES: Utilities.

SHORELINE ENVIRONMENT DESIGNATIONS: Aquatic, Active Waterfront.

KEY ISSUES: Nonconforming Use & Development, Cultural Resources, Critical Areas.

APPLICANT:	Wallis Engineering Jane Vale, PE 215 W 4 th Street, Suite 200 Vancouver, WA 98660 (360) 695-7041	Owner:	City of Stevenson Public Works PO Box 371 7121 East Loop Road Stevenson, WA 98648 (509) 427-5970
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CITY STAFF:	Ben Shumaker Shoreline Administrator	Leana Kinley City Administrator	Scott Anderson Mayor
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BACKGROUND: The proposal was identified in the City's 2017 General Sewer Plan and Wastewater Facilities Plan Update. The City obtained outside funding for the project from 2 federal agencies. Each agency required independent reviews under their National Environmental

Policy Act (NEPA). The project has been reviewed under the State Environmental Policy Act under City File # SEPA2019-03. The current pump station and associated improvements were permitted under City File#SEPA2019-03. In addition to the environmental analyses conducted to satisfy those regulations, the application includes critical areas reports for habitat and geologic hazards, and a stormwater memo.

STANDARDS, FINDINGS AND CONCLUSIONS

SMC 18.08 – Shoreline Management

On December 20th, 2018, the City Council adopted Resolution 2018-0322 authorizing changes to SMC 18.08 pending approval by the Washington Department of Ecology. As of this date, Ecology has not issued final approval of the City updates, however on October 7th, 2020, Ecology staff authorized voluntary compliance with the proposed program updates. Therefore, review below is based on the December 20th, 2018 City Council authorized shoreline management program. Chapter 18.08 of the Stevenson Municipal Code 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. 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 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 Management Program," adopted [December 20, 2018], as well as a map which shall be officially known as the "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 the appropriate provisions of the SMP."

FINDING(S):

- a. The proposal is subject to review according to the provisions of the Stevenson Shoreline Management 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 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 Management 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; provided, the annexed shoreline has been predesignated within the SMP. 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; provided, the annexed shoreline has been predesignated within the SMP.

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 Creek lying within city limits.
- c. The proposal must conform to the Shoreline Management Act and the Stevenson Shoreline Management Program

CONCLUSIONS OF LAW: This 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.
- 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 an application on January 13, 2021.
- b. Upon submission of the application, the Shoreline Administrator determined the proposal involved projects in Category A.

- c. The Administrator issued a notice of incomplete application on January 20, 2021.
- d. The proponents submitted additional detail to complete the application on January 28, 2021.

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 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 of application included all required content.
 - b. The notice was posted on-site on February 9, 2021.
 - c. The notice was mailed to the required parties on either February 5 or 11, 2021.
 - d. The notice was published in the *Skamania County Pioneer* on February 3 and 10, 2021.

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. Fees are not refundable.
- C. Payment of an application fee does not guarantee that a permit will be issued.”

- FINDING(S):
- a. City Council Resolution 357 became effective on 6/1/2020 and establishes application fees for Shoreline Permits.
 - b. Transfer of funds between the City sewer department and planning department is an acceptable method to pay the required fees.
 - c. The transfer of funds between departments occurred prior to the public hearing.

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 30 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 20 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. No written comments have been submitted
 - b. No request to be notified of the action taken by the City have been submitted.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.140 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 SMC 18.08.190."

FINDING(S):

- a. An open record public hearing was held by the Planning Commission on 3/15/2021.
- b. The Planning Commission considered all relevant information available and evidence presented regarding this Category A proposal and determined the proposal's consistency with the SMA and the SMP, subject to conditions.
- c. The Planning Commission has not required the posting of a performance bond to assure compliance with the permit.
- d. This document provides the Planning Commission's written decision and the City's final decision on this permit.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.180 upon satisfaction of the conditions contained herein.

CRITERION §18.08.185 –SHORELINE ADMINISTRATOR ACTION—CATEGORY B PROPOSALS. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S):

- a. The proposal is not a Category B proposal; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.185 without conditions.

CRITERION §18.08.190 –NOTIFICATION AND FILING OF ACTION. [THIS SECTION CONTAINS DUTIES OF THE SHORELINE ADMINISTRATOR AFTER A DECISION IS MADE ON THE PROPOSAL. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S):

- a. The proponent is not responsible for satisfying this criterion.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.190 without conditions.

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 21 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 18.08.200 upon satisfaction of Condition 1, below and other conditions contained herein.

CONDITIONS:

- 1. Within 21 Days from Receipt of the Final Decision,** the proponent shall file any appeal according to SMC 18.08.200.

CRITERION §18.08.205 –APPEAL FROM ADMINISTRATOR DECISION. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):
- a. The proposal is not a Category B proposal; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.205 without conditions.

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 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.

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 necessary 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 Condition 2, below and other 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 2 years of the effective date of an authorization of 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 5 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 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. Different timelines than those set forth in SMC 18.08.220(A) & (B) are not necessary for this permit.
 - b. Conditions are necessary 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 Conditions 3-5, below and other 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 CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):
- a. The proposal does not involve a Shoreline Variance or Conditional Use Permit; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.235 without conditions.

CRITERION §18.08.250 –ENFORCEMENT—PENALTIES. "All provisions of his 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 necessary to ensure effective enforcement.

CONCLUSIONS OF LAW: This project will comply with SMC 18.08.250 upon satisfaction of Condition 6, below and other 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.

STEVENSON 2018 SHORELINE MASTER PROGRAM

The Stevenson 2018 Shoreline Master Program (SMP) contains the policies and regulations applicable to proposals undertaken in shoreline areas.

CHAPTER 1 - INTRODUCTION

CRITERION §1.1 –TITLE. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 1.1 without conditions.

CRITERION §1.2 –ADOPTION AUTHORITY. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 1.2 without conditions.

CRITERION §1.3 –SHORELINE JURISDICTION.

CRITERION §1.3.1 SHORELINE MANAGEMENT ACT JURISDICTION DEFINITION. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.2 without conditions.

CRITERION §1.3.2 APPLICABLE SHORELINE JURISDICTION IN STEVENSON. “The extent of shoreline jurisdiction shall be determined for specific projects proposals based on the actual location of the OHWM, floodway, and the presence and delineated boundary of associated wetlands as may be determined on a site-by-site basis based on adopted definitions and technical criteria.
The 2018 city limits of Stevenson includes 3 waterbodies which are regulated by this SMP. The Columbia River is a shoreline of statewide significance. Rock Cove and Rock Creek are also included as shorelines of the state in this SMP as depicted on the Shoreline Environment Designation maps in Appendix A. In addition, shoreline jurisdiction also includes the associated wetlands of these waterbodies, however, the City’s shoreline jurisdiction does not include option areas of 100-year floodplain or buffers for critical areas.
This SMP also predesignates areas within the City’s Urban Area boundary but currently outside of city limits. Such areas will be considered within Stevenson’s shoreline jurisdiction upon annexation. Predesignated areas include extended reaches along the Columbia River, and Rock Creek, as well as a small reach along Ashes Lake. This SMP does not apply within predesignated areas until the areas are annexed to the City, as consistent with WAC 173-26-150 and -160.”

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 occurs within the 2018 city limits and the shoreline jurisdiction of Rock Creek.

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

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

shall be based upon an on-site inspection and the definitions provided in accordance with SMP Sections 1.3.1 and 1.3.2, Chapter 3, Chapter 7, and in accordance with 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 areas 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 1.3.3 without conditions.

CRITERION §1.4 –VISION, GOALS, & PURPOSE OF THE SHORELINE MASTER PROGRAM. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):**
- a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 1.4 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. If the provisions of the SMP conflict with other applicable local ordinances, policies, and regulations, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 and that provide the greatest protection of shoreline ecological resources shall apply, as determined by the Shoreline Administrator. This SMP shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that 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. Please 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 the City of Stevenson, a local governmental agency, for a project occurring within the jurisdiction of Stevenson as identified herein.
 - b. The SMP is applicable to this proposal by the City of Stevenson
 - c. The 2018 Council-Authorized SMP conflicts with the 1975 Skamania County Shorelines Management Master Program and its enabling text. The applicant’s voluntary compliance with the 2018 Council-Authorized SMP resolves this conflict in a way that most supports the provisions of the SMA.

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

CRITERION §1.6 –RELATIONSHIP TO OTHER PLANS AND REGULATIONS. “In addition to obtaining authority to undertake shoreline use, development, or modification in accordance with the SMP, applicants must also comply with all applicable federal, state, or local statutes or regulations. These may include, but are not limited to, a Section 404 Dredge & Fill Permit by the U.S. Army Corps of Engineers (USACE), Section 401 Water Quality Certification by the Washington Department of Ecology (Ecology), Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW), and State Environmental Policy Act (SEPA) approval (RCW Chapter 43.21 and WAC Chapter 197-11). The Stevenson Municipal Code also applies, including Title 15 “Buildings and Construction”, Title 17 “Zoning”, and Title 18 “Environmental Protection”, and all other applicable code provisions. Applicants must also comply with the Stevenson Comprehensive Plan and any applicable subarea plan.”

FINDING(S): a. The proponent’s application has demonstrated compliance with the requirements of several federal, state, or local regulations and statutes.
b. The Planning Commission is not responsible for verifying the proponents’ compliance with all applicable regulations and statutes.
c. Delays associated with obtaining additional approvals are considered in SMC 18.08.220.

CONCLUSIONS OF LAW: This project will comply with SMP 1.6 upon satisfaction of the conditions contained herein.

CRITERION §1.7 –LIBERAL CONSTRUCTION. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 1.7 without conditions.

CRITERION §1.8 –ORGANIZATION OF THIS SHORELINE MASTER PROGRAM. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 1.8 without conditions.

CRITERION §1.9 –PERIODIC REVIEW & AMENDMENT TO THE SHORELINE MASTER PROGRAM. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 1.9 without conditions.

CHAPTER 2 – ADMINISTRATIVE PROVISIONS

CRITERION §2.1 –PURPOSE & APPLICABILITY. [This section contains guidance applicable to all criterion in the SMP but no specific regulations. The full text of this criterion is therefore omitted.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.1 without conditions.

CRITERION §2.2 –SHORELINE ADMINISTRATOR. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.2 without conditions.

CRITERION §2.3 –PRE-APPLICATION PROCEDURES.

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. On behalf of the proponents, E² Land Use Planning LLC held virtual pre-

application meetings via document on September 22nd, 2020 and via several follow-up phone conversations.

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

CRITERION §2.3.2 PRE-APPLICATION CONFERENCE—PURPOSE & OUTCOMES. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL PRE-APPLICATION CONFERENCES BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.3.2 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 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 –PERMIT PROCESS.

CRITERION §2.4.1 PERMISSION REQUIRED. [This section contains guidance applicable to all criterion in the SMP but no specific regulations. The full text of this criterion is therefore omitted.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.4.1 without conditions.

CRITERION §2.4.2 APPLICATION CONTENTS. [THIS SECTION CONTAINS 2 LISTS OF REQUIRED SUBMITTALS FOR APPROVAL OF 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 18.08.110 related to the acceptance of a complete application are relevant to this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.4.2 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."

FINDING(S): a. No 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 and conclusions related to SMC 18.08 are also relevant under this criterion.

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

CRITERION §2.5 –MINOR PROJECT AUTHORIZATIONS (MPA). [THIS SECTION BROADLY APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED, HOWEVER A RELEVANT SECTION HAS BEEN INCLUDED.]

"2. If any part of proposed development is not eligible for exemption from the state process, then a SSDP is required for the entire proposed development project, per WAC 173-27-040(1)(d).

FINDING(S): a. Parts of the proposal are not eligible for exemption from the SSDP process. Therefore, all development activities associated with the development are subject to approval through an SSDP.

CONCLUSIONS OF LAW: This project will comply with SMP 2.5 without conditions.

CRITERION §2.6 –SHORELINE SUBSTANTIAL DEVELOPMENT PERMITS.

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 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.

CRITERION §2.7 –SHORELINE CONDITIONAL USE PERMITS. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. The proposal does not involve a Shoreline Conditional Use Permit; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.7 without conditions.

CRITERION §2.8 –SHORELINE VARIANCES. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF PROJECT THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. The proposal does not involve a Shoreline Variance; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 2.8 without conditions.

CRITERION §2.9 –NONCONFORMING USE & DEVELOPMENT.

CRITERION §2.9.1 NONCONFORMING USE & DEVELOPMENT – PURPOSE – APPLICABILITY – CRITERIA. “The purpose of nonconforming use and development provisions is to recognize uses and development that have previously been established within shoreline jurisdiction. Where those uses & development were lawfully established according to the standards in place prior to the effective date of this SMP, these provisions are intended to allow the use or development to continue— or be “grandfathered”—until a later date when conformity to this SMP can be achieved. The following policies shall assist in reviewing proposals involving nonconforming use and/or development:

1. Nonconforming Use is defined herein.

2. Nonconforming uses and developments on Stevenson’s shorelines shall meet the standards of the City of Stevenson Zoning Code, SMC 17.44 – Nonconforming Uses, with the following exceptions:

a. A building or structure conforming as to use but nonconforming as to the shoreline setback, critical area buffer, and/or height provisions of the environment designation in which said building or structure is located may be maintained, repaired, or altered by expansion or enlargement, provided, that the alteration meets all applicable provisions of this SMP and does not further exceed or violate the appropriate shoreline setback, critical area buffer, and height provisions. (For example, a building or structure encroaching in a shoreline setback area shall not further encroach into the shoreline setback area as a result of the alteration.)

b. For the purposes of this SMP, any strengthening or restoring to a safe condition permitted under SMC 17.44.090(B) shall not further exceed or violate the appropriate shoreline bulk or dimensional standards of this SMP.

c. Proposed uses and structures that are appurtenant or accessory to nonconforming dwelling units must conform to all applicable requirements of this SMP.

d. A structure for which a shoreline variance (SVAR) has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

e. A structure that is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a SCUP. A SCUP may be approved only upon a finding that:

i. No reasonable alternative conforming use is practical; and

ii. The proposed use will be at least as consistent with the policies and

provisions of the SMA and this SMP and as compatible with the uses in the area as the preexisting use.

f. A nonconforming structure which is moved any distance must be brought into conformance with this SMP and the SMA unless a SVAR is approved.

g. For the purposes of this SMP, SMC 17.44.100 applies; provided, that application is made for the permits necessary to restore the structure within one year of the date the damage occurred, all permits are obtained, and that the restoration is completed within 2 years of permit issuance.”

FINDING(S): a. The findings contained in SMP Chapter 5 are relevant to review of this criterion.
b. Utilities in this location predate the adoption of the SMA and this SMP. Upgrades to these utilities have occurred over time, including as part of a proposal permitted under City File #SHOR1992-02.
c. Aspects of the proposal do not conform to the shoreline setback and critical area buffer provisions of this SMP.
d. As documented in other findings herein, the proposed maintenance, repair or

alteration by expansion or enlargement meet all applicable provisions of this SMP.
e. The proposal related to these nonconforming developments does not further exceed the appropriate shoreline setback or critical area buffer.

CONCLUSIONS OF LAW: This project will comply with SMP 2.9.1 upon fulfillment of the conditions contained herein

CRITERION §2.9.2 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 2.9.2 without conditions.

CONCLUSIONS OF LAW: This project will comply with SMP 2.9 upon satisfaction of conditions contained herein.

CRITERION §2.10 –SHORELINE PERMIT REVISIONS. “A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this SMP and/or the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision and may be authorized through a Minor Project Authorization. When a revision of a Shoreline Permit is sought, the applicant shall submit detailed plans and text describing the proposed changes and must demonstrate compliance with the following guidelines and standards as articulated in WAC 173-27-100:

1. If the City determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this SMP and the SMA, the City may approve a revision.
2. “Within the scope and intent of the original permit” means all of the following:
 - a. No additional over water construction is involved except that pier, dock, or float construction may be increased by 500 square feet or 10% from the provisions of the original permit, whichever is less;
 - b. Ground area coverage and height may be increased a maximum of 10% from the provisions of the original permit;
 - c. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as authorized under a variance granted as the original permit or part thereof;
 - d. Additional revised landscaping is consistent with any conditions attached to the original permit and with this SMP;
 - e. The use authorized pursuant to the original permit is not changed; and
 - f. No adverse environmental impact will be caused by the project revision.
3. Revisions to permits that have already expired (RCW 90.58.143) may be allowed only if the changes:
 - a. Are consistent with this section;
 - b. Would not otherwise require a Shoreline Permit per the SMA, WAC 173-27-100, or this SMP. If the proposed change constitutes substantial development then a new permit is required; and
 - c. The revision does not extend the time requirements of the original permit or authorize substantial development beyond the time limits of the original permit.
4. If the revision, or the sum of the revision and any previously approved revisions, cannot satisfy all the provisions itemized in subsection 2 of this section, the applicant shall be required to apply for a new Shoreline Permit.
5. Revision approval, including revised site plans and text necessary to clearly indicate the authorized changes and the final consistency ruling, shall be subject to the notice and filing procedures of SMC 18.08.190; provided, that the timelines stated in WAC 173-27-100 are to be followed in the event of any discrepancy.
6. The revised permit is effective immediately upon final decision by the City or, when appropriate, upon final action by Ecology.

7. Appeals to permit revisions shall be in accordance with SMC 18.08.200 and shall be based only upon contentions of noncompliance with the provisions of subsection 2 of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit

- FINDING(S):
- a. Unforeseeable changes occur during construction projects of the magnitude proposed.
 - b. The Shoreline Administrator and not the project proponent is responsible for determining whether changes are substantive to ensure enforcement of this permit and the SMP. A condition is necessary to provide this review.

CONCLUSIONS OF LAW: This project will comply with SMP 2.10 upon satisfaction of Condition 7, below.

CONDITIONS:

- 7. Throughout the Duration of this Permit,** 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 Minor Project Authorization or a Shoreline Permit Revision.

CHAPTER 3 – SHORELINE ENVIRONMENT DESIGNATION PROVISIONS

CRITERION §3.1 –INTRODUCTION. [This section contains guidance applicable to all criterion in the SMP but no specific regulations. The full text of this criterion is therefore omitted.]

- FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 3.1 without conditions.

CRITERION §3.2 –ENVIRONMENT DESIGNATIONS.

CRITERION §3.2.1 AQUATIC ENVIRONMENT. "1. Purpose: The purpose of the Aquatic Environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the Ordinary High-Water Mark (OHWM).

2. Location Criteria: The Aquatic SED may only apply to lands waterward of the OHWM and wetlands.

3. Management Policies:

- a. Allow new overwater structures only for water-dependent uses, public access, or ecological restoration.
- b. Limit the size of new overwater structures to the minimum necessary to support the structure's intended use.
- c. Encourage multiple use of overwater facilities to reduce the impacts of shoreline development and increase effective use of water resources.
- d. Locate and design all developments and uses on navigable waters or their beds to i) minimize interference with surface navigation, ii) consider impacts to public views, iii) allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- e. Limit uses that adversely impact the ecological functions of critical freshwater habitats, except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
- f. Design and manage shoreline uses and modifications to prevent degradation of water quality and alteration of natural hydrographic conditions.
- g. Reserve shoreline space for preferred uses. Such planning should consider upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing shellfish protection districts and critical habitats, aesthetics, public access and views.

- FINDING(S): a. The proposed modification of an existing stormwater outfall and the proposed

- replacement of an existing sanitary sewer forcemain on the Rock Creek Drive Bridge are located in the Aquatic SED.
- b. The proposal does not involve overwater structures.
- c. The proposed forcemain in the Aquatic SED is collocated on the Rock Creek Drive Bridge.
- d. The proposals in the Aquatic SED are designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife.
- e. The proposed Utility use limits adverse impacts to ecological functions of critical freshwater habitats.
- f. The proposal prevents degradation of water quality and alteration of natural hydrographic functions.
- g. The proposal utilizes shoreline space in the same location of existing utilities; no conflicts are identified with preferred uses.

CONCLUSIONS OF LAW: This project will comply with SMP 3.2.1 without conditions.

CRITERIA §3.2.2→3.2.4. [THIS SECTION APPLIES TO A DIFFERENT CATEGORY OF SHORELINE ENVIRONMENT DESIGNATION THAN APPLICABLE TO THE PROPOSAL FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. The proposal is not located in a Natural, Shoreline Residential, or Urban Conservancy SEDs; no specific findings are required for review of these criteria.

CONCLUSIONS OF LAW: This project will comply with SMP 3.2.2 through SMP 3.2.4, inclusive without conditions.

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 proposed improvements to the pump station and appurtenant structures, the proposed modification of an existing stormwater line on shorelands, the proposed replacement of an existing sanitary sewer forcemain on shorelands, and the proposed replacement of gravity sewer lines and manholes are located in the Active Waterfront SED.
 - b. The proposal utilizes shoreline space in the same location of existing utilities; no conflicts are identified with preferred or priority uses.
 - c. The proposal does not involve new Utility uses in the SED.
 - d. The findings related to SMP Chapter 4 are also relevant to review of this criterion.

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

CHAPTER 4 – GENERAL PROVISIONS FOR ALL SHORELINE ACTIVITIES

CRITERION §4.1 –INTRODUCTION. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN SMP CHAPTER 4 BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):
- a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 4.1 without conditions.

CRITERIA §4.2 –CULTURAL RESOURCES. "4.2.1 Applicability [THIS SECTION DESCRIBES THE SMP'S APPLICABILITY TO THE SITES WHERE CULTURAL RESOURCES HAVE BEEN DOCUMENTED, IDENTIFIED, OR DISCOVERED BUT CONTAINS NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]
4.2.2 Policies. [THIS SECTION CONTAINS THE BROAD POLICIES ON WHICH THE SMP'S REGULATIONS PROTECTING CULTURAL RESOURCES ARE BASED, BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]
4.2.3 Regulations. [FOUR SUBSECTIONS FOLLOW ESTABLISHING WHEN CULTURAL RESOURCES SURVEYS ARE REQUIRED AND HOW RESOURCES SHOULD BE PROTECTED. THE PROPONENTS PREPARED A CULTURAL RESOURCES SURVEY TO SATISFY OTHER APPROVALS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):
- a. The *Cultural Resource Survey* prepared by Archaeological Investigations Northwest, Inc. and submitted with this proposal has been reviewed by federal, state and tribal agencies, after which a Cultural Resources Monitoring Plan was determined necessary.
 - b. Archaeological Investigations Northwest, Inc. is in the process of preparing the Cultural Resources Monitoring Plan on behalf of the proponents.
 - c. A condition is appropriate to ensure implementation of the cultural resources monitoring plan.

CONCLUSIONS OF LAW: This project will comply with SMP 4.2 upon satisfaction of Condition 8, below.

CONDITIONS:

- 8. Throughout the Duration of this Permit,** the proponents shall implement a cultural resources monitoring plan developed in consultation with federal, state, and/or tribal agencies.

CRITERION §4.3 –ENVIRONMENTAL PROTECTION & NO NET LOSS. "4.3.1 Policies [THIS SECTION DESCRIBES THE BROAD POLICIES ON WHICH THE SMP'S INTENDS TO PREVENT NET LOSS OF SHORELINE ECOLOGICAL FUNCTIONS, BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]
4.3.2 General Critical Areas Regulations. [FIVE SUBSECTIONS FOLLOW ESTABLISHING THE REGULATIONS INTENDED TO AVOID NET LOSS OF ECOLOGICAL FUNCTIONS. FOR BREVITY THE FULL TEXT OF THIS CRITERION IS OMITTED.]

- FINDING(S):
- a. The findings of other sections in SMP Chapter 4, SMP Chapter 5, SMP Chapter 6, and SMC 18.13 are relevant to the review of this criterion.
 - b. The *Critical Areas Report* prepared by Ecological Land Services, Inc. (ELS) and submitted with this proposal includes appropriately applies Mitigation Sequencing of the proposal
 - c. To demonstrate compliance with state and federal requirements, the proponents evaluated the cumulative impacts of the proposal, including the no action alternative.
 - c. The project complied with the State Environmental Policy Act through City File # SEPA2019-03.
 - d. The ELS report identifies the appropriate mitigation for the proposal's impacts.
 - e. The ELS report establishes a schedule of monitoring reports to be submitted after the proposed project occurs. The monitoring reports provide an opportunity to document the project's compliance with the no-net-loss standard.
 - e. Documentation of no-net-loss can include loss of ecological functions avoided by the capacity increases of the proposal.
 - f. Conditions are necessary to ensure the proposal will achieve no-net-loss standards.

CONCLUSIONS OF LAW: This project will comply with SMP 4.3 upon satisfaction of Condition 9, below.

CONDITIONS:

- 9. Prior to Submittal of the Final Monitoring Report**, the proponents shall provide a table summarizing the ecological functions lost and gained as a result of the proposal. If the report cannot document no-net-loss of shoreline ecological functions, a contingency plans shall be developed, implemented, and monitored.

CRITERION §4.4 –CRITICAL AREAS. "4.4.1 Applicability [THIS SECTION DESCRIBES THE SMP'S APPLICABILITY TO PROPOSALS HAVING THE POTENTIAL TO IMPACT CRITICAL AREAS BUT CONTAINS NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

4.4.2 Policies. [THIS SECTION CONTAINS THE BROAD POLICIES ON WHICH THE SMP'S REGULATIONS RELATED TO CRITICAL AREAS, BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

4.4.3 General Critical Areas Regulations. [THREE SUBSECTIONS FOLLOW ESTABLISHING THE RELATIONSHIP BETWEEN PROJECTS, THE CRITICAL AREAS CODE OF SMC 18.13, AND APPROVALS FROM FEDERAL AND STATE AGENCIES. FOR BREVITY THE FULL TEXT OF THIS CRITERION IS OMITTED.]

4.4.4 Fish & Wildlife Habitat Conservation Area Regulations. [FOUR SUBSECTIONS FOLLOW ESTABLISHING THE RELATIONSHIP BETWEEN PROJECTS, THE CRITICAL AREAS CODE OF SMC 18.13, AND APPROVALS FROM FEDERAL AND STATE AGENCIES. FOR BREVITY THE FULL TEXT OF THIS CRITERION IS OMITTED.]

4.4.4 Wetlands Regulations. [TWO SUBSECTIONS FOLLOW ESTABLISHING THE RELATIONSHIP BETWEEN PROJECTS, THE CRITICAL AREAS CODE OF SMC 18.13, AND APPROVALS FROM FEDERAL AND STATE AGENCIES. FOR BREVITY THE FULL TEXT OF THIS CRITERION IS OMITTED.]

- FINDING(S):
- a. The findings of SMP Section 4.3 and SMC 18.13 are relevant to the review of this criterion.
 - b. The *Critical Areas Report* prepared by Ecological Land Services, Inc.(ELS) and submitted with this proposal includes analyzes the proposal's potential adverse impacts to Fish & Wildlife Habitat Conservation Areas and establishes the absence of Wetlands at the proposal site.
 - c. The ELS report identifies functionally isolated and degraded buffers and the presence of several invasive plant species at the proposal site and calls for

restoration of buffer areas in its mitigation plan.

d. Portions of the proposal potentially involve work below the OHWM where state and federal approvals are necessary.

e. Conditions are necessary to ensure the proposal will implement the mitigation plan and achieve no-net-loss standards.

CONCLUSIONS OF LAW: This project will comply with SMP 4.4 upon satisfaction of Condition 10, below and other conditions contained herein.

CONDITIONS:

10. Prior to Expiration of this Permit, the proponents shall implement the Critical Areas Mitigation Plan as it applies to all areas of the Rock Creek Drive right-of-way. Additionally:

- a. **Prior to the Start of Construction**, the outer edge of all buffer areas shall be clearly staked, flagged, and fenced in the field at the proposal site. These markers shall be clearly visible, durable, posted in the ground, and maintained throughout the duration of construction activities.
- b. **Prior to removal of "Tree of Heaven" from the Proposal Site**, the proponents shall consult with the Skamania County Noxious Weed Board to ensure the removal is undertaken appropriately.

CRITERION §4.5 –FLOOD HAZARD REDUCTION. "4.5.1 Applicability [THIS SECTION DESCRIBES THE SMP'S APPLICABILITY TO THE SITES IN FREQUENTLY FLOODED AREAS AND CHANNEL MIGRATION ZONES BUT CONTAINS NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]
4.5.2 Policies. [THIS SECTION CONTAINS THE BROAD POLICIES ON WHICH THE SMP'S REGULATIONS RELATED TO REDUCING FLOOD HAZARDS ARE BASED, BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]
4.5.3 Regulations. [EIGHT SUBSECTIONS FOLLOW ESTABLISHING WHEN FLOOD HAZARD AND CHANNEL MIGRATION ZONE STUDIES ARE REQUIRED AND IMPACTS ARE TO BE AVOIDED. FOR BREVITY THE FULL TEXT OF THIS CRITERION IS OMITTED.]

FINDING(S):

- a. The proposal narrative prepared by E² and Use Planning LLC and the proposal site plan show the elevation of improvements occurring above the base flood elevation and outside of the mapped 100-year floodplain of Rock Creek.
- b. The project is located within a mapped pCMZ; however the shoreline administrator waived the requirement for a critical area report on channel migration zones.

CONCLUSIONS OF LAW: This project will comply with SMP 4.5 without conditions.

CRITERION §4.6 –PUBLIC ACCESS. "4.6.1 Applicability [THIS SECTION DESCRIBES THE SMP'S APPLICABILITY TO THE PROPOSALS' PROVISION OF PUBLIC ACCESS, BUT CONTAINS NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]
4.6.2 Policies. [THIS SECTION CONTAINS THE BROAD POLICIES ON WHICH THE SMP'S REGULATIONS RELATED TO PROVIDING PUBLIC ACCESS ARE BASED, BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]
4.6.3 Regulations. [ELEVEN SUBSECTIONS FOLLOW ESTABLISHING WHEN PUBLIC ACCESS SHOULD BE ADDRESSED BY PROPOSALS. FOR BREVITY THE FULL TEXT OF THIS CRITERION IS OMITTED.]

FINDING(S):

- a. The proposal involves public funding on public lands and portions of the proposal are not water-dependent or preferred uses under the SMA.
- b. Suitable public visual access is already provided by the Rock Creek Drive Bridge and the proposal will not negatively impact this existing physical access nor create a demand for shoreline public access that cannot be accommodated by the existing public access system and existing public recreational facilities in the immediate

vicinity.

c. Physical public access is not provided at the proposal site and additional public access is infeasible due to the unavoidable health or safety hazards presented by the passage of waste through the public sewer system.

d. The Planning Commission is satisfied that all reasonable alternatives for provision of shoreline physical access at the proposal site have been exhausted.

CONCLUSIONS OF LAW: This project will comply with SMP 4.6 without conditions.

CRITERION §4.7 –WATER QUALITY & NON-POINT SOURCE POLLUTION. “4.7.1 Applicability [THIS SECTION DESCRIBES THE SMP’S APPLICABILITY TO THE PROPOSALS’ PROTECTION OF ECOLOGICAL FUNCTIONS RELATED TO STORMWATER, BUT CONTAINS NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

4.7.2 Policies. [THIS SECTION CONTAINS THE BROAD POLICIES ON WHICH THE SMP’S REGULATIONS RELATED TO PROTECTIONS OF ECOLOGICAL FUNCTIONS RELATED TO STORMWATER, BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

4.7.3 Regulations. [SIX SUBSECTIONS FOLLOW ESTABLISHING WHEN PUBLIC ACCESS SHOULD BE ADDRESSED BY PROPOSALS. FOR BREVITY THE FULL TEXT OF THIS CRITERION IS OMITTED.]

FINDING(S):

- a. The *Technical Memorandum: Rock Creek Pump Station Stormwater Management* prepared by Wallis Engineering and submitted with this proposal evaluates the proposal’s design and determines consistency with the *SMMWW*.
- b. Construction of the proposal is subject to construction-related stormwater conditions from other approvals which protect and maintain surface and ground water.
- c. Operation of the proposal overtime does not require any special conditions to protect and maintain surface and ground water.
- d. The findings related to SMP Chapter 5 are relevant to review of this criterion.
- e. The replacement of the stormwater outfall has the potential to come into contact with water. A condition is necessary to ensure the proposal is consistent with SMP 4.7.3.6.

CONCLUSIONS OF LAW: This project will comply with SMP 4.7 upon satisfaction of Condition 11, below.

CONDITIONS:

11. Prior to the Start of Construction, the proponents shall obtain all appropriate federal and state approvals for any work occurring below the OHWM.

CRITERION §4.8 –SHORELINES OF STATEWIDE SIGNIFICANCE. [THIS SECTION APPLIES TO PROPOSALS ADJACENT TO DIFFERENT WATERBODIES THAN HAS BEEN PROPOSED. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S):

- a. The proposal is not located along a Shoreline of Statewide significance; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 4.8 without conditions.

CHAPTER 5 – SHORELINE USE REGULATIONS

CRITERION §5.1 –INTRODUCTION. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERIA IN SMP CHAPTER 5 BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

FINDING(S): a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 5.1 without conditions.

CRITERION §5.2 –PROVISIONS APPLICABLE TO ALL USES.

"1. When determining allowable uses and resolving use conflicts within the City's shoreline jurisdiction, the following preferences and priorities 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. New uses shall be subject to the setback requirements and height limitations contained in Table 5.1 – Shoreline Use & Dimensional Standards.

FINDING(S):

- a. Utility uses are a listed use in the applicable SEDs.
- b. The proposal site is currently used for Utility uses and no use conflict has been identified.

CONCLUSIONS OF LAW: This project will comply with SMP 5.2 without conditions.

CRITERION §5.3 –SHORELINE USE TABLE.

"1. Types of Uses: For the purposes of this SMP, there are 3 kinds of use:

- a. A Permitted (P) use is one that may be authorized through a Minor Project Authorization or Shoreline Substantial Development Permit subject to all the applicable provisions of this SMP.
- b. A Conditional (C) use is a discretionary use reviewed according to the process and criteria in SMP Section 2.7.
- c. A Prohibited (X) use is one that is not permitted in a Shoreline Environment Designation.

b. Ground area coverage and height may be increased a maximum of 10% from the provisions of the original permit;

- d. When a letter or use category is not listed in this section, an interpretation may be initiated under SMP Section 5.4.13.

2. Use Table: A list of permitted, conditional and prohibited uses in each Shoreline Environment Designation (SED) is presented in Table 5.1 – Shoreline Use & Dimensional Standards. The table also lists the minimum shoreline setbacks applicable to the use, activity, or development categories within each SED. This table is intended to work in concert with the specific use policies and regulations that following, however, where there is a discrepancy between this table and the text of the SMP, the text shall take precedence. [TABLE 5.1 OF THE SMP CONTAINS 12 TYPES OF HIGH-LEVEL USE CATEGORIES, FOR BREVITY, ALL USE CATEGORIES OTHER THAN "UTILITIES" ARE OMITTED.]

TABLE 5.1 – SHORELINE USE & SETBACK STANDARDS, CONT.										
	Shoreline Environment Designation									
	Most Restrictive					Least Restrictive				
	AQUATIC		NATURAL		SHORELINE RESIDENTIAL		URBAN CONSERVANCY		ACTIVE WATERFRONT	
	Allowance	Setbacks (ft)	Allowance	Setbacks (ft)	Allowance	Setbacks (ft)	Allowance	Setbacks (ft)	Allowance	Setbacks (ft)
P= Permitted, C=Conditional Use, X= Not Permitted, n/a= Not Applicable										
Utilities										
Water-Oriented	P	n/a	C	0	C	0	P	0	P	0
Non-Water-Oriented (Parallel)	X	n/a	C	100	C	50	P	50	P	33
Non-water-Oriented (Perpendicular)	C	n/a	C	0	C	0	C	0	P	0

- FINDING(S):
- a. The findings in SMP 2.9 are relevant to this criterion.
 - b. The findings in SMP Chapter 3 are relevant to this criterion.
 - c. The various components of the proposal involve Water-Oriented, Non-Water-Oriented (Parallel), and Non-Water-Oriented (Perpendicular) Utilities.
 - d. The proposed modification of an existing stormwater outfall is a Water-Oriented Utility listed as P-Permitted which is not subject to setbacks in the Aquatic SED.
 - e. The proposed replacement of an existing sanitary sewer forcemain on Rock Creek Drive Bridge is a Non-Water-Oriented (Perpendicular) Utility listed as C-Conditional which is not subject to setbacks in the Aquatic SED; however, the use is considered a Nonconforming Use under SMP 2.9 and no Shoreline Conditional Use Permit is necessary.
 - f. The proposed improvements to the pump station and appurtenant structures are a Non-Water-Oriented (Parallel) Utility listed as P-Permitted and subject to a 33' setback in the Active Waterfront SED; however, the development is considered a Nonconforming Development under SMP 2.9 and no Shoreline Variance is necessary.
 - g. The proposed modification of an existing stormwater line on shorelands is a Water-Oriented Utility listed as P-Permitted subject to a 0' setback in the Active Waterfront SED.
 - h. The proposed replacement of an existing sanitary sewer forcemain on shorelands is a Non-Water-Oriented (Parallel & Perpendicular) Utility listed as P-Permitted and variously subject to 0' and 33' setbacks in the Active Waterfront SED; however, the development is considered a Nonconforming Development under SMP 2.9 and no Shoreline Variance is necessary.
 - i. The proposed replacement of gravity sewer lines and manholes is a Non-Water-Oriented (Parallel) Utility listed as P-Permitted and subject to a 33' setback in the Active Waterfront SED.

CONCLUSIONS OF LAW: This project will comply with SMP 5.3 without conditions.

CRITERION §5.4 –SPECIFIC SHORELINE USE POLICIES & PROVISIONS.

CRITERIA §5.4.1 → §5.4.11. [THESE SECTION APPLIES TO USES DIFFERENT THAN HAS BEEN PROPOSED. THE FULL TEXT OF THESE CRITERIA ARE THEREFORE OMITTED.]

- FINDING(S):
- a. No specific findings are required for review of these criteria.

CONCLUSIONS OF LAW: This project will comply with SMP 5.4.1 through 5.4.11, inclusive without conditions.

CRITERIA §5.4.12 -UTILITIES. "1. Location Description. [THIS SECTION A CONTAINS GUIDANCE APPLICABLE TO ALL UTILITY USES BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

2. Applicability. [THIS SECTION DESCRIBES THE SMP'S APPLICABILITY TO THE PROPOSED USE BUT CONTAINS NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

3. Policies. [THIS SECTION CONTAINS THE BROAD POLICIES ON WHICH THE SMP'S REGULATION OF UTILITIES ARE BASED, BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

4. Regulations.

- a. All utility facilities shall be designed and located to minimize harm to shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

- b. Infrastructure plans shall be reviewed for compatibility with this SMP, and utility service availability in shoreline jurisdiction shall not be the sole cause justifying more intense development.
- c. Primary utility production and processing facilities that are non-water-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.
- d. Transmission facilities shall be located to cause minimal harm to the shoreline and shall be located outside of shoreline jurisdiction whenever feasible. When located within the Columbia River shoreline, utility facilities shall be brought underground.
- e. Transmission facilities shall be located in existing rights-of-way whenever possible, cross shoreline jurisdiction by the most direct route feasible, and generally be located perpendicular to the shoreline, unless an alternative route would result in less impact on shoreline ecological functions;
- f. Where environmental impacts are less significant, utility transmission lines, pipes, and wires shall be bored under a river, stream, or CMZ, or permanently affixed to a bridge or other existing above-ground structure, where feasible;
- g. Restoration of ecological functions shall be a condition of new and expanded non-water-dependent utility facilities.

- FINDING(S):**
- a. The proposed utilities are designed to minimize harm to shoreline ecological functions in a highly-disturbed location and the capacity of the proposed utilities exceeds the projected needs of the community.
 - b. The 2016 General Sewer Plan and Wastewater Facilities Plan Update predated the City Council authorization of this SMP; therefore no review was possible at the time.
 - c. Alternative locations for the proposed non-water-oriented utility are not feasible.
 - d. The proposed transmission components of the project are located in existing rights-of-way and use the most direct routes feasible to enter and cross through shoreline jurisdiction.
 - e. The proposed forcemain is permanently affixed to the Rock Creek Drive Bridge.
 - f. The findings related to SMP Chapter 4 are also relevant to the review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 5.4.12 upon compliance with the conditions herein.

CRITERION §5.4.13 –UNLISTED USES. [THIS SECTION APPLIES TO A DIFFERENT USE SCENARIO THAN HAS BEEN PROPOSED FOR REVIEW. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):**
- a. The proposal is listed in the Use Table of SMP 5.3; no specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 5.4.13 without conditions.

CHAPTER 6 – SHORELINE MODIFICATION PROVISIONS

CRITERION §6.1 –INTRODUCTION. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERIA IN SMP CHAPTER 6 BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):**
- a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 6.1 without conditions.

CRITERION §6.2 –GENERAL PROVISIONS FOR ALL SHORELINE MODIFICATIONS. "Shoreline modifications are expected to implement the following principles:

- 1. Policies: The environmental impacts of new shoreline modifications should be consistent with the following:
 - a. Limit the number and physical extent of shoreline modifications,

- b. Consider the site-specific conditions which inform the need for and type of modification which is appropriate, with a preference for lesser ecological impacts, and non-structural modifications over structural,
 - c. Allow structural shoreline modifications only where they i) are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or ii) are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes,
 - d. Incorporate all feasible measures to protect, restore, and enhance ecological functions and ecosystem-wide processes as modifications occur.
2. 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 related to SMP Chapter 4 are relevant to review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 6.2 without conditions.

CRITERION §6.3 –SHORELINE MODIFICATIONS TABLE. “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					
	Most Restrictive to Least Restrictive				
	AQUATIC	NATURAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	ACTIVE WATERFRONT
P= Permitted, C=Conditional Use, X= Not Permitted, N/A= Not Applicable					
Vegetation Removal	See Adjacent Upland Environment				
All		P	P	P	P

- FINDING(S):**
- a. The findings in SMP Chapter 3 are relevant to this criterion.
 - b. The proposal involves f Shoreline Vegetation Removal, a P-Permitted modification in the Active Waterfront SED and adjacent areas in the Aquatic SED.
 - c. The findings of SMP Chapter 4 are relevant to this criterion.

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

CRITERION §6.4 –SPECIFIC SHORELINE MODIFICATION PROVISIONS.

CRITERIA §6.4.1 –VEGETATION REMOVAL. “1. Applicability [THIS SECTION DESCRIBES THE SMP’S APPLICABILITY TO THE REPLACEMENT OF VEGETATION REMOVED IN SHORELINE JURISDICTION BUT CONTAINS NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

2 Policies. [THIS SECTION CONTAINS THE BROAD POLICIES ON WHICH THE SMP’S REGULATIONS RELATED TO REPLACING REMOVED VEGETATION ARE BASED, BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

4.5.3 Regulations. [SEVEN SUBSECTIONS AND ONE TABLE FOLLOW ESTABLISHING MITIGATION FOR REMOVAL OF SHORELINE VEGETATION. FOR BREVITY THE FULL TEXT OF THIS CRITERION IS OMITTED.]

- FINDING(S):
- a. The findings in SMP Chapter 4 are relevant to this criterion.
 - b. The vegetation removed is limited to the minimum necessary to accommodate the proposal and the achievement of not-net-loss standards.

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

CRITERIA §6.4.2 → §6.4.6. [THESE SECTION APPLIES TO SHORELINE MODIFICATIONS DIFFERENT THAN HAS BEEN PROPOSED. THE FULL TEXT OF THESE CRITERIA ARE THEREFORE OMITTED.]

- FINDING(S):
- a. The proposal does not involve Fill, Shoreline Stabilization, Shoreline Restoration, Dredging or Breakwaters, Jetties, Groins & Weirs; No specific findings are required for review of these criteria.

CONCLUSIONS OF LAW: This project will comply with SMP 6.4.2 through 6.4.6, inclusive without conditions.

CHAPTER 7 - DEFINITIONS

CRITERION §7.1 – ABBREVIATIONS & ACRONYMS. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):
- a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 7.1 without conditions.

CRITERION §7.2 – WORDS & PHRASES. [THIS SECTION CONTAINS GUIDANCE APPLICABLE TO ALL CRITERION IN THE SMP BUT NO SPECIFIC REGULATIONS. THE FULL TEXT OF THIS CRITERION IS THEREFORE OMITTED.]

- FINDING(S):
- a. No specific findings are required for review of this criterion.

CONCLUSIONS OF LAW: This project will comply with SMP 7.2 without conditions.

SMC CH. 18.13 CRITICAL AREAS AND NATURAL RESOURCE LANDS

This chapter considers whether projects are located within or likely to impact Critical Areas (Critical Aquifer Recharge Areas, Fish & Wildlife Habitat Areas, Frequently Flooded Areas, Geologically Hazardous Areas, Wetlands), requiring mitigation if impacts are identified. The Chapter is subject to administrative review and approval. For brevity, detailed descriptions of the Critical Areas Code's 23 sections are omitted.

- FINDING(S):
- a. The findings made under SMP 4.3 and SMP 4.4 are relevant for review under this criterion.
 - b. The applicants have submitted a complete application for a Shoreline Permit integrated with review under the Critical Areas Code.
 - c. The Critical Areas Report prepared by Ecological Land Services, Inc. (ELS) and submitted for this project complies with the report requirements of SMC 18.13.095(C) & (F).
 - d. The proponents have appropriately applied the City's preferred mitigation sequence to this proposal.
 - e. The above-referenced assessments contain recommendations and mitigation plans to ensure the proposal does not adversely impact critical areas.
 - g. The proposal's mitigation plan adequately addresses the Vegetation Removal

Standards of SMP 6.4.1.

CONCLUSIONS OF LAW: This project will comply with the Critical Areas Ordinance upon satisfaction of the conditions contained herein.

FINAL ORDER

A Shoreline Substantial Development shall be issued for the proposal submitted as SHOR 2021-01. The project will be consistent with the policy and provisions of the SMA and the SMP upon satisfactions of the conditions listed herein. For ease of readership, the conditions are repeated below:

Any person aggrieved by the granting of this permit by the Council may seek review from the Shorelines Hearings Board, pursuant to RCW 90.58.180.

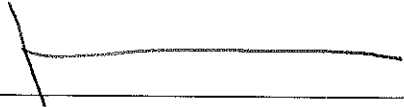
1. **Within 21 Days from Receipt of the Final Decision**, the proponent shall file any appeal according to SMC 18.08.200.
2. **Construction Pursuant to this Permit Shall not Begin** and is not authorized until 21 days from the date of filing with Ecology, per WAC 173-27-190 or as subsequently amended, 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 this Permit**, 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 Minor Project Authorization or a Shoreline Permit Revision.
8. **Throughout the Duration of this Permit**, the proponents shall implement a cultural resources monitoring plan developed in consultation with federal, state, and/or tribal agencies.
9. **Prior to Submittal of the Final Monitoring Report**, the proponents shall provide a table summarizing the ecological functions lost and gained as a result of the proposal. If the report cannot document no-net-loss of shoreline ecological functions, a contingency plans shall be developed, implemented, and monitored.
10. **Prior to Expiration of this Permit**, the proponents shall implement the Critical Areas Mitigation Plan as it applies to all areas of the Rock Creek Drive right-of-way. Additionally:
 - a. **Prior to the Start of Construction**, the outer edge of all buffer areas shall be clearly staked, flagged, and fenced in the field at the proposal site. These markers shall be clearly visible, durable, posted in the ground, and maintained throughout the duration

of construction activities.

- b. **Prior to removal of "Tree of Heaven" from the Proposal Site**, the proponents shall consult with the Skamania County Noxious Weed Board to ensure the removal is undertaken appropriately.

- 11. **Prior to the Start of Construction**, the proponents shall obtain all appropriate federal and state approvals for any work occurring below the OHWM.

DATED this 19 day of March, 2021



For the Planning Commission,
Valerie Hoy-Rhodehamel, Chair
City of Stevenson



City of Stevenson

Planning Department

(509)427-5970

7121 E Loop Road, PO Box 371
Stevenson, Washington 98648

Shoreline Administrator Interpretation

Notice Requirements for Revisions to Shoreline Substantial Development Permits (SHOR2022-01)

Issue:

Revisions to Shoreline Substantial Development Permits are allowed when the proposal within the scope and intent of the original Permit. The criteria for the review of proposed revisions are listed in SMP 2.10. The process leading to this review is not well defined, and the Stevenson Shoreline Management Program contains no written guidance related to public notice when SSDP revisions are requested.

Guiding Policy

This interpretation is authorized under SMC 18.08.010.B.4 which anticipates the need for written administrative interpretations and requires consultation with the Department of Ecology prior to their issuance.

Discussion

Preexisting Ecology Guidance

The Department of Ecology's Shoreline Permitting Manual addresses notice requirements for SSDP revisions. The manual as reviewed prior to this interpretation is available online at <https://apps.ecology.wa.gov/publications/documents/1706029.pdf>. That manual was prepared in December 2017 and revised in November 2019. On this topic it states the following:

Notification to Parties of Record.

A revised permit does not require new public notice. However, local governments must notify parties of record in the original decision of their permit action (or Ecology's decision) within eight days. If the changes are not within the original scope and intent, then a new permit application must be filed and new public notice proceedings initiated [WAC 173-27-100(4)].

Specific Consultant with Ecology

On June 28th, 2022, the Shoreline Administrator contacted Ecology staff via email to verify applicability of the guidance above related to the timeline and notice. The following written guidance was received in response:

The revised permit should be sent to Ecology and the state Attorney General within 8 days of the final decision by the local government. The revised permit does not require new public notice.

Findings

Based on the discussion above, the following findings are made:

- 1) The Stevenson Shoreline Management Program requires interpretation to establish notice requirements for revisions to Shoreline Substantial Development Permits.

- 2) The Department of Ecology has clear guidance related to their expectations for public notices related to revisions.
- 3) Unless the City Council acts to specifically address notice requirements, the guidance offered by the Department of Ecology's is taken as the expected content, method, and timeline for revisions to Shoreline Substantial Development Permits.

Interpretation:

A new notice period is not required for requests to revise an existing Shoreline Substantial Development Permit (SSDP). When the City receives request to revise a SSDP, the City must notify parties of record in the original decision within 8 days of its decision on a permit revision.

For the Planning Department:



Ben Shumaker, Shoreline Administrator 7-15-2022 Date