

City of Stevenson

Phone (509) 427-5970 Fax (509) 427-8202 7121 E Loop Road, PO Box 371 Stevenson, Washington 98648

September 2024 Planning Commission Meeting

Monday, September 09, 2024

6:00 PM

A. Preliminary Matters

1. Public Comment Expectations:

In Person: Attendees at City Hall should follow current CDC and State guidance regarding use of masks, social distancing, and attendance.

Webinar: https://us02web.zoom.us/s/85637388112 Conference Call: +1 253 215 8782 or +1 346 248 7799 ID #: 856 3738 8112

Commenters must raise their hand and be acknowledged by the Chair. Individual comments may be cut off after 3 mins. Disruptive individuals may be required to leave the meeting. Persistent disruptions may result in the meeting being recessed and continued at a later date.

Tools: *6 to mute/unmute & *9 to raise hand

- **2. Public Comment Period:** (For items not located elsewhere on the agenda)
- **Minutes:** June 10, 2024 Planning Commission Meeting Minutes
- **B.** New Business
- 4. Training: Training related to State statutes and City policies promoting transparency. https://www.atg.wa.gov/open-government-training
- C. Old Business
- **D.** Discussion

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- 5. Staff & Commission Reports: Tree Preservation Planning, Lasher Street, 1st Street Overlook, Sewer System Upgrades, City Administrator, Shoreline Permit Appeal
- 6. Thought of the Month:
 - -Street Maintenance Funding: https://planning.org/planning/2024/aug/new-road-fees-for-amazon-and-others-supercharge-state-transportation-funds/

E. Adjournment

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DRAFT Minutes Stevenson Planning Commission Meeting Monday, June 10, 2024 6:00 PM

Planning Commission Chair Breckel called the meeting to order at

6:02 p.m. A quorum was present.

MEMBERS PRESENT PC Chair Jeff Breckel; Commissioner Anne Keesee. Commissioner

Charlie Hales, Commissioner Auguste Zettler, Commissioner Tony

Lawson.

STAFF PRESENT Community Development Director Ben Shumaker, Planning & Public

Works Assistant Tiffany Andersen

PUBLIC PRESENT Mary Repar, Stevenson

A. Preliminary Matters

1. Public Comment Expectations Shumaker explained use of tools for remote participants: *6 to

mute/unmute & *9 to raise hand. Commenters must raise their hand and be acknowledged by the Chair. Individual comments may be limited to 3 minutes. Disruptive individuals may be required to leave the meeting. Persistent disruptions may result in the meeting being

recessed and continued at a later date.

Shumaker requested to add Work Plan discussion to agenda.

The agenda was amended to add Work Plan discussion forward

without objection.

2. Public Comment Period (For items not located elsewhere on the agenda)

Mary Repar commented about discussion of Work Plan and how Planning Commission assists the City with good decision making. Repar commented on the splash pad addition to the Park Plaza Plan. She does not feel it is an appropriate addition due to the possible need of a chlorine bunker and the cost. Repar urged everyone to join the elementary school meeting to discuss options, instead of moving the

school to Carson.

Breckel inquired if the Planning Commission has any role in the

Parks Plan. He was informed they do not.

Discussion regarding closing the elementary school followed.

3. May 13, 2024 Minutes The Planning Commission meeting minutes from May 13, 2024,

were approved unanimously as presented.

B. No New Business

C. Old Business

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4. Conditional Use Permit Request (CUP2024-01 Stepping Stones Preschool Update)

Shumaker updated Planning Commission on a decision the River Church made after the Planning Commission's findings and determination. Glenn Daman, the pastor of The River Church, decided to withdraw the initial Conditional Use application. The Church will submit a new application, with legal counsel, stating religious freedoms. Staff met with Daman to review scenarios and informed him of the option to have their request heard by the Hearing Examiner, who is a trained Land Use attorney and is able to hear any quasi-judicial decision. The course would be to present to City Council, providing the same public notice as original application process. Public would be given opportunity to voice opposition or support. Shumaker asked if the Planning Commission would like to submit anything new to Committee.

Breckel and **Hales** believe the new application should come back to the Planning Commission for deliberation. Each believes this is a policy/code call and are reluctant to turn over to Hearing Examiner. **Lawson** asked if Planning Commission is allowed to consider religious reasons. **Breckel** sighted code and regulations as the rejection determination, not religious. More to come when applicant submits new documentation.

D. Discussion

5. Work Plan

Shumaker At the beginning of the year a Planning Commission Work Plan was established. The Zoning and Flood Plain updates have been completed. Planning Commission will look to complete a comp plan. The Parking study is still being updated. The next move is to address the Annexation policy and begin discussion on the updated zoning map. Parking and Annexation are being worked on through their respective sub committees. There is currently no subcommittee for zoning. Shumaker informed Commissioners it is grant writing season. Staff are typically very busy during this phase of the year, but he is working on a Tree Preservation Plan. This plan entails working with the PUD regarding utility conflicts and underground utilities. The goal is tree preservation. The hope is to remove utility lines and place them underground. This approach is to save trees and reduce fire hazards. Planning is currently working with the Department of Natural Resources to develop the overall scope for possible Planning Commission involvement.

6. Staff & Commission Reports

Shumaker presented brief updates on the following items:

Critical Areas Update Ordinance regulations, to further protect critical areas, have been rolled out by Ecology and Fish and Wildlife. City must update current ordinance by mid-2026. Staff will review

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ordinance for consistency with new, best available science. **Shumaker** will work to provide the ordinance in the second half of the year. Requests to bring to Planning Commission once complete, with no sub-committee required.

Annexation Hales is hoping the updated zoning map is presented to Planning Commission within the next 6 months. They are waiting on the sewer policy to be worked out in order to complete their work.

Online Planning Permitting City Council approved the addition of Planning/Land Use and Code Enforcement to our online permitting system, Cloudpermit. Will be working with Cloudpermit staff to initiate Planning's online portal.

Lasher Street Shumaker summarized the project as addressing a low-income housing complex in the heart of Stevenson lacks basic services related to fire hydrant coverage, emergency vehicle turnaround and sidewalks. The City is moving this project forward.

Affordable Housing Repar suggested the Planning Commission have a serious discussion about how to mitigate climate change, as the City does not currently have a definition. This segued into the question of how Planning Commission would like to address Affordable Housing. Repar asked if Planning Commission will look to make policy changes. Hales asked if ADU requirements need to be re-examined or refreshed. Shumaker pointed to the City Council who is looking to move the needle on Affordable Housing with the assistance of Washington Gorge Action Programs and the County to address housing issues. Action items have been taken, such as increased cap of multi-density, providing flexibility to allow townhomes.

7. Thought of the Month

Shumaker recommended visiting the two websites suggested regarding broadband and ADU naming.

8. Adjournment

PC Chair Breckel declared the meeting adjourned at 7:32 p.m.

Minutes recorded by Tiffany Andersen.

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

TO: **Planning Commission**

FROM: **Ben Shumaker**

September 9th, 2024 DATE:

SUBJECT: Public Involvement, Open Public Meetings & Open Public Records

<u>Introduction</u>

This memo presents the required training for Washington governmental bodies related to public meetings and public records. These required trainings are based on the State's Open Public Meetings Act and Public Records Act. This pair of laws are crucial for the preservation of our representative democracy and are commonly known as "Sunshine Laws" after former US Supreme Court Justic Louis Brandeis' quote "Sunshine is the best disinfectant".

The memo also discusses the Planning Commission's own expectations for how the public is involved in decisions made on the public's behalf. It concludes by asking whether the Planning Commission desires any revision to its public involvement expectations.

Open Public Meetings Act

Attachment 1 is a presentation from the Washington Attorney General (AG) designed to help us understand our role serving the citizens of Stevenson as representatives in the democratic process (OPMA) and our role maintaining records in the course of that process (PRA).

Key OPMA Concepts: What is a "meeting"? What is an "action"?

Key PRA Concepts: What is a "writing"? What is "privacy"?

Planning Process

The figure below is taken from the 2013 Stevenson Comprehensive Plan as the organizing structure of phases related the plan's—or any plan's—development. The AG's guidance underscores the importance of the figure's yellow circle—the sunshine—at the center of the planning process. The words "Education, Communication, and Participation" are set in this circle and provide gravity around which the 8 planning phases orbit:

- 1. Decide to Plan
- 2. Plan for Planning
- 3. Inventory & Analyze
- 4. Create Goals & Objectives
- 5. Create Action Plan
- 6. Obtain Public Approval
- 7. Implement Plan
- 8. Monitor Performance (until you decide to plan again)

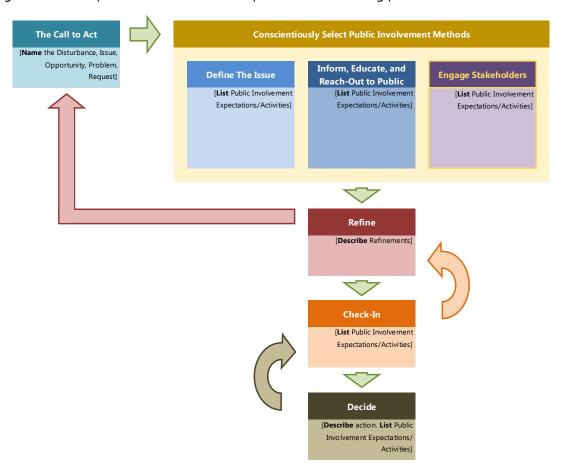
Adherence to the OPMA and PRA are two of the ways the Planning Commission educates, communicates, and invites participation.

FIGURE A-1: PLAN DEVELOPMENT PHASES



Public Involvement Planning

The Planning Commission recommitted to this process in 2021 when it updated its bylaws (Attachment 2) to enshrine a framework for developing topic-specific public involvement plans while they are in the Plan for Planning phase. The figure below is taken from that framework and characterizes 7 slightly different components of planning efforts where public involvement will help the decision-making process.



The framework of the bylaws also provides a menu of activities that could help involve the public in topic specific plans and a catalogue of materials that could be used as well.

City Emails

To help the Planning Commission manage the public records it receives, City of Stevenson email addresses have been set up. When acting as a Planning Commissioner, it is highly recommended that you use these email addresses. If a request for your email correspondence is received, the City's public records officer will be able to access these mailboxes and provide timely responses to the request based on their contents.

Prepared by,

Ben Shumaker Community Development Director

Attachments:

- 1. AG Presentation
- 2. Planning Commission Bylaws

Overview of Open Government in Washington State: Open Public Records and Open Public Meetings





Last revised: October 2016



Historical Open Government Principles

"A popular Government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps both. Knowledge will forever govern ignorance...." ~ James Madison





"...a nation that is afraid to let its people judge the truth and falsehood in an open market is afraid of its people." ~ *John F. Kennedy*



"It has been said time and again in our history by political and other observers that an informed and active electorate is an essential ingredient, if not the *sine qua non** in regard to a socially effective and desirable continuation of our democratic form of representative government."

~ Washington State Supreme Court

Open Government Laws are often called "Transparency Laws" or "Sunshine Laws"

This is because they "shine light" on government. U.S. Supreme Court Justice Louis Brandeis once famously said, "Sunlight is the best disinfectant."

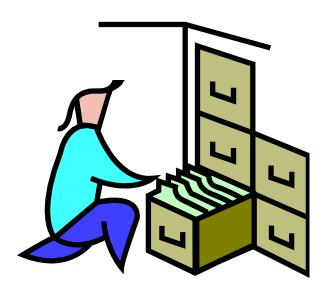


Washington - Two Different Statutes

Open Public Records

RCW 42.56

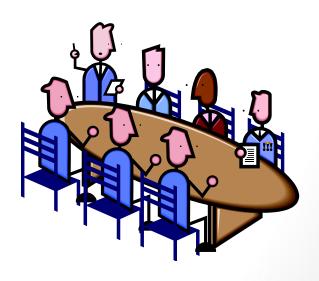
Public Records Act (PRA)



Open Public Meetings

RCW 42.30

Open Public Meetings Act (OPMA)





Open Public Records

- "The people of this state do not yield their sovereignty to the agencies that serve them."
- "The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know."
- "The people insist on remaining informed so that they may maintain control over the instruments that they have created."
- The "free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others."

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History

Open Public Records

- PRA passed via Initiative 276 in 1972. Formerly in RCW 42.17 – now RCW 42.56.
- Applies to <u>all</u> public agencies, state and local.
- Does not apply to courts.
- Limited application to Legislature.
- Applies to "public records" which are defined to include "writings."
- Records are open unless there is an exemption authorized by law.



- OPMA passed in 1971. RCW 42.30. Minutes requirement in another law - RCW 42.32.
- Applies to all <u>multimember</u> public agency boards and commission governing bodies, and their committees.
- Does not apply to courts.
- Does not apply to Legislature.
- Requires meetings of governing body to be open gavel-to-gavel, unless there is an exception authorized by law.



Touchstone:



Open Public Records

- Records of public agencies are presumed open.
- PRA is to be liberally construed.
- Records or information in records can be withheld only by law (e.g. exemption in law).

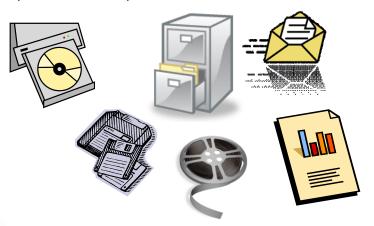
- Meetings of agencies subject to the OPMA are presumed open.
- OPMA is to be liberally construed.
- Meetings or parts of meetings can be closed only by law (e.g. executive sessions).

Scope

Open Public Records

PRA applies to "any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics."

 Includes paper records, electronic records, emails, overheads, photographs, CDs, microfiche, etc.



Open Public Meetings

OPMA applies to multi-member public state and local agencies, as follows:

- Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature.
- Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of Washington.
- Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies.
- Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.

Withholding Records or Closing Meetings



Open Public Records

- Withholding a public record or some information in a public record must be authorized by law.
- Only the exempt information can be withheld.
- Agency must cite basis and give brief explanation.
- Exemptions from disclosure must be narrowly construed.

- Closing a meeting or part of a meeting subject to OPMA must be authorized by law – e.g., for listed purposes in OPMA.
- Agency must provide reason where required, e.g., announce reason for going into executive session.

Enforcement & Penalties



Open Public Records

- PRA enforced by courts, for claims listed in PRA.
- RCW 42.56.550, .565
 - Court can impose statutory penalties to be awarded to requester.
 - Court will order payment of requester's attorneys fees & costs.
 - Court can also order disclosure of all or part of withheld record, or non-disclosure of part or all of record.

- OPMA enforced by courts, for claims listed in OPMA.
- RCW 42.30.120, .130.
 - Court can impose a
 \$500 civil penalty
 against each member;
 \$1000 for repeat
 violation.
 - Court will award costs and attorney fees to a successful party seeking the remedy.
 - Action taken at an improperly closed meeting can be declared null and void.

Risk Management Tips



Open Public Records

Agencies should:

- Establish a culture of compliance with the PRA, beginning with agency leadership and support.
- Review their PRA procedures.
- Review available resources; institute best practices.
- Keep updated on current developments in PRA; correctly apply law.
- Consult with agency's legal counsel.
- Train appropriate staff and officials about the PRA's requirements.
 - > Legislature enacted training requirements in 2014. RCW 42.56.150 - .152
 - State Supreme Court said evidence of PRA training for agency staff can reduce penalties, & lack of training can increase penalties.

Open Public Meetings

Agencies subject to OPMA should:

- Establish a culture of compliance with the OPMA, beginning with agency leadership and support.
- Review their OPMA procedures.
- Review available resources; institute best practices.
- Keep updated on current developments in OPMA; correctly apply law.
- Consult with agency's legal counsel.
- Train members subject to the OPMA about the law's requirements.
 - Legislature enacted training requirements in 2014. RCW 42.30.205.

Information



Open Public Records

- Attorney General's Office has appointed Assistant Attorney General for Open Government to provide information about the PRA.
- AGO has issued Model Rules.
- AGO may provide technical assistance and training.
- AGO has an online Open Government Resource Manual and other materials and resources on its website, including training resources.
- AGO can review exemption from disclosure cited in state agency records, and issue informal opinion.
- AGO can issue formal opinions (for qualified requesters).

- Attorney General's Office has appointed Assistant Attorney General for Open Government to provide information about the OPMA.
- AGO may provide technical assistance and training.
- AGO has an online Open Government Resource Manual and other materials and resources on its website, including training resources.
- AGO can issue formal opinions (for qualified requesters).



<u>Appendix A – Public Hearing Procedures Script for Quasi-Judicial Issues</u>

The following represents a recommended procedure as a general instruction for the conduct of quasi-judicial hearings and may be followed or departed from in the Chair's discretion. Failure to follow this recommended procedure shall not constitute a *prima facie* failure of Due Process.

Opening

- The Chair shall open the public hearing by stating the name of the application.
- The Chair shall direct any persons wishing to be heard to sign in on the sign-in sheet.

Rules of Order Presented by the Chair

- The Chair shall explain that the public hearing will proceed in an orderly manner and ask that members of the public respect the process.
- The Chair shall ensure that everyone will be given an opportunity to be heard. The Chair shall ask that all comments be made standing, at a speaker's rostrum if available, or in an otherwise noticeable fashion. All speakers must first give their name and address for the officially recorded transcript of the hearing. The Chair shall further explain that if there is an appeal, the court must make its decision on the basis of what is said at this meeting.
- The Chair shall ascertain if anyone will require special accommodation in order to speak so that arrangements can be made.
- In fairness to all in attendance, each person wishing to speak will be given an opportunity
 to address the Commission. Depending on the number of people in attendance, the
 Chair may limit the initial period of time allowed. If additional time is needed, the Chair
 may allow additional time after all interested parties have had an opportunity to speak.
- There should be no demonstrations (clapping, cheering, booing) during or at the conclusion of anyone's presentation.
- This public hearing is the time for presentation of testimony, not an opportunity for debate between or among the presenter, the applicant, or the Commission.
- The Commission is interested in promoting an orderly public hearing to give all persons in attendance an opportunity to be heard.

Appearance of Fairness and Conflicts of Interest

- Quasi-judicial actions are defined as actions of the Commission which determine legal rights, duties, or privileges of specific parties in a hearing. The public hearing for these actions must fair in three respects: form, substance and appearance.
- All Commission members should give consideration as to whether they have:
 - o A demonstrated bias or prejudice for or against any party to the proceedings;
 - A direct or indirect monetary interest in the outcome of the proceedings;

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- o A prejudgement of the issue prior to hearing the facts on the record; or
- Ex parte contact with any individual, excluding administrative staff, and whether the individual supports or opposes the issue.

Each Commission member must disclose whether any of the factors listed above are at issue and respond to the question "Do you have an Appearance of Fairness or Conflict of Interest issue or disclosure to make?

After making any such disclosures, the members in the audience are asked if there are any
objections to any Commission members' participation in the proceedings.

Order of Speaking Presented by the Chair

- Staff presentation;
- Request to staff in there were any written materials submitted and summary of any such materials:
- Comments from applicant;
- Comments from proponents;
- Comments from opponents;
- Comments from any others wishing to speak;
- Comments from applicants in response/rebuttal. New material may not be introduced;
- Response from staff to any subjects raised by any of the speakers, or any additional clarifications;
- Questions from Commission members to any speaker or staff person who made comment:
- The Chair may ask if anyone in the audience has any comments to clarify an item raised by a Commission member's questions. No new items can be presented nor should the speaker repeat testimony given previously. This is purely an opportunity for clarification.

Commission Discussion

- The Chair, making certain there is no further testimony, closes the public testimony portion of the hearing.
- Commission discussion is held Commission should consider discussing issues in terms of findings and potential conditions.
- Request for any further recommendations or comments from staff.
- Chair calls on the Commission members to make a motion (take action) or postpone. If action taken, Chair directs staff to prepare findings and decision.

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Appendix B – Public Involvement Framework

The following represents a recommended procedure to evaluate and establish topic-specific public involvement plans. As used in this appendix, "Public Involvement" is an umbrella term incorporating a broad range of ways in which the Planning Commission interacts with the public. This range begins with the minimum requirements established by State statutes where information is shared in a uni-directional manner to ensure public awareness of Commission actions. The Public Involvement umbrella embraces bi-directional dialogue wherein the public informs decisions through their meaningful input. At another end of the range, Public Involvement could result in direct decision-making by the public via referendum to the voters. Along the way the term Public Involvement embraces other public participation methods, whether they are suggested in this appendix or not.

This Public Involvement Framework was recommended in summer 2021 by a subcommittee of the Planning Commission. The committee was composed of residents, property owners, Planning Commissioners, and City staff.

The Public Involvement Framework incorporates 7, non-linear, categories of action beginning with a "Call to Act". As appropriate within this framework the Planning Commission should "Conscientiously Select Public Involvement Methods" to "Define" the issue identified in the "Call", "Inform/Educate/Reach-Out" to the public about the issue, and "Engage" community stakeholders to exchange information on the issue. These conscientious efforts allow the Commission to "Refine" the issue based on information received, "Check-in" with the public after the issue is refined, and to eventually "Decide" on an action to address the "Call".

The intent of the Framework is to allow the Planning Commission to conscientiously evaluate each "Call to Action", right-size its approach to the action, and communicate its expectations and actions to the public. The non-linear aspect of the framework means that the Planning Commission can evaluate and establish independent Public Involvement expectations for each category in the framework and can reevaluate established expectations as necessary.

Documents assisting this conscientious effort include:

- Exhibit B.1 Visual Public Involvement Workflow Template. During any topic the Planning Commission chooses to address, this template can be edited and used to convey the established topic-specific public involvement plan and update its progress while the topic is being address.
- Exhibit B.2 Menu of Public Involvement Methods. This exhibit is not intended to be static. As time goes on, this menu of methods may be supplemented, refined, or edited without a formal amendment to the Planning Commission bylaws.

• Exhibit B.3 – Example Public Involvement Materials. Like the menu of methods, the example materials of this exhibit are not static. Dynamic updates to the example materials can be added at any time without amending these bylaws.

Framework Components

Component	Actors	Actions
Call to Act		
The Call to Act is the instant when an issue is identified. The Call to Act can be considered the identification of an Issue or a Need . The Call results from a disturbance, an opportunity, a problem, a request, or any other catalytic moment when the Planning Commission is asked to act.	 The Caller can be anyone from the community: A City elected official A Planning Commissioner City staff Consultants A partner agency or interest groups, etc. 	Determine whether to answer the Call: • Determine whether Issue or Need is accepted • Assess City agency/ability to impact • Assess City responsibility to impact • Assess City capacity
Define the Issue		
Defining the Issue creates clarity by exploring how the Call to Action was created and by whom, identifying who is driving and who is impacted, and identifying available information, observations, public concerns, and determining whether existing data is adequate or more data is required. Defining the issue leads to a reconsideration of whether to answer the Call. Doing so transforms Need into Purpose.	The Planning Commission identifies Potential Stakeholders as necessary. Potential Stakeholders include: Businesses City officials Developers Low Income and/or under represented Long-term residents New residents Those Privileged and Disadvantaged by the issue/topic Property Owners Renters, etc.	 Determine Stakeholders: Understand who the Caller represents Understand who benefits/suffers from the Issue or Need Understand who benefits/suffers from the Solution to the Issue or Need Propose Solutions Determine when a solution is proposed Determine who proposes solutions Determine how many solutions are proposed Select Public Involvement Strategies Assess City capacity to implement individual Public Involvement Methods. Establish who should be involved Select level of involvement (Inform, Educate, Engage, Ask) Select specific Pubic Involvement Methods (Exhibit B.2)
Inform, Educate, and Reach-Out to Publ		Make Materials Accessible,
Informing, Educating, and Reaching Out to Stakeholders provides <i>uni-</i> <i>directional information sharing</i> from	The Planning Commission and City staff activate Networks (e.g., SDA,	Understandable, Timely, and Compelling

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the City to the Public. The sharing of information could be a preamble to the Engaging Stakeholders or could stand alone as a form of open governance. Informing, Educating, and Reaching-Out to the Public shares the Purpose with the community to generate greater Communal Understanding .	Volunteers, WAGAP, etc.) to help reach-out to identified Potential Stakeholders.	 Share simple information broadly Provide access to more detailed information Make available source documents and reference materials Surface Latent Stakeholders Provide opportunities for the Public-At-Large to become more involved
Engage Stakeholders		
Engaging Stakeholders provides bidirectional information exchange between the public and city staff/elected officials. Engaging Stakeholders results supplements Communal Understanding with Collective Wisdom.	The Planning Commission and City staff activate Networks to help engage identified Potential Stakeholders and previously Latent Stakeholders.	 Match the Level of Engagement to the Need for Input and the Impact of Change. Share simple information broadly Provide access to more detailed information Make available source documents and reference materials Ensure Engagement is Multi-Faceted. Select specific Public Involvement Methods (Exhibit B.2) Solicit Input and Expertise Building upon Work of City Officials.
Refine		
Refining involves validating or reconsidering decisions made in earlier steps. Refining applies Communal Understanding and Collective Wisdom to the Purpose. If the issue is complex, refining may involve several iterations of earlier steps and/or offer widening ranges of options. At one end of this range, refining could even lead the Planning Commission to reconsider whether to answer the original Call to Act. Check-In	The Planning Commission and City staff respond to stakeholders based on input received.	Distill stakeholder input for Planning Commission to inform next steps and/or a decision.
	The Dispusion C	Cuesto e feedback le su to determine
Checking-In reconnects Stakeholders with the Need and Purpose , and updates the Communal Understanding with the Collective Wisdom gained through implementation of the Public Involvement Plan.	The Planning Commission and City staff re-activate networks, updating stakeholders on the issue's evolution through the Public Involvement efforts.	Create a feedback loop to determine whether additional Public Involvement is necessary before a decision can be made. Respond to Stakeholders to Improve Upon or Help Inform the Final Decision.
Decide		
Deciding involves advancing an Action to address a Need the Purpose . The		Document the Decision Communicate the Decision Broadly

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action should integrate the Collective	
Wisdom received through	
implementation of the Public	
Involvement Plan. Through Action a	
Need is addressed, the Seed of	
Community is born and the ground is	
prepared to receive the next Call.	

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Exhibit B.1 – Visual Public Involvement Workflow Template

The following template can be customized to document the topic-specific Public Involvement Plans.

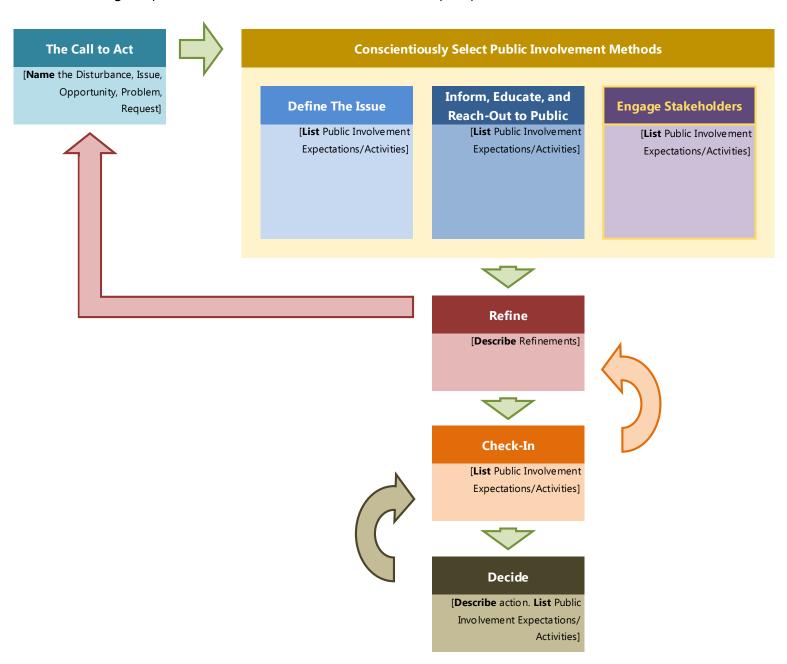


Exhibit B.2 - Menu of Public Involvement Methods.

This exhibit presents several public involvement methods. Some are simple, some more complex. A basic assessment of the impact and associated costs associated with each method is included. This list is dynamic and will grow according to more input and testing of methods.

The menu can be attached to early issue report as a tool for the Planning Commission and shared with the public to share expectations on each Public Involvement Plan.

In general, selected methods to Inform, Educate, and Reach-Out should provide an 1-month timeframe.

Method	Impact	Resource Need	Notes	Included in Plan?
Methods to Inform, Educate, Re	ach-Out			
Physical Media (posters, informational flyers, newspaper ads)	L M H	\$ \$\$ \$\$\$	Consider posting on bulletin boards and around town (laundry, apartments, post office, workplaces, school/government/ semi-public spaces)	Y or N
Targeted Media (postcards with links, invitations to participate)	LMH	\$ \$\$ \$\$\$		Y or N
Requests for neighborhood/group participation	L M H	\$ \$\$ \$\$\$	Planning Commissioners and/or Staff	Y or N
Electronic Media (Facebook page, nextdoor, websites of partners and City)	L M H	\$ \$\$ \$\$\$		Y or N
Press Release, Interviews, Guest Editorial	L M H	\$ \$\$ \$\$\$		Y or N
Sandwich Boards	LMH	\$ \$\$ \$\$\$	Consider placing at Stevenson Downtown Association office, front lawns	Y or N
Guest appearances at events and meetings	L M H	\$ \$\$ \$\$\$	Planning Commissioners and/or Staff	Y or N
Informal community and interest networks	L M H	\$ \$\$ \$\$\$		Y or N
Concise, short and well written flyers delivered to resident's front door by volunteers	L M H	\$ \$\$ \$\$\$		Y or N
Methods to Engage				
Public Workshops	L M H	\$ \$\$ \$\$\$	Accessible and welcoming to all	Y or N
Survey Monkey	L M H	\$ \$\$ \$\$\$	Special attention to language and readability needed	Y or N
Meet & Greets with staff or elected officials	L M H	\$ \$\$ \$\$\$	Requires data collected and staffing of elected, along with public notice	Y or N
Council/Commissioner meetings with focused methods for input/dialogue	∟ M H	\$ \$\$ \$\$\$	Build upon Commission meetings and allow for back and forth between electeds and community. Add more time for PI (Public Involvement).	Y or N

Page 16 of 19

					Change physical arrangement. Actively promote/welcome PI	
Town Hall - debates or educational forums	L	M	Н	\$ \$\$ \$\$\$	Cross talk between electeds, experts, staff with Q&A from audience	Y or N
Story boards - data collection or voting	L	M	Н	\$ \$\$ \$\$\$	Placing story boards in key location to collect input about very specific things OR to get votes on X or Y preference Mimicking this on social media also *Key to have right issue and right language	Y or N
Listening sessions between staff/electeds and public	L	M	Н	\$ \$\$ \$\$\$	Planning Commissioners and/or Staff	Y or N
Attend existing meetings of currently organized groups, events and board meetings.	L	M	Н	\$ \$\$ \$\$\$	Social service agencies, neighborhood groups, special interest networks, etc	Y or N
Attend large employers meetings (as applicable)	L	M	Н	\$ \$\$ \$\$\$	Planning Commissioners and/or Staff	Y or N
Pioneer articles from Council/Commission with key topics needing to be discussed and solicitation of questions for next issue to be answered	L	M	Н	\$ \$\$ \$\$\$		Y or N
Form task forces, interest groups, focus groups, etc	L	M	Н	\$ \$\$ \$\$\$	Planning Commissioners and/or Staff	Y or N
Pizza party/cook off - casual event	L	M	Н	\$ \$\$ \$\$\$	Planning Commissioners and/or Staff	Y or N
Postcards soliciting input	L	M	Н	\$ \$\$ \$\$\$		Y or N

Exhibit B.3 – Example Public Involvement Materials.

This exhibit presents examples of public involvement materials to effectively implement public involvement plans. These examples will change and supplements will be added in response to the implementation of topic specific public involvement plans.

List of Examples

• Flyer Example.

Flyer Example

ZONING - Your neighborhood could change
We will be discussing how it might change at a meeting next week. Please come.
Then we'd give the time and place where the meeting was going to be held.
Then we would have ended the flyer this way:
For more information on the proposed changes contact ______. Then we'd give three ways to contact this person.

CASCADE VILLAGE RESIDENT QUESTIONNAIRE RESULTS

HEART OF STEVENSON SIDEWALK IMPROVEMENTS

City Hall sees Cascade Village Apartments as a hub of activity for children and families in the heart of town.

We are concerned because there are no sidewalks connecting these homes to our community's schools and we want to fix that.

Before we do, we asked the residents if that was a good idea and, if so, which routes would be most used and appreciated. Each of the 36 apartments received a paper questionnaire. The questionnaire had 8 questions and included link and QR code for those preferring to complete it online. We received responses from 13 recipients during a 3-week collection period (3/30—4/21/2022).

All responses but one thought new sidewalks and crosswalks would help improve their sense of safety. While the **GREEN** and **BLUE** routes (see reverse) would be equally used and appreciated, the **GREEN** route elicited the strongest responses.

Please rate the safety of children and others walking between Cascade Village and the schools.

Nightmarish It's fine Sunshine & Lollipops

0 1 2 3 4 5 6 7 8 9 1 0

12 respondents answered this question. The average rating was 2.5. The highest rating was 6.

Other than building sidewalks and crosswalks is there anything else we could do to increase your sense of safety for pedestrians in your neighborhood?

The blue path you made has the least amount of car traffic which would make my kids, and I few s lot safer for the school commute.

Many children from Rock Creek Terrace choose to walk up Lasher Street, through Cascade Village and then to the schools. Even though it is shorter to walk up Jefferson Street, they go through Cascade Village. Even though I picked blue as her preferred route, the green route

between the apartments is used by a lot of children and is still very necessary.

The street above the apartments is where most kids walk to go to school, but Lasher is where we all walk, adults and kids, and it's the least safe road we have. While the blue route is the most school friendly, the green is the one that would be used most by the community as a whole.

Maybe crosswalk lights, so people have to stop and let pedestrians cross. We've almost been hit many times trying to cross b/c people don't pay attention.

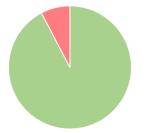
Lasher is a HUGE problem. -A speed sign for going UP Lasher St. -A ban on parking in the road. P.S. I'm shocked that in 20 years living here-no one has died on Lasher St. CHILDREN and others walk this road-and; people SPEED; ignore the stop sign at the bottom of the road. Also at the top left hand side of Lasher, people are starting to park ON the road itself!! This needs to STOP! Children walk this road!! PLEASE fix this issue!

Crosswalk lights to help people cross the street safely.

Streetlights along Lasher Dr.

cross walk lights

When walking to the schools, would additional sidewalks and crosswalks improve your sense of safety?



13 respondents answered this question. Only 1 said no.

Is there anything else you'd like to tell us? (This doesn't have to be about walking or sidewalks)

People drive a lot faster than 25mph when you try to cross the street on Hot Springs Alameda. I won't allow my kids to walk because of the fast traffic while trying to cross. Please weight heavily on this when deciding. Many of us here have children with disabilities. The blue path has the least amount of car traffic. Thank you so much for working to make our children safer. Greatly appreciate it!

If you're going to work on making this area safer for people to use, the sidewalk on Lasher is a great start. But it won't fix the issue we all encounter, which is the safety of the road and driveway. A driveway that's a blind corner, so no one can see anyone - especially children - walking until it's almost too late. And Lasher itself is busy right outside the driveway where the neighbors all park on the street, so it reduces the road to one lane frequently. Especially in the summer, which is the worst time as children are running up and down there, and families with strollers are trying to walk up. Fixing that issue would help greatly toward safety.

There definitely needs to be a crosswalk on Lasher St. I walk my son down that hill every day for other things and not just school and basically have to jump in a ditch b/c of speeding cars going up and down the road.

I feel the green one should be done, it is not safe to be walking down this route w/o a sidewalk. Blue and yellow are connected so why cant all 3 be done? In the end yellow/blue would connect.

The kids feel pretty safe

Lasher Dr needs to be a "no parking" street. It is pretty narrow 2 lane road and is quite often used for parking, by residents blocking la

I would love Lasher to get a sidewalk so my grandson and daugl law can be safe on their walks The questionnaire had 3 ideas for routes and asked for help understanding which would be most used and appreciated.

Yellow- This route makes the most use of the existing sidewalk network and equally benefits children walking to the elementary and high schools. Improvements would start with the crosswalk at Hot Springs Alameda/Impala intersection, construct a new sidewalk along Impala Drive and View Point Drive, and connect back to Hot Springs Alameda via a new sidewalk along Willard Street.

Blue- This route most benefits children walking to the elementary school. Improvements would involve new sidewalks along View Point Drive, then a new sidewalk going south along Willard Street, changes to existing sidewalks on Roselawn, a new pathway between McKinley Street and School Street, and a new crosswalk to Stevenson Elementary.

Green- This route benefits children on their way to the elementary and all users headed downtown or to the park/fairgrounds. Improvements would involve new sidewalks along Lasher Street and Jefferson Street.



Compared to the other routes how much would you/your children use and appreciate the GREEN route?











13 respondents rated this route. The average rating was 3.7.

Compared to the other routes how much would you/your children use and appreciate the **BLUE** route?











10 respondents rated this route. The average rating was 3.7.

Compared to the other routes how much would you/your children use and appreciate the YELLOW route?













those above?





Compared to the other routes how much would you/your

children use and appreciate a totally different route than





10 respondents rated this route. The average rating was 2.3.

0 respondents identified another route.

SHORELINES HEARINGS BOARD STATE OF WASHINGTON

MARY REPAR,

Petitioner,

v.

CITY OF STEVENSON and FDM DEVELOPMENT, INC.,

Respondents.

SHB No. 24-002

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

INTRODUCTION

On February 15, 2024, Mary Repar (Petitioner) filed a petition with the Shorelines Hearings Board (Board) seeking review of the City of Stevenson's (Stevenson or the City) conditional approval of Shoreline Substantial Development Permit (SSDP) No. SHOR2023-02 issued to FDM Development, Inc. (FDM) on January 22, 2024, to construct up to 19 cabins that will serve as nightly and weekly lodging, as well as an event space to be used for private weddings, reunions, and parties (Project).

The Board conducted a site visit on May 17, 2024, and held a hearing on this matter on May 20-21, 2024. The Board deciding this matter was comprised of Board Chair Michelle Gonzalez and Board Members Dennis Weber and RJ Lott. Administrative Appeals Judge Andrew J. O'Connell presided for the Board. Petitioner represented themself *pro se*. City Attorney

¹ This case is being decided by three Board members (a "short board") pursuant to RCW 90.58.180(3).

1	Robert C. Muth represented the City. Attorney Julie Wilson-McNerney represented FDM. Dani
2	Schemm with Buell Realtime Reporting provided court reporting services.
3	The Board's Prehearing Order established, among other things, six legal issues for the
4	Board's resolution. Prehearing Order, pp. 11-12. Later, the Board denied summary judgment on
5	Issue 1, granted summary judgment to FDM on Issues 2, 4, and 5, and granted summary judgment
6	to Petitioner on Issues 3 and 6. Order on Summ. J., pp. 21-22. Thus, at the commencement of the
7	hearing, the following issue remained for the Board's resolution:
8	1. Whether the public access approved in the SSDP is consistent with Chapter 90.58 RCW, associated Department of Ecology regulations,
9	and the City's Shoreline Management Program? ²
10	The Board received the sworn testimony of witnesses, admitted exhibits, and heard
11	argument on behalf of the parties. Based upon the evidence and arguments presented, the Board
12	enters the following Findings of Fact, Conclusions of Law, and Order.
13	
14	FINDINGS OF FACT
15	Witnesses
16	1.
17	Petitioner testified and called two additional witnesses, Auguste Zettler and Ben Shumaker.
18	FDM called Frank Dean Maldonado, Brad Kilby, Morgan Worthington, Bruce Haunreiter, and
19	Steffanie Simpson to testify. Ben Shumaker was called to testify by both FDM and the City.
20	
21	² It was clarified in the proceeding that the legal issue regards the City's Shoreline <i>Master</i> Program, which the Board took official notice of and was admitted to the record as <i>Ex. C-1</i> .

1 2.

Repar testified regarding the inadequacy of the public access provided by the Project and its inconsistency with Chapter 90.58 RCW, the Shorelines Management Act (SMA) and Stevenson's Shoreline Master Program (SMP). *Repar Testimony*. Repar has lived in Skamania County for 34 years and in Stevenson for nearly the same amount of time. *Id*. Repar is a veteran, having retired as a Major from the United States' Air Force Reserve, has a degree in applied physics from Michigan Tech University and worked formerly as a geophysicist for oil companies in the United States and Saudi Arabia. *Id*.

3.

Auguste Zettler, who serves as the Vice Chair and is a voting member of the City's Planning and Zoning Board, testified for Petitioner regarding the history of proposed developments on the site and his knowledge of the Stevenson Planning Commission's (Planning Commission) meetings in October, November, and December 2023, and Zettler's explanation for voting against approving the SSDP at issue in this case. *Zettler Testimony*. Zettler has approximately 18 years of community planning and zoning experience: Zettler has been a member of the City's Planning and Zoning Board since 2019 and was previously a member of a planning and zoning board in Florida. *Id*.

Ben Shumaker was called to testify by Petitioner, and later by FDM and the City regarding the City's permitting process and his knowledge of the Project. *Shumaker Testimony*. Shumaker is the Community Development Director for the City and works with the Planning Commission.

4.

1 5.

Steffanie Simpson testified for FDM regarding the history of the site, its characteristics, including vegetation and critical areas, as well as knowledge of the Project and its impacts on the environment and ecology at the site. *Simpson Testimony*. Simpson has a degree in Environmental Studies from the Evergreen State College and is currently a Senior Biologist and Principal with Ecological Land Services (ELS), where Simpson has been employed since 2000. *Ex. FDM-24*. Simpson took over as ELS's project manager for the Project in December 2023. *Simpson Testimony*.

6.

Frank Dean Maldonado testified for FDM regarding the Project, the development plan for the site, and FDM's experience throughout the permitting process. *Maldonado Testimony*. Maldonado is the developer for the Project and is one of three owners of the property and the managing member of those three. *Id.* Maldonado has 28 years of experience in development, is a licensed commercial real estate broker, a licensed and bonded general contractor, and a certified commercial investment manager. *Id.*

7.

Brad Kilby testified for FDM regarding the Project and FDM's experience throughout the permitting process. *Kilby Testimony*. Kilby has a degree in Urban and Regional Planning from Eastern Washington University. *Ex. FDM-21*. Kilby is a veteran of the United States Marine Corps, has worked in planning since 1997, and is currently a Senior Planner, Planning Manager, and Project Manager for Harper Houf Peterson Righellis, Inc. *Id*.

Morgan Worthington testified for FDM regarding the engineering and relevant technical knowledge for the Project. *Worthington Testimony*. Worthington has a degree in Civil Engineering from California State University, Chico, and is currently employed as a Civil Engineer by Harper Houf Peterson Righellis, Inc. *Ex. FDM-22*. Worthington's work on the Project was reviewed by Bruce Haunreiter. *Id*.

9.

Bruce Haunreiter testified for FDM regarding the engineering of the Project and supervision of Worthington. *Haunreiter Testimony*. Haunreiter has a degree in civil engineering from Portland State University and is a registered civil engineer in both Washington and Oregon. *Ex. FDM-23*. Haunreiter is currently a Principal and Project Managing Engineer at Harper Houf Peterson Righellis, Inc. *Id.* The type of engineering work Haunreiter does includes land development and transportation. *Haunreiter Testimony*.

Background

16 10.

An SSDP (SHOR2020-01) was issued in 2020 for a different project on this same property. Maldonado Testimony. That 2020 project included a plan for four-plexes: 16 3-bedroom condominium units operated as a hotel, in addition to some other venue developments and

1	landscape and public access improvements. Exs. FDM-1g, 1h; Maldonado Testimony. ³ The 2021
2	replat of the property was associated with SHOR2020-01 and was approved by the City Council.
3	Zettler Testimony.
4	11.
5	The 2020 project did not proceed as the COVID-19 pandemic caused delays, a
6	reassessment of the costs, and the developer ultimately determined the project wasn't feasible.
7	Maldonado Testimony. Due to those delays, SHOR2020-01 expired. Ex. FDM-1a.
8	12.
9	A shorelines application for the Project was submitted in May 2023. Ex. P-3
10	13.
11	The Planning Commission held meetings addressing the Project in October 2023,
12	November 2023, December 2023, and January 2024. Zettler Testimony; Exs. FDM-3, FDM-4. The
13	Planning Commission voted to approve the SSDP with conditions at the December 2023 meeting.
14	Zettler Testimony; Ex. FDM-4.
15	14.
16	The City issued the current SSDP (SHOR2023-02) for the Project on January 22, 2024.
17	Ex. FDM-1a.
18	
19	³ Per the request of parties at the close of hearing, a list of admitted exhibits was provided in a letter issued by the
20	Board on May 31, 2024. At hearing, Ex. FDM-1 was subdivided and only certain portions were offered and admitted. The subdivisions for the admitted portions of Ex. FDM-1 are as follows: Exs. FDM-1a (pp. 442-466),
21	FDM-1b (pp. 23-54), FDM-1c (pp. 520-523), FDM-1d (pp. 55-66), FDM-1e (pp. 67-79), FDM-1f (pp. 783-785), FDM-1g (p. 84), FDM-1h (p. 290), FDM-1i (p. 486), FDM-1j (pp. 146-176), FDM-1k (p. 485), FDM-1l (p. 487), FDM-1m (pp. 429-439), FDM-1n (pp. 616-620).

The Project

15.

The Project (also known as the Rock Creek Cove Hospitality project) is a proposal to construct 19 cabins to serve as nightly and weekly lodging, an event space to be used for private events, on-site parking and public pedestrian access, as well as landscaping and enhancements to the riverbank. *Exs. FDM-1a; FDM-1j*. The Project is intended to attract local and regional visitors with venue space for weddings, company parties, family reunions, and corporate retreats. *Ex. FDM-1j*. The Project also proposes to restore water-side portions of the property to enhance public access for observation and enjoyment. *Id.* The Project will allow public access to a boat launch and walking trails on the property. *Ex. FDM-1d; Maldonado Testimony*.

The property where the Project will be developed is approximately 6.4 acres, zoned as Commercial Recreation, and located at 968 SW Rock Creek Drive in Stevenson, Washington with tax lot numbers 02-07-01-0-0-1302-00 and 02-07-01-0-0-1303-00 and parcel numbers 02070100130300 and 02070100130200. *Exs. FDM-1a, FDM-1b, FDM-1c, FDM-1e, FDM-1f, FDM-1j.*

16.

17.

The property is an irregular, anvil-shaped peninsula that extends eastward into Rock Cove from SW Rock Creek Drive. *See Exs. FDM-1m, FDM-1h, FDM-1e, FDM-1b.* The slope from the water up to the top of the bank is mostly steep with loose stones and gravel. *Simpson Testimony; Maldonado Testimony; Zettler Testimony; Exs. FDM-1b, FDM-1m.* There is a gravel boat launch

1	on the eastern edge of the property where Rock Cove can be accessed. Maldonado Testimony;
2	Ex. FDM-1b.
3	18.
4	The property was previously the site of the Hegewald Lumber Mill from 1952-1973 but
5	has been vacant for decades. Exs. FDM-1a; FDM-1m. Skamania County owned the property for
6	several decades afterward. The County created access easements and a 15-foot pedestrian
7	easement along the edge of the property, which at times encroached within the building setbacks
8	from Rock Cove. Ex. FDM-7. The County also divided the property into three lots. Ex. FDM-1a.
9	In 2019, the County sold the property. <i>Id.</i> In 2021, the property was replatted. <i>Ex. FDM-8</i> . Three
10	private owners now own the property, of which Maldonado is one. Maldonado Testimony; see
11	Ex. FDM-8; Ex. FDM-1b.
12	19.
13	The property is currently undeveloped, with the exception of some underground utilities
14	near the western access to the property that had been installed in anticipation of development
15	pursuant to SHOR2020-01. Maldonado Testimony; Exs. FDM-1e, FDM-1j.
16	20.
17	The Board finds that the slopes of the property are steep and hinder or prevent physical
18	public access to the shorelines on the property outside of the fish and wildlife habitat conservation
19	areas (FWHCA) with the exception of the boat launch area, which the Project will maintain.
20	
21	

1		21	
---	--	----	--

There is currently no public access to the property. *Repar Testimony*. No pedestrian pathways currently exist. *See Exs. FDM-1d, FDM-1e*. The Project will give public access to the property and its shoreline via the proposed pedestrian pathways and by maintaining the gravel boat launch. *Ex. FDM-1a*. The Project contemplated connections to pedestrian pathways on adjacent properties, but no such pathways currently exist on any adjacent property. *Exs. FDM-1a, FDM-1e*.

Public Access

The City has a long-term project to create an interconnected trail system along the entire waterfront for the benefit of the community and tourism. *Zettler Testimony; Ex. P-11*.

23.

22.

Repar testified that the City should follow the goals and objectives in its Integrated Shoreline Public Access and Trail Plan of 2023 by ensuring to provide accessible parks and trails drawing the community toward shoreline resources and amenities, striving to provide access to existing trails, physical and visual amenities through expanded pedestrian routes, and ensure safe and visually appealing pedestrian routes that emphasize pedestrians and cyclists over cars. *Repar Testimony; Ex. P-11*.

In 1996, the County created access easements and a 15-foot pedestrian easement along the water's edge of the property. *Ex. FDM-7, Ex. FDM-1n*. It is not feasible to develop pedestrian

24.

pathways that follow exactly the 1996 pedestrian easements due to the characteristics of the property, including the steep slope down to the water. *Zettler Testimony*.

25.

The 1996 easement locations were modified by the 2021 replat associated with SHOR2020-01. Zettler Testimony; Exs. FDM-8, FDM-1n.

26.

The Project's proposed pedestrian pathways would provide public access beginning with three access points connecting to SW Rock Cove Drive. The pathways progress eastward from the road, remaining initially on the interior of the peninsula and outside of a FWHCA in the northern portion of the property (northern FWHCA), but partially inside an FWHCA in the southern portion of the property (southern FWHCA). The pathways remain on the interior side of the proposed cabins until reaching the eastern extent of the northern and southern FWHCAs. At those points, the pathways move closer to the shoreline, but at the top of the steep slope. Because the pathways remain on the interior of the cabins until the eastern extent of the FWHCAs, views of the FWHCAs would be intermittently blocked by the proposed cabins. The pathways provide uninterrupted views of Rock Cove from atop the steep slope and along the entire eastern edge of the property, which is the side of the property with the longest waterfront. The pathways form a continuous, unbroken loop through the property. *Maldonado Testimony; Ex. FDM-1e*.

Repar testified that the Project's proposed public access had decreased from an earlier proposal in 2021 and objected to the Project's site plan locating cabins in the 1996 public easements. *Repar Testimony*.

28.

Repar claimed that the Project will impede public access to the Rock Cove shoreline, contrary to the SMP. *Id.*; see SMP § 4.6.3.

29.

No party put forward evidence identifying or comparing the total length or square footage of the pedestrian easements and pedestrian pathway proposals from 1996, 2021, or the Project's revised site plan.

30.

The Board finds Repar credible. However, the Board disagrees with her conclusions and finds, as explained in the Conclusions of Law, that the preponderance of the evidence does not support her position that the SSDP is inconsistent with the SMA and the SMP.

Critical Areas

ELS prepared a Critical Areas and FWHCA Report pertaining to the Project and the property in May 2023. *Simpson Testimony; Ex. FDM-1b*. In the report, ELS identified the observed high-water mark line and its buffer, the FWHCA buffer for an unnamed tributary stream to the

31.

north of the property, and the functionally isolated FWHCAs for Rock Cove as a side channel of the Columbia River. *Ex. FDM-1b; see Simpson Testimony*. The FWHCAs are buffers from the waterway (either the stream or Rock Cove) with a fully-functioning riparian area with vegetation consisting of mature trees and shrubs and dense undergrowth. *Simpson Testimony*. The vegetation functions to provide shade and "thermal regulation of the adjacent waterway habitat for various animals, like shelter foliage," a corridor for animals to move about undisturbed, and the wooded material such as trees provide screening between the Project and the FHWCA. *Simpson Testimony*. Development in the FWHCA would disrupt some or all those functions. *Simpson Testimony*.

32.

The site plan for the Project was revised in November 2023 after feedback from the Washington State Department of Ecology (Ecology) and the Washington Department of Fish and Wildlife about the planned development in the FWHCA and the avoidance and mitigation efforts for that development. *Exs. FDM-1d, FDM-1c, FDM-1f; Simpson Testimony*.

Cabins

The original site plan for the Project included 19 cabins, with six of those having at least a portion inside the southern FWHCA. *Exs. FDM-1d, FDM-1e*. The revised site plan removed in their entirety four of the six cabins from the southern FWHCA and moved the remaining two cabins to locations partially outside of the southern FWHCA. *Exs. FDM-1d, FDM-1e, FDM-1i*,

33.

P-7. The site plan approved by SHOR2020-01 also included two units with portions inside the southern FWHCA. *Ex. FDM-1k*.

Pathway Connections

34.

The original site plan for the Project also located a portion of the pedestrian pathway inside the northern FWHCA. *Exs. FDM-1d, FDM-1e.* Additionally, the Project had considered two separate proposals for connecting the pedestrian pathway to an adjacent property through the southern FWHCA: a bridge, or an at-grade path with a six-foot tall retaining wall on one side due to the steep slopes. *Simpson Testimony*.

35.

The bridge would require bridge abutments and construction that would significantly disturb the buffer riparian habitat in the FWHCA and would cost approximately \$972,000. Exs. FDM-1e, FDM-1m; Simpson Testimony; Maldonado Testimony; Kilby Testimony; Worthington Testimony; Haunreiter Testimony. The at-grade path would also require construction that would significantly disturb the buffer riparian habitat in the FWHCA and would cost approximately \$200,000. Exs. FDM-1e, FDM-1m; Simpson Testimony; Maldonado Testimony; Kilby Testimony; Worthington Testimony; Haunreiter Testimony. Maldonado testified that these costs would cause the Project to not move forward. Maldonado Testimony. The Board finds Maldonado credible. In addition, the adjacent property does not have any pedestrian pathway to

connect abridge or an at-grade pathway. Maldonado Testimony; Kilby Testimony; Haunreiter Testimony.

36.

The revised site plan relocated the portion of the pedestrian pathway inside the northern FWHCA, removing it from the FWHCA. It also relocated the portion of the pedestrian pathway inside the southern FWHCA, moving it to the northern edge of the FWHCA. The revised site plan indicates that all pedestrian pathways will connect to the sidewalk along SW Rock Creek Drive at three points. *Exs. FDM-1d, FDM-1e, FDM-1i, P-7*.

Mitigation & In-lieu Payments

Zettler testified that an in-lieu payment would be considered as a mitigation because connections to the adjacent properties through the FWHCAs was cost-prohibitive. Zettler Testimony, Ex. FDM-1a. Instead, the Project will connect its pedestrian pathways to the adjacent properties via the existing sidewalk along SW Rock Creek Drive. Zettler Testimony, Ex. FDM-1a.

38.

37.

The Project's revised site plan proposes impacts totaling 0.16 acres of the property. Simpson Testimony; Ex. FDM-1e. The Project will mitigate these impacts with enhancement measures and an in-lieu payment to the Lower Columbia Fish Enhancement fund. Simpson Testimony; Exs. FDM-1a, FDM-1e. The changes and mitigation efforts made on the property,

1	including to the pedestrian pathways and cabin locations, demonstrate avoidance and minimization
2	of impacts within the FWHCA. Simpson Testimony.
3	
4	<u>SSDP</u>
5	39.
6	The SSDP identified the following findings regarding public access:
7	a. The proposal has one or more of the characteristics requiring public access.
8	b. The application contains detailed narratives, stormwater, landscape and mitigation plans contending consistency with this
9	criterion. c. The site is subject to numerous public access easements which
10	conflict with and/or where no public access project is proposed, however, the application makes no contention regarding the
11	infeasibility of providing such public access.
12	d. Via early written comment, the Washington Department of Ecology contended the proposal has not appropriately addressed public access.
13	e. Public access, as more fully described through supplemental information submitted into the record prior to the December 11th
14	public hearing on this application, has been adequately provided at this site.
15	f. Via verbal testimony, the applicants contend infeasibility of an ADA compliant connection between this property and an existing
16	public easement to the south, and construction absent participation
17	by the City and adjacent property owner. g. Follow-up written comment from the Department of Ecology after
18	the site plan was amended indicated the changes adequately addressed the previous comments.
19	h. The Planning Commission concurs with the applicants' contentions regarding the disproportionate share and feasibility of
20	barrier-free access for the physically disabled (ADA) where the public pedestrian pathway would connect to the adjacent public pathway easement south of the site.

2	responsibility for its proportionate share of the eventual improvement and approves a payment in-lieu of this improvement into a City public access fund.
3	j. The public access provided related to this proposal bears a rational nexus with its impacts and is roughly proportional thereto.
4	k. The findings, conclusions and conditions related to Chapter 5 are relevant to this criterion.
5	Ex. FDM-1a.
6	40.
7	The SSDP included the conclusion of law that "This project will comply with SMP 4.6.3
8	upon fulfillment of the conditions below." <i>Id</i> .
9	41.
10	The conditions of the SSDP applicable to public access and reference by the above-cited
11	conclusion of law are conditions 12-14:
12	12. Prior to the Start of Construction the applicants shall, subject to review and approval by the shoreline administrator:
13	a. make a payment in-lieu of providing a trail connecting to the public pathway easement south of the site, or
14	b. enter into an agreement with the City to support development at a later date of a trail connecting to the public pathway easement south
15	of the site. 13. Prior to Occupancy all public access amenities shall be fully
16	developed and available for public use. 14. Prior to Occupancy the applicants shall provide signage at
17	conspicuous locations indicating the public's right of access to shoreline areas.
18	Id.
19	42.
20	The SSDP also included conditions related to the FWHCAs, including a requirement that
21	

1	11. Prior to the Start of Construction the applicant shall supply a
2	payment in-lieu of on-site mitigation to an entity involved in habitat restoration (e.g., Lower Columbia Fish Enhancement Group,
3	Columbia River Wetland Mitigation Bank, etc). The payment shall be no less than \$5,280. A receipt of the payment by the restoration
4	entity shall be supplied to the City. <i>Id</i> .
5	
6	Any Conclusion of Law deemed properly to be considered a Finding of Fact is hereby
7	adopted as such.
8	Based on the foregoing findings of Fact, the Board enters the following:
9	
10	CONCLUSIONS OF LAW
11	1.
12	The Board considers whether the SSDP is consistent with the City's SMP, the SMA,
13	Chapter 90.58 RCW, and Ecology's implementing regulations, Chapter 173-27 WAC.
14	WAC 461-08-05.
15	2.
16	In this case, no party makes any argument that the SSDP is inconsistent with Ecology's
17	implementing regulations. Thus, the issue for resolution requires the Board to determine whether
18	the public access granted by the SSDP is consistent with the SMA and the SMP.
19	3.
20	As a quasi-judicial agency created by RCW 90.58.170, the Board may exercise only those
21	powers expressly granted to it by statute or necessarily implied from the statutory grant of

jurisdiction. Skagit Surveyors and Eng'rs, LLC v. Friends of Skagit Cnty., 135 Wn.2d 542, 558, 958 P.2d 962 (1998).

4.

The Board has jurisdiction over the parties and the subject matter in this case. RCW 90.58.180; WAC 461-08-315(2)(a). The scope and standard of review for this matter is *de novo*. WAC 461-08-315(2); WAC 461-08-500(1). The Board makes findings of fact based on the preponderance of the evidence. WAC 461-08-500(2). In general, petitioners have the burden of proving that an SSDP was inconsistent with the requirements of the SMA, Ecology's implementing regulations, and the SMP. RCW 90.58.140(7); WAC 461-08-500(3). In this case, the Petitioner has the burden to prove that the public access approved in the SSDP is inconsistent with the SMA and the SMP. As explained below, the Petitioner has failed to meet the burden and the Board finds that the public access approved by the SSDP is consistent with the SMA and the SMP.

Consistency with the SMA

Petitioner has the burden to show that the public access granted by the SSDP is inconsistent with the SMA. If the SSDP is found to be inconsistent, then the Board must deny the SSDP.

5.

6.

The legislature found that unrestricted construction along the shorelines of the state, whether it be on publicly- or privately-owned land, is not in the public interest and that, therefore,

1	federal, state, and local governments must jointly perform "a planned, rational, and concerted
2	effort to prevent the inherent harm in an uncoordinated and piecemeal development of the
3	state's shorelines." RCW 90.58.020.
4	7.
5	It is Washington's policy to manage "the shorelines of the state by planning for and
6	fostering all reasonable and appropriate uses." RCW 90.58.020. It is also Washington's policy to
7	protect "against adverse effects to the public health, the land and its vegetation and wildlife, and
8	the waters of the state and their aquatic life, while protecting generally public rights of navigation
9	and corollary rights incidental thereto." RCW 90.58.020.
10	8.
11	The SMA directs local governments, in developing their master programs, to give
12	preference to uses in the following order of preference which:
13	(1) Recognize and protect the statewide interest over local interest;(2) Preserve the natural character of the shoreline;
14	(3) Result in long term over short term benefit; (4) Protect the resources and ecology of the shoreline;
15	(4) Protect the resources and ecology of the shoreline, (5) Increase public access to publicly owned areas of the shorelines; (6) Increase recreational opportunities for the public in the shoreline;
16	(7) Provide for any other element as defined in RCW 90.58.100
17	deemed appropriate or necessary. RCW 90.58.020.
18	9.
19	The SMA requires permitted uses to "be designed and conducted in a manner to minimize,
20	insofar as practical, any resultant damage to the ecology and environment of the shoreline area and

any interference with the public's use of the water." RCW 90.58.020.

1 10.

The SMA requires the implementation of its policy to preserve "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state . . . to the greatest extent feasible consistent with the overall best interest of the state and the people generally." RCW 90.58.020.

Preservation of the natural character of the shoreline and protecting the resources and ecology of the shoreline are both uses that are preferred over those that will increase public access. RCW 90.58.020.

11.

10 | 12.

Here, the Project's public access and location of the pedestrian pathways is consistent with preservation of the natural character of the shoreline and the resources and ecology of the shoreline, particularly in the FWHCA. Significant impacts to the FWHCA have been avoided or mitigated by allowing or requiring that the pedestrian pathways be constructed mostly outside of the FWHCAs, that a pedestrian bridge or at-grade pedestrian pathway through the southern FWHCA not be required, and moving the cabins originally planned in the southern FWHCA farther away from the shoreline. The pedestrian pathway that will go through the northern edge of the southern FWHCA causes impacts that are mitigated by the SSDP's required enhancement measures and inlieu payments.

1	13	3

The property is characterized by the large northern and southern FWHCAs and steep slopes leading to the water that hinder or prevent physical access to the shorelines except in the area of the boat launch. The northern and southern FWHCAs will remain largely undisturbed and the Project's public access will provide new visual access of the shorelines along the entire eastern edge of the property as well as maintain the physical access provided by the boat launch. Thus, the Board concludes that the SSDP is consistent with implementation of the SMA's policy to preserve the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state to the greatest extent feasible consistent with and in consideration of the overall best interest of the state and the people generally.

14.

Petitioner's argument that the public access approved by the Project is inconsistent with the SMA is not supported by the evidence presented or the Board's examination of the law.

15.

Accordingly, the Board concludes that the Petitioner has failed to meet the burden and that the public access granted by the SSDP is consistent with the SMA.

Consistency with the SMP

19 | 16.

Petitioner has the burden to show that the public access granted by the SSDP is inconsistent with the SMP. If the SSDP is found to be inconsistent, then the Board must deny the SSDP.

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1	1	1	٠

Another element defined in RCW 90.58.100, as referenced in the order of preferential uses of RCW 90.58.020, indicates that an SMP "shall include, when appropriate . . . a public access element making provision for public access to publicly owned areas." RCW 90.58.100(2)(b). Here, the SMP complies with the SMA by including several public access elements. SMP § 4.6.

18.

The Board must determine the consistency or inconsistency of the public access granted by the SSDP with those public access elements in the SMP.

19.

In section 4.6.1, the SMP defines such public access as including "the ability of the general public to reach, touch, and enjoy the water's edge . . . and to view the water and the shoreline from adjacent locations." SMP § 4.6.1. That same section of the SMP indicates that "all proposed review activities on shorelines are subject to the following policies and regulations." *Id*.

20.

Section 4.6.2 of the SMP provides the following public access policies:

- 1. Continuous public pedestrian access *should* be provided along the City's shorelines, especially the Columbia River, Rock Cove, and Lower Rock Creek.
- 2. The system of public physical and visual access to Stevenson's shorelines *should* be maintained, enhanced, and protected over time on both private and public lands.
- 3. Public access and recreational facilities *should* be located in a manner that will preserve the natural characteristics and functions of the shoreline.
- 4. Private property rights, public safety, and navigational rights *should* be considered when providing public access opportunities.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER SHB No. 24-002

1	5. New development <i>should</i> identify and preserve key shoreline views and avoid obstructing such views from public areas.
2	6. The City <i>should</i> develop a comprehensive and integrated public
3	access and trail plan (consistent with WAC 173-26-221(4)) that identifies specific public access needs and opportunities to replace
	these site-by-site requirements. Such plan should identify a
4	preference for pervious over impervious surfaces, where feasible.
5	SMP § 4.6.2 (emphasis added). These policies provide guidance but do not include any mandate.
6	21.
7	Here, the property is sloped steeply towards the water, making public access difficult or
8	impossible for most areas of the property. The public access provided by the Project will maintain
9	a boat launch for the public to reach, touch, and enjoy the water's edge. The Project will also
10	provide public pedestrian access via a continuous loop through the property that will enhance
11	physical access to, visual access to, and preserve key views of the shorelines along the eastern
12	edge of the property, while also preserving the natural characteristics and functions of the
13	property's shorelines, including the northern and southern FWHCAs.
14	22.
15	Accordingly, the Board finds that the SSDP is consistent with sections 4.6.1 and 4.6.2 of
16	the SMP.
17	23.
18	The SMP's regulations for providing public access are contained in section 4.6.3. They are
19	also recorded and addressed in the SSDP. Ex. FDM-1a.
20	

1 24.

Public access must be incorporated into all proposals with certain characteristics. SMP § 4.6.3.1. No party disputes that public access must be incorporated into the Project. The Board also concludes public access is required.

25.

Public access is required by the SMP to be "in the form of a walkway, trail, bikeway, corridor, viewpoint, . . . boat launch, dock or pier area, or other area serving as a means of view and/or physical approach to public waters." SMP § 4.6.3.7.a. The SMP does not require the walkway or trail to be placed precisely on an existing public easement. Indeed, the characteristics of this property render constructing such a walkway or trail along the 1996 public easements, as advocated by the Petitioner, infeasible. Here, the Project provides public access in the form of a walkway or trail and a boat launch, which serve as means of viewing and physically approaching Rock Cove.

26.

Public access is also required by the SMP to "[r]esult in no net loss of shoreline ecological functions." SMP § 4.6.3.7.d. Here, the Project preserves the ecological functions of the northern and southern FWHCAs as public access will be constructed outside of the FWHCAs except for a small portion of the southern FWHCA, which will be mitigated by an in-lieu payment included in the SSDP's public access conditions.

1	27	7.	

The SMP also requires public access to "be connected directly to the nearest public street or non-motorized trail through a parcel boundary, tract, or easement, wherever feasible." SMP § 4.6.3.8.a. Here, the public access is connected to SW Rock Creek Drive at three points.

28.

The SMP provides that public access is not required when an applicant demonstrates public access is infeasible due to "[t]he cost of providing the access . . . [being] unreasonably disproportionate to the total long-term cost of the proposed development" or "[u]nacceptable environmental harm will result from the public access which cannot be mitigated." SMP §§ 4.6.3.3.c-d. Here, providing a public access connection through the southern FWHCA via a bridge or an at-grade path would be too costly and result in unacceptable environmental harm to the FWHCA. Consistent with the SMP, the SSDP is conditioned upon a fee contributed to the local public access fund as a payment in lieu of such a public access connection or, alternatively, agreeing with the City to support development at a later date. SMP §§ 4.6.3.4-5; *Ex. FDM-1a*.

29.

Accordingly, the Board finds that the SSDP is consistent with section 4.6.3 of the SMP.

30.

The Board concludes there is no evidence to support a determination that the SSDP is inconsistent with any public access element of the SMP.

1	31.
2	Petitioner's argument that the public access approved by the Project is inconsistent with
3	the SMP is not supported by the evidence presented or the Board's examination of the law.
4	32.
5	After review of all evidence presented, the facts established therefrom, and applicable law,
6	the Board concludes by a preponderance of the evidence that the SSDP is consistent with the SMA
7	and SMP and that the Petitioner has failed to show the SSDP is inconsistent with the same.
8	
9	Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Having
10	so found and concluded, the Board enters the following:
11	
12	ORDER
13	The City's conditional approval of SSDP No. SHOR2023-02 issued on January 22, 2024,
14	is AFFIRMED.
15	SO ORDERED on this day August 13, 2024.
16	SHORELINES HEARINGS BOARD
17	Michelle Bonzalz
18	MICHELLE GONZALEZ, Chair
19	welch admie a
20	DENNIS WEBER, Member

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ANDREW J. O'CONNELL Presiding

Administrative Appeals Judge

RJ LOTT, Member

This is a FINAL ORDER for purposes of appeal to Superior Court within 30 days. See WAC 461-08-570 and 575, and RCW 34.05.542(2) and (4).

You are being given the following notice as required by RCW 34.05.461(3): Any party may file a petition for reconsideration with the Board. A petition for reconsideration must be filed with the Board and served on all parties within ten days of mailing of the final decision. WAC 461-08-565.