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AUG 6 2010

SHORELINE CITY ATTORNEY

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
CENTRAL PUGET SOUND REGION

CITY of SHORELINE, TOWN of WOODWAY,
and SAVE RICHMOND BEACH, Inc.,

Petitioners,

v.

SNOHOMISH COUNTY,

Respondent.

CASE NO. 10-3-0011c

(Shoreline IV)

ORDER OF CONSOLIDATION,
NOTICE OF HEARING AND
PRELIMINARY SCHEDULE

I. THE PETITIONS

The Growth Management Hearings Board has received three petitions challenging Snohomish County's enactment of ordinances with provisions relating to Point Wells. On July 23, 2010, the City of Shoreline filed a Petition for Review challenging Amended Ordinance Nos. 09-079 and 09-080, which was assigned Case No. 10-3-0009.¹

On July 26, 2010, the Town of Woodway filed a Petition for Review challenging Amended Ordinance No. 09-080, which was assigned Case No. 10-3-0010.

On July 26, 2010, Save Richmond Beach, Inc. filed a Petition for Review challenging Amended Ordinance Nos. 09-079 and 09-080, which was assigned Case No. 10-3-0011.

II. ORDER OF CONSOLIDATION

RCW 36.70A.290(5) provides:

The board shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations.

¹ An Amended Petition for Review, filed July 26, corrected three typographical errors.

1 Upon review of the three Petitions and pursuant to RCW 36.70A.290(5), the Board
2 determines that the three petitions challenge the same enactments of Snohomish County.
3 The Board further determines that the issues raised in the three petitions are similar.
4 Therefore, these cases should be consolidated.
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- 7 1. Case Nos. 10-3-0009, 10-3-0010, and 10-3-0011 are hereby consolidated. The new
8 case number for the consolidated case is Case No. 10-3-0011c.
 - 9 2. The consolidated cases will be entitled *City of Shoreline, et al v. Snohomish County*
10 (**Shoreline IV**).
- 11

12 Margaret Pageler is the assigned Presiding Officer. Dave Earling and Will Roehl will also
13 serve on the panel to hear this matter.
14

15 III. INTERVENTION

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17 On July 30, 2010, the Board received Motions to Intervene in case nos. 10-3-0009 and 10-
18 3-0010 and on August 4, 2010 in case no. 10-3-0011, all on the side of Respondent from
19 BSRE Point Wells LP, pursuant to WAC 242-02-270. Any party has ten days to respond to
20 the motions. Thereafter the Presiding Officer may rule on the intervention or may address
21 the matter at the prehearing conference.
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23 IV. RULES OF PROCEDURE

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25 The Board's Rules of Practice and Procedure, found in the Washington Administrative Code
26 (WAC) at Chapter 242-02 WAC, shall apply to the proceedings in this case.²
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² The Board's handbook, available on the website, may also be useful to the parties.

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V. PRELIMINARY SCHEDULE

Notice is given in the table below of the Preliminary Schedule for hearings as well as for filing of briefs and documents with the Board. The following schedule shall remain in effect unless modified in writing by subsequent order:

July 23, 2010	Petition Filed 10-3-0009
July 26, 2010	Petition Filed 10-3-0010
July 26, 2010	Petition Filed 10-3-0011
August 5, 2010	Order of Consolidation, Notice of Hearing and Preliminary Schedule
August 25, 2010	Index Due (Respondent to file)
August 25, 2010 10:00 a.m.	Prehearing Conference – (location to be determined)
August 30, 2010	Prehearing Order
September 8, 2010	Deadline for Dispositive Motions and for Motions to Supplement the Record (proposed supplements to be attached)
September 22, 2010	Deadline for Response to Dispositive Motions or Motions to Supplement the Record
September 29, 2010	Deadline for Reply to Dispositive Motions or Motions to Supplement the Record
October 13, 2010	Anticipated date of Order on Motions
October 27, 2010	Deadline for Petitioner's Prehearing Brief (with exhibits)
November 10, 2010	Deadline for Respondent's Prehearing Brief (with exhibits)
November 17, 2010	Deadline for Petitioner's Reply Brief (optional)
November 24, 2010	Hearing on Merits of Petition Location to be determined
January 24, 2011	Final Decision and Order Deadline

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VI. PREHEARING CONFERENCE

The Prehearing Conference will be held at a location to be determined.

1 At the Prehearing Conference, the parties should be prepared to discuss the final framing of
2 the issues set forth in the Petitions for Review and the general nature of any dispositive
3 motions they intend to file. The parties are advised that the Board will normally only decide
4 the following issues on motions: timeliness of the filing of the petition for review; standing to
5 raise the claims in the petition; and subject-matter jurisdiction.
6

7 The Preliminary Schedule established by this Order will be discussed at the Prehearing
8 Conference and may be modified to fit the needs of the parties insofar as the Board
9 determines it can reasonably accommodate them and meet its statutory deadline.
10 Thereafter, any changes to the schedule must be proposed by motion and shall be granted
11 only upon a showing of unforeseeable necessity.
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13 **VII. SETTLEMENT AND MEDIATION**

14 The parties' interest in settlement discussions will be an item of discussion at the Prehearing
15 Conference. If the parties agree that a member of the Eastern or Western Washington
16 Growth Management Hearings Board panel could be of assistance by serving as a
17 settlement officer, the Presiding Officer will appoint a settlement officer to assist the parties
18 in resolving any or all of the issues presented in the Petition for Review.
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21 If the parties reach settlement, the Presiding Officer shall be notified, and a Joint Motion for
22 Dismissal filed with the Board. If settlement is not reached on all issues, the case will
23 proceed as scheduled. The parties are advised that the Board may extend the 180-day
24 decision deadline *for the purposes of settlement*, for up to ninety days. RCW
25 36.70A.300(2)(b).
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28 **VIII. INTERPRETERS AND ACCOMMODATIONS**

29 If a limited-English speaking or hearing impaired party needs an interpreter for any hearing,
30 a qualified interpreter will be appointed at no cost to the party or witness. A form for a
31 request for an interpreter is attached to this Notice.
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IX. THE INDEX

Index - Pursuant to WAC 242-02-520, the County shall prepare an Index that lists all documents considered by the County in taking the challenged action within 30 days of service of the petition.³ Each document included in the Index should be given a unique number for identification purposes and to avoid duplication.

The Petitioners shall review the Index prepared by the County promptly and notify the County of any omissions they believe have occurred. If the County agrees, it shall file an Amended Index. If there is a disagreement over whether the item should be included in the record, the proponent may file a motion to supplement the record, attaching the disputed documents.

X. EXHIBITS

The Index is a list of all of the documents considered by the County in taking the challenged action. However, only those documents that are presented to the Board as exhibits are part of the evidence in this case. To become part of the evidence in this case, an exhibit must be presented to the Board as an exhibit to a brief or motion and so marked. Exhibits shall be attached to the brief in which they are referenced and shall include the Index number(s) from which they are drawn. **A table of exhibits is required for the hearing briefs.** Parties should tab the exhibits for the benefit of Board members.

XI. FAILURE TO ATTEND OR PARTICIPATE

A party who fails to attend or participate in any hearing or other stage of the adjudicative proceedings before the Board in this case may be held in default and an order of default or dismissal may be entered pursuant to WAC 242-02-710.

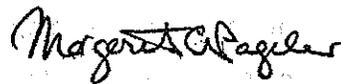
³ For the convenience of the parties, the Presiding Officer requests that the Index be provided at the Prehearing Conference.

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XII. COMMUNICATION WITH THE BOARD

Pursuant to RCW 34.05.455, the parties may not communicate *ex parte* with the presiding officer or other Board members except on limited procedural aspects of this case. The parties are directed to Ms. Paulette Yorke, Executive Assistant to the Board, at (360) 586-0260, or email at Paulettev@wwgmhb.wa.gov, who shall be the Board's contact for any questions.

DATED this 5th day of August 2010.



Margaret A. Pageler, Presiding Officer

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INTERPRETER REQUEST

City of Shoreline, et al,
v.

Snohomish County
GMHB Case No. 10-3-0011c

I request that an interpreter be present as follows (Please circle as appropriate):

- 1. Limited English-speaking ability. My primary language is _____
(Indicate language)
- 2. Hearing impaired.

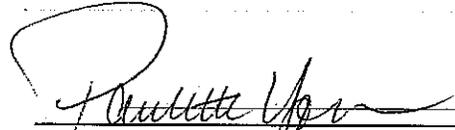
Dated this _____ day of _____ 2010.

Signature: _____
Party

Mail to:

Central Puget Sound Growth Management Hearings Board
P.O. Box 40953
Olympia, WA 98504-0953

1 DATED this 5th day of August 2010.


Paulette Yorke, Executive Assistant

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CONFIDENTIAL - SECURITY INFORMATION

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