

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF RICHLAND**

Regarding an Application for a Shoreline)
Substantial Development Permit to)
authorize a project known as)
"RIVERFRONT APARTMENTS" – a)
proposed mixed-use building with over)
30 dwelling units, commercial spaces,)
parking, pedestrian pathway, and)
associated improvements, in a portion of)
the City's shoreline jurisdiction,)
submitted by)

File No. SSDP 2022-101

REMAND ORDER

CEDAR AND SAGE APARTMENTS 1, LLC)
Applicant,)

*(Location: Vacant site, south of the Hampton Inn and west of)
the City's Riverfront Trail along the Columbia River,)
addressed as 470 Bradley Blvd. on Parcel No.)
114981012801001, in the City of Richland)*)

I. PROCEDURAL BACKGROUND AND LEGAL AUTHORITY.

1. In this matter, the Hearing Examiner has jurisdiction to conduct an open record public hearing and issue a Decision regarding the pending application for a Shoreline Substantial Development Permit.

2. Under applicable provisions of the Richland Municipal Code (RMC), the Hearing Examiner is responsible for conducting an open record public hearing followed by a final written Decision for a Shoreline Substantial Development Permit of this sort. Under the table provided at RMC 19.20.030, the Hearing Examiner is given the authority to hold public hearings and make decisions on certain applications, permits or approvals as described in the City's municipal code and ordinances. RMC 19.25.010 expressly lists Substantial

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Development Permits among the types of applications that the city's hearing examiner is granted jurisdiction to review and decide. However, RMC 19.20.010(B)(1) and RMC 26.50.010(B)(1) explain that certain Shoreline Substantial Development Permit applications can be approved by the Director as a "Type I" matter, including those for new development on a site with one acre or less and a cost less than \$500,000.00. (See RMC 19.20.010(A)(9)). Shoreline Substantial Development Permits that do not qualify as Type I matters are deemed "Type II" applications/permits and require an open-record public hearing (RMC 19.60.010) and a decision by the Hearing Examiner under procedures explained in RMC Chapter 19.60, including RMC 19.60.070 and .080.

3. Prior to the public hearing opened on June 10, 2024, the Planning Manager, Mike Stevens, issued a Staff Report, with the following recommendation on the cover page: "Keep Public Record Open To Afford Applicant Additional Time to Address Project Shortcomings." (Staff Report, page 1).

4. During the public hearing, held on June 10th, the applicant's agent, Shane O'Neill, with Clover Planning and Zoning, challenged various parts of the Staff Report analysis, particularly on the subject of the proposed shoreline restoration plan, which was criticized in a written comment provided by the Department of Ecology. (Ex. 11, DoE comment).

5. The Staff Report and testimony received on June 10th required substantial legal research on key issues, and left uncertainty as to whether the applicant might seek to modify their proposed restoration plan in a manner that satisfies the Department of Ecology, which holds authority to appeal any Shoreline Substantial Development Permit to the Shoreline Hearings Board.

6. Prior to beginning public hearings on unrelated matters on August 12th, where Mr. Stevens and Mr. O'Neill were both present, the Examiner asked to meet with both parties for a status report on this matter. The Examiner informed the parties that legal research was complete, and asked if the applicant would like the matter remanded to allow for additional time to see if their restoration plan proposal could be modified in a fashion that satisfies the Department of Ecology. Mr. O'Neill asked for time to confer with his client, the applicant, and indicated that he would let Mr. Stevens know if the applicant would like the matter remanded.

7. Earlier this week, the Examiner received a copy of the applicant's agent's written request to remand this matter, which reads:

"Please advise [the hearing examiner] that the property owner requests the item be remanded back to the applicant so we may revise the restoration plan with the goal of receiving supportive comments from the Dept. of Ecology. Note that revising the restoration plan to include additional features will be subject to review timelines of the Army Corps before resubmittal to the City. The concept we plan to implement is illustrated

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1 in the attachment, whereby large woody debris will be anchored in-place and extend into
2 the water. When I spoke with Ryan Anderson, he indicated this concept would suffice.”
(Applicant’s Agent email to Planning Manager, dated Aug. 15, 2024, forwarded to the
3 Examiner on Aug. 27, 2024).

4 **II. REMAND ORDER, REOPENING HEARING RECORD.**

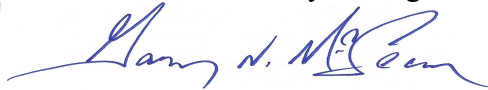
5 Based on the applicant’s request for remand, the Examiner finds that there is good
6 cause to reopen the record for this matter, to provide all parties an opportunity to thoroughly
7 address outstanding issues that must be resolved before the Examiner can make a decision to
8 on the pending shoreline permit application. (Authority: HEx Rule 3.09(b)).

9 Accordingly, consistent with H.Ex. Rules 3.09(b) and 1.17(c), **this matter is**
10 **REMANDED and the hearing record is REOPENED.**

11 The Department is directed to return the application to the applicant for modifications
12 and corrections needed to comply with applicable shoreline codes and policies.

13 Once the applicant submits revised and/or updated application materials for review
14 and analysis by City staff, then staff should determine if additional SEPA review is required
15 by law, comply with any additional noticing and public comment requirements, and prepare
16 a supplemental Staff Report, including revised conditions (as appropriate), for consideration
17 by the Hearing Examiner, and note the matter for a continued public hearing at some point in
18 the near future.

19 ISSUED this 30th Day of August, 2024

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22 Gary N. McLean
23 Hearing Examiner
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