



# City of Sammamish

801 – 228<sup>th</sup> Avenue SE • Sammamish, WA 98075 • Phone: 425-295-0500 • Fax: 425-295-0600 • web: [www.sammamish.us](http://www.sammamish.us)

## Appeal of a Decision of an Administrative Official

This document is intended to assist in the submittal of an appeal of an administrative decision on a Type 2 land use decision, street variation, or other administrative decision as provided in the Sammamish Municipal Code ("SMC"). Additional information regarding appeals may be found in the SMC Title 20, which is available on the city's website at [www.sammamish.us](http://www.sammamish.us). Copies of the SMC and the Hearing Examiner's Rules of Procedures are also available at Sammamish City Hall for review.

*PLEASE NOTE:*

- *Appeal fee is due upon submittal of the Appeal.*
- *Submit three (3) copies of all Appeal documents.*
- *Appeals should be filed with the Hearing Examiner's Assistant*

Location: See Attachment 1, Exhibit A

Appellant's Name: Lake Sammamish 4257 LLC Phone: 425-785-7020

Address: 3145 E Lake Sammamish Shore Lane SE City: Sammamish, WA Zip: 98075

Email: dmg@vnf.com (email address of Appellant's attorney)

Decision being appealed (File No. & project or applicant name):  
City of Sammamish File No. SSDP2014-00171 / KC File SHOR14-0022 SSDP issued to King

County Parks & Recreation Division.

Date of Decision: July 7, 2015

Would you be interested in mediation as provided for in SMC 20.05.120?

Yes ☒ No ☐

What is the basis for the  
Appeal: See Attachment 1.

\_\_\_\_\_  
\_\_\_\_\_  
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<p style="text-align: center;"><i>Office Use Only</i></p> <p>Received by: _____</p> <p>Fee Paid: \$ _____ Cash <input type="checkbox"/> Check <input type="checkbox"/></p>	<p style="text-align: center;"><b>RECEIVED</b></p> <p style="text-align: center;"><i>DOUL 22 2015</i></p>
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**CITY OF SAMMAMISH**

What are the regulations you believe have not been followed or correctly interpreted?  
See Attachment 1.

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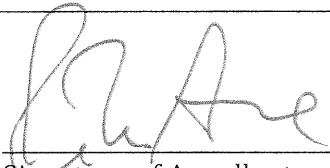
What remedy or relief are you seeking through the Appeal?  
See Attachment 1.

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Signature of Appellant

July 24, 2015

Date

Print Duncan Greene, WSBA #36718

Van Ness Feldman LLP  
Attorneys for Appellant

## CITIZEN GUIDE INFORMATION

### Administrative Appeals in Sammamish Overview:

The City of Sammamish issues a variety of decisions that are subject to an administrative appeal process. Generally decisions that have an administrative appeal process include all identified type 2 land use decisions<sup>1</sup>, street variations, and some code compliance actions. An “administrative appeal” is an appeal to a Hearing Examiner, who conducts a hearing to review the city’s decision and determine if it should be upheld, modified, or rejected.

### Process:

The following is intended to summarize the administrative appeal process that is further explained in Title 20 of the Sammamish Municipal Code and the Sammamish Hearing Examiner Rules of Procedure.

1. File an Appeal: To file an appeal, an appellant (the person filing the appeal) should complete the attached form and pay the applicable appeal fee. The appeal must be filed with the Hearing Examiner’s assistant at the City no later than the close of business on the last day of the appeal period.
2. Pre-hearing Conference: Once an appeal has been filed, the appellant, the applicant (the person who filed the application being appealed), and the city have the option of requesting that the Hearing Examiner schedule a pre-hearing conference. More information on the pre-hearing conference can be found in Chapter 20.10 SMC and the Hearing Examiner’s Rules of Procedure. In most appeals, the prehearing conference will address how and when the parties will file additional documents in advance of the hearing for the Hearing Examiner’s review.
3. Hearing: The Hearing Examiner will preside over the hearing and will set the order of testimony by the city, applicant, appellant, and public (if applicable). An audio recording is normally made during the hearing for later reference if needed.
4. Hearing Examiner’s Decision: The Hearing Examiner will issue a decision on most appeals within 2 weeks of the hearing date. The decision will identify findings of fact, conclusions of law, and will decide whether the city’s decision will be upheld, reversed, or specify any modifications to the administrative decision.

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<sup>1</sup> Type 2 decisions are identified in SMC 20.05.020 and include the following: Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; shoreline substantial development permits (SSDPs); procedural and substantive SEPA decision; site development permit; approval of residential density incentives; reuse of public schools; reasonable use exceptions under SMC 21A.50.070(2); preliminary determinations under SMC 20.05.030(3); critical areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based on the requirements of Chapter 21A.50 SMC; binding site plan; and unified zone development plan under Chapter 21B.95 SMC.

# ATTACHMENT 1

BEFORE THE CITY OF SAMMAMISH  
HEARING EXAMINER

In the Matter of:

Shoreline Substantial Development Permit  
issued to King County Parks and  
Recreation Division

City of Sammamish File No. SSDP2014-  
00171 / KC File SHOR14-0022

No. \_\_\_\_

**NOTICE OF APPEAL**

**APPELLANT:**

Lake Sammamish 4257 LLC  
3145 East Lake Sammamish Shore Lane SE  
Sammamish, WA 98075  
Phone: (425) 785-7020

**APPELLANT'S REPRESENTATIVE:**

Duncan Greene  
Van Ness Feldman LLP  
719 Second Avenue, Suite 1150  
Seattle, WA 98104-1728  
[dmg@vnf.com](mailto:dmg@vnf.com)  
Phone: (206) 623-9372  
Fax: (206) 623-4986

**DECISION APPEALED:**

On July 7, 2015, the City of Sammamish ("City"), through its Department of Community Development, issued a decision (the "Decision") approving an application submitted by the King County Parks and Recreation Division ("County") that sought approval of a Shoreline Substantial Development Permit ("SSDP") authorizing the County to widen and pave the South Sammamish Segment A of the existing East Lake Sammamish Trail ("ELST") (the "Project"). The Decision (together with the City's Notice of Decision) is attached hereto as Exhibit A.

1 **ALLEGED ERRORS IN DECISION:**

2 The Decision is unjust and/or unlawful because the City's approval of the SSDP  
3 is: contrary to law, including without limitation the specific provisions of the Sammamish  
4 Municipal Code (SMC), Shoreline Management Act (SMA) (RCW Chapter 90.58) and  
5 implementing regulations (WAC Chapters 173-26 and 173-27), and the City of  
6 Sammamish Shoreline Master Program (SMP) listed below; is not supported by  
7 substantial evidence in the record; is unreasonable, arbitrary and capricious, and  
8 discriminatory; and violates the Appellant's constitutional rights. These errors are  
9 described in more detail below.  
10

11 **SPECIFIC REASONS WHY THE DECISION SHOULD BE REVERSED OR**  
12 **MODIFIED:**

13 The Decision is erroneous for reasons that include without limitation the following:<sup>1</sup>

14 1. Property ownership. The Decision blindly accepts the County's assertions  
15 regarding property ownership and fails to require adequate documentation that the County  
16 has a sufficient ownership interest in the areas proposed for construction. The County's  
17 construction plans depict proposed work in areas owned exclusively by the Appellant,  
18 where the County has no fee simple or easement interest. The Decision's failure to  
19 require adequate documentation of property ownership violates provisions of the SMA  
20 and implementing regulations, the SMP, and the SMC, including without limitation the  
21 following: RCW 90.58.020, which states the legislature's intent to "recogniz[e] and  
22 protect[...] private property rights consistent with the public interest"; WAC 173-26-186,  
23 which provides that "[p]lanning policies should be pursued through the regulation of  
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<sup>1</sup> The Appellant reserves the right to amend or supplement this Notice of Appeal consistent with the SMC.

1 development of private property only to an extent that is consistent with all relevant  
2 constitutional and other legal limitations (where applicable, statutory limitations such as  
3 those contained in chapter 82.02 RCW and RCW 43.21C.060) on the regulation of private  
4 property”; SMP 25.01.050(3), which provides that “[r]egulatory or administrative  
5 requirements of this Program must not unconstitutionally infringe upon private property  
6 rights or result in an unconstitutional taking of private property”; SMC 16.20.275, which  
7 requires an “accurate boundary line survey”; SMC 20.05.040, which requires complete  
8 application materials such as identification on the City’s land use application form of any  
9 property owners other than the applicant; SMC 25.06.010, which requires the “property  
10 owner” to notify the Washington State Department of Archaeology and Historic  
11 Preservation if historic, cultural or archaeological sites or artifacts are inadvertently  
12 discovered during shoreline development; and SMC 25.06.020(7), (10) and (16), all of  
13 which refer to the “owner” taking certain actions with respect to critical areas.  
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16 2. Project location, design, width, and surfacing. The Decision fails to properly  
17 constrain the location, design, width, and surfacing of the Project, resulting in an  
18 improperly-sited and needlessly wide paved corridor that encroaches onto private  
19 property. This failure violates provisions of the SMA, the SMP, and the SMC, including  
20 without limitation the following: RCW 90.58.020, which states the legislature’s intent to  
21 “[p]reserve the natural character of the shoreline” and to preserve “the public’s  
22 opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state”;  
23 SMP 25.04.010(4)(b), which provides that “[t]he design of all public shoreline access  
24 areas should attempt to minimize potential impacts to private property”; SMP  
25

1 25.04.010(8)(a), which requires shoreline developments to be “designed in a manner that  
2 directs land alteration to the least sensitive portions of the site to maximize vegetation  
3 conservation; minimize impervious surfaces and runoff; protect riparian, nearshore and  
4 wetland habitats; protect fish and wildlife and their habitats; protect archaeological,  
5 historic and cultural resources; and preserve aesthetic values”; SMP 25.04.010(8)(b),  
6 which encourages “Low Impact Development (LID) stormwater management practices . .  
7 . . where site conditions allow in order to minimize impervious surface area and surface  
8 runoff”; SMP 25.04.010(9)(b), which prohibits shoreline developments from  
9 “significantly detract[ing] from shoreline scenic and aesthetic qualities that are derived  
10 from natural . . . features [or] vegetative cover”; SMP 25.04.010(10)(d), which encourages  
11 shoreline developments to “minimize impervious surface and incorporate low impact  
12 development stormwater management techniques where reasonable to minimize surface  
13 water runoff and prevent water quality degradation”; SMP 25.07.100(7), which requires  
14 vehicle and pedestrian circulation systems to be “designed to minimize clearing, grading  
15 and alteration of topography and natural features”; SMC 21A.25.030.A, Note 4.a (which  
16 states that impervious surface area standards for “regional uses” will be established at the  
17 time of permit review; SMC 21A.30.210(1), which provides that “[t]rails should generally  
18 be located along existing cleared areas or on improved corridors, including but not limited  
19 to utility corridors, road or railroad rights-of-way, so as to avoid or minimize the need to  
20 remove additional vegetation and create other associated impacts” and that “[w]here an  
21 existing right-of-way is wider than the cleared or improved area, proposed trails should  
22 generally be located on the cleared or improved portion of the right-of-way wherever  
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1 possible”; SMC 21A.30.210(2), which provides that “[t]rails should be designed and  
2 constructed to encourage users to remain on the trail, to diminish the likelihood of trespass  
3 and to promote privacy for adjacent landowners”; SMC 21A.30.210(2), which provides  
4 that “[t]he width of the cleared area, trail corridor, surface and shoulder should be  
5 designed consistent with AASHTO standards for public multi-use paved trails” and that  
6 “[c]leared areas shall be the minimum necessary consistent with the standards and  
7 requirements in the SMC”; 21A.30.210(7), which allow paved surfacing for trails only if  
8 “determined by the department to require impervious surfaces” and requires the City to  
9 encourage applicants to use “pervious paving or other low-impact techniques that meet  
10 overall project goals for cost and durability” in the event paved surfacing is allowed  
11 (emphasis added):  
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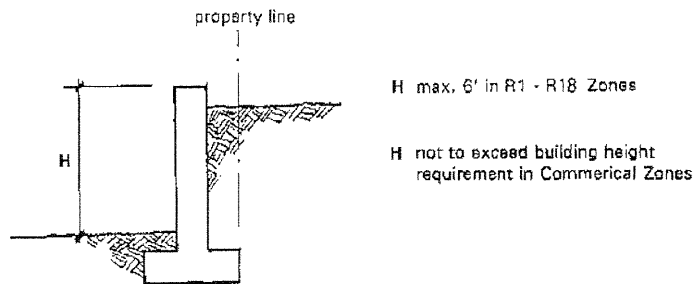
13       3. Drainage. The Decision fails to properly constrain the drainage system proposed  
14 by the County, which ties into a private drain that is currently blocked, encroaches onto  
15 the Appellant’s private property, relies on incorrect culvert locations, uses an improperly-  
16 sized drain and improper slope, fails to provide a clean-out, and fails to meet other code  
17 requirements. This failure violates provisions of the SMA and implementing regulations,  
18 the SMP, and the SMC, including without limitation the following: RCW 90.58.020 and  
19 WAC 173-26-186 (quoted above); SMP 25.01.060, which incorporates by reference SMC  
20 Title 13 (Surface Water Management); SMP 25.03.030, which adopts a goal to provide  
21 opportunities for physical and visual public access to public shorelines “while minimizing  
22 adverse effects on shoreline functions and processes, private property rights, and/or  
23 neighboring uses”; SMP 25.03.040(2), which adopts a goal to “[l]ocate public recreational  
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1 uses in shoreline areas that can support those uses . . . while minimizing effects on  
2 shoreline functions and processes, private property rights, and/or neighboring uses”; and  
3 SMC 13.20.030, which requires, among other things, that “[a]ll surface and stormwater  
4 runoff from a project shall be discharged at the natural location so as not to be diverted  
5 onto, or away from, downstream properties.”

6  
7 4. Retaining walls. The Decision generally fails to adequately justify the proposed  
8 retaining walls, and in particular fails to properly constrain the location and height of a 15-  
9 foot structural earth retaining wall proposed for construction at the edge of the paved  
10 street in front of Appellant’s property, together with a fence on top of the retaining wall,  
11 which are to be located more than 25 feet from the trail’s center line but less than 25 feet  
12 from the Appellant’s home and a few inches from the edge of the paved street. These  
13 failures violate provisions of the SMA and implementing regulations, the SMP, and the  
14 SMC, including without limitation the following: RCW 90.58.020 and WAC 173-26-186  
15 (quoted above); SMP 25.04.020(4)(a), which requires any fill activity, including the  
16 construction of an earth retaining wall, to be “the minimum necessary to accommodate the  
17 proposed use”; SMC 21A.25.030.A, SMC 21A.25.120(2), and SMC 21A.25.190(6),  
18 which together impose a ten-foot setback, requires that setbacks be measured “from the  
19 street right-of-way or the edge of a surface improvement which extends beyond a right-of-  
20 way, whichever is closer to the proposed structure,” and allow retaining walls to project  
21 into the setback only if the structure does not “exceed a height of six feet in the R-1  
22 through R-18 zones” (as depicted in the illustration below, which is included in the SMC);  
23 and SMC 21A.30.190(1)(a)(i), which limits the total height of the proposed fenced located  
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1 on the retaining wall to ten feet, as measured “from the top of the fence to the ground on  
2 the low side of the . . . retaining wall or berm.”

3 RETAINING WALL IN SETBACK



9 5. Wetland issues. The Decision improperly characterizes certain ditches as wetlands  
10 and relies on inapplicable wetland buffer modification provisions, in violation of  
11 provisions of the SMA and implementing regulations, the SMP, and the SMC, including  
12 without limitation the following: RCW 90.58.030(h), which excludes the following from  
13 the definition of wetlands: “irrigation and drainage ditches, grass-lined swales, canals,  
14 detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities”;  
15 WAC 173-26-191(2)(b), which provides that “[i]f the development regulation is amended,  
16 the edition referenced within the master program will still be the operative regulation in  
17 the master program” and that “[c]hanging the referenced regulations in the master  
18 program to the new edition will require a master program amendment”; SMP 25.01.070,  
19 which incorporates most provisions of the City’s critical areas regulations codified in  
20 SMC 21A.50 into the SMP; and the version of SMC 21A.50.290 in effect at the time the  
21 SMP was approved by the Department of Ecology, which did not allow wetland buffer  
22 modification when the East Lake Sammamish Trail transects a wetland buffer.  
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1       6. Removal of significant trees. The Decision improperly allows the removal of  
2 numerous significant trees, including at least five coniferous trees on Appellant's property  
3 with a diameter greater than eight inches, in violation of provisions of the SMA, the SMP,  
4 and the SMC, including without limitation the following: RCW 90.58.020 (quoted above);  
5 SMP 25.03.020(2), which adopts a goal to "[p]reserve, enhance and/or protect shoreline  
6 resources (i.e., wetlands and other fish /wildlife habitats) for their ecological functions and  
7 values, and aesthetic and scenic qualities"; SMP 25.03.020(2), which adopts a goal to  
8 "[m]aintain or enhance shoreline vegetation to protect water quality, fish and wildlife  
9 habitat, and other ecological functions and processes"; SMP 25.04.010(7)(b), which  
10 requires shoreline developments to limit clearing and thinning to "minimize adverse  
11 impacts on ecological functions and values and protect slope stability" and encourages the  
12 conservation of vegetation "to protect shoreline ecological functions and aesthetics"; SMP  
13 25.04.010(8)(a) (quoted above); SMP 25.04.010(8)(b) (quoted above); SMP 25.06.020,  
14 which limits clearing and grading to the "minimum necessary to accomplish the allowed  
15 use/development"; SMP 25.04.010(4)(b) (quoted above); SMP 25.04.010(8)(a) (quoted  
16 above); SMP 25.04.010(9)(b) (quoted above); SMP 25.07.100(7) (quoted above); SMP  
17 25.07.110(9), which provides that "[c]learing of vegetation for the installation or  
18 maintenance of utilities shall be minimized"; SMC 21A.35.210 and .230, which impose  
19 tree retention requirements and standards; and SMC 21A.15.1333, which defines  
20 "significant tree" to include any "coniferous tree with a diameter of eight (8) inches or  
21 more."  
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1       7. SEPA. The Decision is not supported by the Final Environmental Impact  
2 Statement, which does not adequately address the issues and impacts discussed above, in  
3 violation of provisions of the SMP and the SMC, including without limitation the  
4 following: SMP 25.01.060, which recognizes that the Project is subject to applicable  
5 provisions under the State Environmental Policy Act (SEPA) (RCW Chapter 43.21C and  
6 WAC Chapter 197-11); and SMC Chapter 20.15, which contains the City's SEPA  
7 regulations.  
8

9       8. Procedural errors. The Decision was affected by procedural errors that were not  
10 harmless, including without limitation the following: the County's processing of its own  
11 permit application (in violation of, inter alia, SMC Chapter 20.05) and the City's inclusion  
12 in the Notice of Decision of an incorrect statement indicating that appeals should be  
13 directed to the Shorelines Hearings Board rather than to the Hearing Examiner (in  
14 violation of, inter alia, Table A to SMC 20.05.020, which clearly lists "shoreline  
15 substantial development permits (SSDPs)" as Type II decisions, with the decision made  
16 by the Director and appealable to the Hearing Examiner.  
17

18       For the reasons stated above, the Decision is not supported by substantial evidence in  
19 the record; and the Decision is unreasonable, arbitrary and capricious, and discriminatory,  
20 and violates the Petitioner's constitutional rights.  
21

22       **HARM SUFFERED OR ANTICIPATED TO BE SUFFERED BY THE APPELLANT:**

23       The Appellant owns the property addressed as 4257 East Lake Sammamish Ln SE,  
24 Sammamish, WA 98075. The Appellant anticipates the following types of harm: aesthetic  
25 impacts, loss of privacy, stormwater impacts (including potential flooding of the basement

1 and garage in Appellant's residence), potential safety impacts associated with the  
2 retaining wall, reduction in property value, and unconstitutional taking of property without  
3 just compensation, among others. As the owner of residential property adjacent to the  
4 proposed trail expansion with a residence in close proximity to the proposed retaining wall  
5 and tree removal, and whose property is being invaded to construct and provide drainage  
6 for the Project, the Appellant clearly has standing to bring this appeal.<sup>2</sup>

7  
8 **STATEMENT OF RELIEF SOUGHT:**

9 Appellant requests the following relief:

10 1. An order reversing the Decision and remanding the SSDP to the  
11 Department of Community Development with instructions to correct the errors described  
12 above or, alternatively, an order imposing additional conditions on the SSDP to mitigate  
13 the harms identified above; and

14 2. Any other relief as the Hearing Examiner may find just and equitable.

15 Respectfully submitted this 29<sup>th</sup> day of July, 2015.

16  
17 VAN NESS FELDMAN LLP

18  
19 BY: 

20 Duncan Greene, WSBA #36718  
21 Attorneys for Petitioner  
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<sup>2</sup> Appellant reserves the right to amend or supplement this statement of harm consistent with the SMC.

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**CERTIFICATE OF SERVICE**

I, Amanda Kleiss, declare as follows:

That I am over the age of 18 years, not a party to this action, and competent to be a witness herein;

That I, as a legal assistant in the office of Van Ness Feldman, caused true and correct copies of the following documents to be delivered as set forth below:

1. Notice of Appeal;
2. Certificate of Service;

and that on July 24, 2015, I addressed said documents and deposited them for delivery as follows:

**VIA LEGAL MESSENGER:**

Lita Hachey, Assistant to:  
Hearing Examiner John Galt  
City of Sammamish  
801 – 228<sup>th</sup> Avenue SE  
Sammamish, WA 98075

City of Sammamish  
Department of Community Development  
c/o Mr. Jeffrey Thomas, Director  
City of Sammamish  
Sammamish City Hall  
801 228th Avenue SE  
Sammamish, WA 98075

**VIA FIRST CLASS U.S. MAIL:**

*With a courtesy copy to:*

Sammamish City Attorney  
Michael R. Kenyon  
Kenyon Disend, PLLC  
The Municipal Law Firm  
11 Front Street South  
Issaquah, WA 98027-3820

1 King County Parks and Recreation Division  
2 c/o Gina Auld, Capital Project Manager  
3 King County Parks and Recreation Division  
4 201 S Jackson St Rm 700  
5 Seattle, WA 98104-3855  
6 Phone: (206) 477-4700  
7 Fax: (206) 296-3749

8 King County Prosecutor  
9 Dan Satterberg  
10 King County Prosecuting Attorney's Office  
11 King County Courthouse, Room W554  
12 516 Third Avenue  
13 Seattle, WA 98104-2362  
14 Phone: (206) 296-9000  
15 Fax: (206) 296-9013

16 I certify under penalty of perjury under the laws of the State of Washington that  
17 the foregoing is true and correct.

18 EXECUTED at Seattle, Washington on this 24th day of July, 2015.

19   
20 Amanda Kleiss, Declarant



# EXHIBIT A



## Department of Community Development

801 - 228th Ave. SE, Sammamish, WA 98075 - Phone: 425-295-0500 - Fax: 425-295-0600 - Web: [www.sammamish.us](http://www.sammamish.us)

# Notice of Decision for Shoreline Substantial Development Permit East Lake Sammamish Trail – SSDP2014-00171 (SHOR14-0022)

**Project Description:** The Shoreline Substantial Development Permit (SSDP) is for widening and paving of the southern portion of the East Lake Sammamish Trail within the City of Sammamish. The project scope also includes installation of fencing, drainage facilities, retaining walls, critical area mitigation, and traffic control measures.

The application has been processed by the King County Department of Permitting and Environmental Review on behalf of the City of Sammamish through an inter-local agreement, with a recommendation forwarded to the City for final action. The applicant (King County Parks) applied for the above project on **July 31, 2014**; the application was deemed complete on September 2, 2014. On September 26, 2014, King County issued a Notice of Application, which identified a public comment period from September 26, 2014 through October 29, 2014. On June 4, 2015, the City of Sammamish issued a Notice of Public Comment for the 95% plans, which provided for a public comment period from June 4, 2015 through June 18, 2015. The City of Sammamish issued a decision on **July 7, 2015**. This Notice of Decision was issued on July 7, 2015 and public notice has been provided via: mailed notice to property owners within 500 feet of the subject site, a sign posted on the subject site, and by placing a legal notice in the local newspaper. The application has been **Approved with Conditions**.

**Applicant:** King County Parks (Attn: Gina Auld)  
**Public Comment Period:** September 26 thru October 29, 2014 and June 4 thru June 18, 2015  
**Project Location:** Southern portion of East Lake Sammamish Trail, between Issaquah/Sammamish City limit & SE 33rd Street, west of East Lake Sammamish Parkway SE, within the City of Sammamish.

**Tax Parcel Numbers:** 172406-9007, 082406-9021, 082406-9214

**SEPA Review:** King County issued a Determination of Significance (DS) for this project in 2006, and a final EIS was completed in 2008. A Record of Decision was issued in 2010 to proceed with the Preferred Alternative in the Final Environmental Impact Statement.

**Additional Environmental Documents:** Final Critical Areas Study dated May 2015; East Lake Sammamish Master Plan Trail – South Sammamish Segment, by Parametrix, dated July 2014; Vegetation Management Plan updated July 2014; Tree Preservation Plan by Parametrix dated April 2015; Hydraulic Project Approval, Army Corps of Engineers permit approval; Development Site Plan (95% review) by Parametrix dated April 2015.

**Other Permits Include:** Expected State and Federal Permits; Future construction permits

**Public Hearing:** A Public Hearing is not required for this project.

**Appeals:** Pursuant to RCW 90.58.180, any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the Shorelines Hearing Board by filing a petition for review within twenty-one days of the date of filing of the decision as defined in RCW 90.58.140(6).

**County Staff Member Assigned:**  
Please contact for technical questions

Fereshta Dehkordi, Project Manager  
(206) 477-0375  
[fereshteh.dehkordi@kingcounty.gov](mailto:fereshteh.dehkordi@kingcounty.gov)

**City Staff Member Assigned:**  
Please contact for process questions

Mona Davis, Senior Planner  
(425) 295-0529  
[mdavis@sammamish.us](mailto:mdavis@sammamish.us)

*Inquiries regarding the application, comment period and decision, as well as requests to view documents pertinent to the proposal, including environmental documents may be made at the Sammamish City Hall at 801 - 228th Ave SE, Sammamish, WA 98075 (Tel: 425.295.0500) during normal business hours, Monday through Friday, 8:30 a.m. to 5:00 p.m. Note that some documents are available in electronic format only at City offices. Hard copies are available at King County offices located at 35030 SE Douglas St., Suite 210, Snoqualmie, WA 98065.*



**Findings / Conclusions / Decision**  
**Shoreline Substantial Development Permit**  
**KC File SHOR14-0022**  
**City of Sammamish File SSDP2014-00171**

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**APPLICANT:** King County Parks and Recreation Division  
Attn: Gina Auld  
201 South Jackson Street, #700  
Seattle, WA 98104  
206-477-4552

**REPRESENTATIVE:** Parametrix  
719 2<sup>nd</sup> Avenue, Suite 200  
Seattle, WA 98104  
206-394-3700

**LOCATION:** The southern portion of the East Lake Sammamish Trail in the City of Sammamish, between approximately 4300 block of East Lake Sammamish Parkway SE and SE 33rd Street, west of East Lake Sammamish Parkway SE

**PARCEL NUMBERS:** 172406-9007, 082406-9021, 082406-9214

**FILE NUMBER:** Shoreline Substantial Development Permit  
KC File SHOR14-0022 and City of Sammamish File SSDP2014-00171

**WATER BODY:** Lake Sammamish

**SHORELINE ENVIRONMENT:** Shoreline Residential

**DECISION:** Approved subject to conditions

**DATE OF DECISION:** July 7, 2015

**Staff Report**

## **PROPOSAL:**

King County Department of Natural Resources and Parks (KCDNRP) Parks & Recreation Division proposes to widen and pave the South Sammamish Segment A (Segment A) of the existing East Lake Sammamish Trail (ELST) in conformance with the Trail Master Plan (the Project). This trail segment is approximately 1.3 miles long, starting at the Issaquah-Sammamish city boundary and extending north to SE 33rd Street. The existing trail will be paved to a 12-foot width with 2-foot-wide gravel shoulders on both sides and one foot of clearing on both sides adjacent to the gravel shoulders. Consequently the width of the project will be 18 feet. Minor changes to the existing grade maybe required. Where necessary, guardrails, fences, signs, retaining walls, and traffic controls (bollards) will be constructed to ensure safety, protection of critical areas and existing trees, and to separate the public trail from private properties.

Approximately 2.5 acres of additional impervious surface will be created as part of this trail improvement. Drainage facilities and site improvements will be incorporated to collect runoff from new and existing surfaces (6.2 acres). No new stormwater outfall to Lake Sammamish is proposed. All impervious surface runoff will use existing drainage discharge locations.

The proposed improvements will require alteration to critical area buffers along the trail and removal of some existing trees. The proposal includes removal of approximately 29 significant trees and an additional 52 trees will be monitored for adverse impacts during construction. The Project will include replanting of trees and shrubs as part of overall landscaping of this trail segment. Mitigation of impacts to the critical area buffers will be provided along the trail corridor. Some of the Project lies within 200 feet of the Ordinary High Water Mark (OHWM) of Lake Sammamish, however all improvements are landward of the OHWM.

## **SUMMARY OF DECISION:**

The Shoreline Substantial Development Permit (SSDP) to widen and pave Segment A of the ELST extending north from the Issaquah/Sammamish city limits to SE 33rd Street within the City of Sammamish, and associated improvements, is approved with conditions. Approval is based on the findings of fact, project information provided by the applicant, consideration of public comments, case file, and the conclusion that the proposed SSDP is consistent with the requirements identified in the Sammamish Shoreline Master Program (SSMP), Title 25 Sammamish Municipal Code, Revised Code of Washington – Shoreline Management Act (RCW 90.58), and Washington Administrative Code – Shoreline Management permit and enforcement procedures (WAC 173-27).

## **BACKGROUND:**

The Project is one of three segments of the ELST in the City of Sammamish, an overall 11-mile trail project linking Issaquah and Redmond within the former Burlington Northern-Santa Fe railroad corridor. The proposed 1.3 mile segment known as South Sammamish Segment A is the second segment to be completed as part of the ELST Improvement Project in the City of Sammamish. The proposed improvements will complete a connection to the already improved segment within the City of Issaquah and extend north to SE 33rd Street. Construction of the South Sammamish Segment B is planned for the future to complete the ELST Improvement project and is not part of this review.

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Prior to the issuance of this SSDP Findings, Conclusions and Decision, the complete written record contained in the subject file was reviewed. The project review was conducted by King County Department of Permitting and Environmental Review staff in coordination with City of Sammamish staff through an interlocal agreement. The record includes the applicant's submittal, notification forms, pertinent information included by staff and all correspondence and comments in response to the proposal. The applicant's submittal includes and/or references the following studies/reports:

- Shoreline Substantial Development Application
- Final Environmental Impact Statement, Volumes I, II, and III, April 2010
- Federal Highway Administration Environmental Impact Statement WA-EIS-06-01-F Record of Decision
- The 95% complete trail plans by Parametrix received April 24, 2015
- Technical Memorandum - Evaluation of Existing Drainage Structures for Replacement in the South Sammamish Segment, by Parametrix, dated February 26, 2015
- Vegetation Management Plan by Parametrix, dated June 2002 and updated July 30, 2014
- A draft Geotechnical Report, dated December 11, 2013
- Final Critical Areas Study, East Lake Sammamish Master Plan Trail South Sammamish Segment A, dated May 2015
- Technical Information Report by Parametrix dated July 2014, and updated December 14, 2014
- East Lake Sammamish Trail – South Sammamish Segment A Tree Preservation Plan, dated April 24, 2015
- Documents regarding trail property ownership

A 65% complete plan set was submitted originally as part of the SSDP application on July 31, 2014. In response to comments and recommendations from the public and public agencies, the proposed improvement plans were modified. This report is based on the 95% complete plan set received April 24, 2015.

The 95% complete plan (Exhibit 2) includes the following modifications:

- Reduction in number of trees to be removed from 69 to 29
- Provides on-site mitigation of critical areas buffer impacts
- Minor adjustment of trail alignment to avoid removal of significant trees and maintain privacy
- Reduced clearing limits
- Reduction of sight-distance triangles by reducing the design speed in accordance with ASSHTO
- Revised wall designs from tiered to one-piece retaining wall in some areas
- Provided additional screening planting

#### **FINDINGS OF FACT:**

Based on information provided by the applicant, the case file, Sammamish Municipal Code (SMC), and the Sammamish Comprehensive Plan (SCP), the City of Sammamish Director of Community Development finds as follows:

1. The property associated with the proposal is commonly known as the South Sammamish Segment A of the East Lake Sammamish Trail within the City of Sammamish, described as King County Assessor's Parcel Numbers 172406-9007, 082406-9021, and 082406-9214 (Segment A).
2. The applicant's representative, Parametrix, submitted a SSDP application on July 31, 2014 (Exhibit 1).

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3. Segment A is currently developed as an interim gravel trail, with fencing, signage and drainage facilities. Segment A is comprised of former railroad right-of-way extending approximately 1.3 miles for this portion of the ELST Project.
4. The three parcels that make up Segment A are linear, and were formerly Burlington Northern-Santa Fe railroad right-of-way. King County purchased the corridor from The Land Conservancy of Seattle and King County (TLC) by way of a quit claim deed. The Land Conservancy of Seattle and King County had acquired the right-of-way from Burlington Northern-Santa Fe Railway Company (BNSF) in April of 1997 with the intent of selling the property to King County. King County is the record owner of the ELST corridor from milepost 7.3 near Redmond to milepost 19.75 near Issaquah. See Exhibit 3 containing the ownership conveyance documents.

The Segment A portion of the trail right-of-way is bounded by residential properties on the west and the East Lake Sammamish Parkway on the east. Numerous residential structures, landscaping improvements, fences and private driveways encroach within the trail right-of-way in this segment of the ELST. The existing gravel trail is approximately 10 feet in width.

5. Eight driveways cross the Segment A portion of the ELST corridor. The Project will maintain access at all times to homes and recreational properties along the shoreline during construction. Long-term public access to shoreline views will be improved as part of this trail improvement.
6. Prior permits for construction of the interim trail were processed by King County Department of Development and Environmental Review (under prior agency names), including a shoreline substantial development permit L99SH007, clearing and grading permit L99CG062, and Public Agency and Utility Exception (PAUE) to the Critical Area Code L01SAX03.
7. The Segment A trail improvement is one of the three segments of the ELST, an 11-mile trail linking Issaquah to Redmond within the former Burlington Northern-Santa Fe railroad corridor. The North segment of this trail was completed under the File No. SSDP2013-00145/SHOR12-0003. Segment A proposed for improvement under this shoreline permit is located within the City of Sammamish. The Segment starts at the City boundary with Issaquah and extends north approximately 1.3 miles to SE 33rd St.
8. Review of the plans and application materials indicates that the applicant is proposing to construct the trail to be twelve feet wide, bounded in many areas by fencing and some retaining walls. Typically the trail will consist of 12 feet of pavement bounded by two-foot-wide gravel shoulders. Adjacent to recreational properties or where there is an edge hazard, a four-foot-tall, black-coated chain link fence will discourage trespass and prevent falls. Adjacent to critical areas, a split-rail fence will discourage people and pets from access. Infiltration trenches, bollards at driveway crossings, signage, benches, and retaining walls will also be installed.
9. The SSDP application was deemed complete on September 2, 2014. A Notice of Application was mailed and posted onsite in accordance with Chapter 20.05 SMC requirements on September 26, 2014. The Notice of Application identified a formal public comment period for the proposal, extending through October 19, 2014. The City's standard practice is to allow public comment throughout the permit process, and up to within a few days of issuing a staff report and decision.

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10. The City and County received numerous written and telephone comments during the project review. Those who requested Party of Record status from King County Department of Permitting and Environmental Review were added to the "party of record" list. All written comments are included in the permit file. The County Parks Division created a Communications Log and response (Exhibit 4) to document comments received. The comments were concerned about potential physical trail impacts to adjacent residences, removal of trees and vegetation along the trail impacting privacy, trail right-of-way ownership, impact to critical areas, fish and wildlife due to trail widening, and potential conflict between trail users and car traffic at driveway crossings. Comments by numerous individual trail users and public and private organizations supporting the project were also received and were included in the permit file.
11. As lead agencies under the State Environmental Policy Act (SEPA) and the National Environmental Protection Act (NEPA), the County Department of Executive Services, Facilities Management Division and the Federal Highway Administration determined that the project could have significant environmental impacts and prepared an Environmental Impact Statement (EIS) for the entire trail project including Segment A within the City of Sammamish. The Draft EIS was issued in 2006, and comments were received from 178 individuals or agencies. These comments were addressed in the Final EIS published in April 2010. Based on this environmental review, the Federal Highway Administration, Washington State Department of Transportation, in collaboration with the County Facilities Management Division, issued a Record of Decision on August 4, 2010 (Exhibit 5) to proceed with the Preferred Alternative in the Final Environmental Impact Statement. This Record of Decision includes five pages of mitigation measures to be implemented as part of the Project.
12. The Segment A parcels are zoned R-4. Parcels immediately adjacent to the north, south, and east are also zoned R-4. The entire project falls within the City of Sammamish jurisdiction boundary. Segment A is located in the Shoreline Residential environment. Lake Sammamish is designated a Shoreline of Statewide Significance in SMC 25.05.030.
13. Pursuant to RCW 90.58.180, any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearing board by filing a petition for review within twenty-one days of the date of filing of the decision as defined in RCW 90.58.140(6).
14. Goals relevant to this Project are found in the City of Sammamish Shoreline Master Program in the following sections: 25.03 Master Program Element Goals; 25.04 Shoreline Management Policies; 25.06 General Shoreline Regulations; 25.07 Use/Development Regulations. The Project is designed to be consistent with the City of Sammamish Shoreline Master Program goals and policies.
15. The following SMC Shoreline Master Program Element Goals are relevant to this Project:
  - a. 25.03.020 Conservation Goals;
  - b. 25.03.030(1), (2) and (4) Public Access Goals;
  - c. 25.03.040(1), (2) and (4) Public Recreation Goals;
  - d. 25.03.050 Shoreline Use;
  - e. 25.03.060 Shoreline Restoration and Enhancement Goals; and
  - f. 25.03.070 Transportation and Public Facility Goals.

This Project has been designed and conditioned in conformance with these goals.

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16. The SMC Shoreline Master Program general shoreline policies relevant to this Project include:

- a. 25.04.010(2) Critical Areas and Environmental Protection;
- b. 25.04.010(4) Public Access;
- c. 25.04.010(6) Shoreline Use;
- d. 25.04.010(7) Shoreline Vegetation Conservation;
- e. 25.04.010(8) Site Planning; and
- f. 25.04.010(10) Water Quality, Stormwater and Nonpoint Pollution.

The Project is designed and conditioned in conformance with these general shoreline policies.

17. Other shoreline policies relevant to this Project include:

- a. 25.04.020 Shoreline Modification (4) Filling and Excavation;
- b. 25.04.040 Recreational Use; and
- c. 25.04.050 Transportation Use.

The Project is designed and conditioned to be in conformance with the shoreline modification and use policies.

18. The City of Sammamish shoreline regulations are found in Sammamish Municipal Code Title 25. Public recreational uses and structures are permitted within the Lake Sammamish Shoreline Residential shoreline environment. The Sammamish Municipal Code 25.05.030 specifies that the City shall manage Lake Sammamish to give preference to uses and developments that:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character and wildlife habitat of the shoreline;
- (3) Result in long-term over short-term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shoreline; and
- (6) Increase recreational opportunities for the public in the shoreline environment.

The Project trail improvements, as designed and conditioned, implement the above, providing increased access and recreational opportunities for the public along Lake Sammamish while protecting the resources and ecology of the shoreline through compliance with the Shoreline Master Program, critical areas regulations, and other City codes.

19. SMC 25.07.010 allows public recreational use and structures in the Shoreline Residential environment subject to the provision of SMC 25.07.090. The relevant regulations are shown in bold:

- a. **Public recreational development on public land is a preferred shoreline use and is permitted when consistent with underlying zoning pursuant to Chapter 21A.10 SMC, this program, and the Act, including the goal to ensure no new loss of shoreline ecological functions.**
- b. New public recreational activities and facilities proposed within shoreline jurisdiction shall be water-oriented, and shall provide physical and/or visual access to the shoreline.
- c. Non-water-oriented public recreational development, including parking, restrooms and similar facilities, shall be located landward of the shoreline setback where feasible.

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- d. Public recreational developments shall provide for public nonmotorized connectivity between existing public roads, trails and said development on the shoreline (e.g., pedestrian and/or bicycle paths), unless such access is infeasible due to public health and safety considerations.**
- e. Public recreational developments shall include landscaping that uses native, self-sustaining vegetation.**

The proposal is designed and conditioned to be consistent with the above regulations.

- 20. SMC 25.07.030 allows filling and excavation associated with a permitted use subject to approval of a Shoreline Substantial Development permit (SSDP). The Project will include limited filling and excavation along some portions of the trail. All filling and excavation is landward and above the Ordinary High Water Mark. The Project is designed and conditioned to limit the amount of fill and excavation to the minimum necessary as required by the SMC.
- 21. The City of Sammamish regulates trail corridors in sections 21A.30.210 and 25.07.100 SMC. The Transportation regulations shall apply to any use or development where transportation infrastructure is, or is proposed to be, a primary land use, including new or expanded roadways, trails, non-motorized facilities and parking facilities. To the extent possible, vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features. Roadway and driveway alignment shall follow the natural contours and minimize width to the maximum extent reasonable. The Project has been designed in accordance with these regulations for most areas of Segment A. The Project has been further conditioned to narrow the footprint width in specific areas, while preserving the width of the paved surface, to conform to these standards.
- 22. Critical areas are regulated by the City of Sammamish in Chapter 21A.50, and incorporated by reference into the Shoreline Master Program in Chapter 25.04. This Project has been designed to avoid, and then minimize critical areas impacts, and to provide compensatory mitigation in conformance with the SMC requirements. Compensatory mitigation for these critical areas impacts is described in the Final Critical Areas Study, dated May 2015 (Exhibit 6), and shown on the 95% Landscape Plans (Exhibit 2). The County's Environmental Scientist reviewed the proposed site improvements and recommends approval with conditions as incorporated into this Shoreline Substantial Development Permit, and into a subsequent Clearing and Grading Permit (KC File GRDE14-0052).

There are five wetlands in the project area for Segment A of the ELST. All have the three parameters required to identify an area as wetland: wetland hydrology, predominance of hydrophytic vegetation, and hydric soils. Many of these wetlands have low habitat functions and some are overgrown by non-native invasive species such as blackberry and reed canary grass. Hydrologic sources include streams, hillside seeps below the East Lake Sammamish Parkway, and local area runoff. Some of the wetlands include ditches adjacent to the existing Interim Trail. The wetlands provide water quality and water conveyance functions. Segment A also crosses five streams. Four are short streams with silt or sand substrate that flow through culverts or conduits that are barriers to fish passage. One is an identified salmonid-bearing stream #0163, although only 0.1 mile is accessible to non-resident salmon. Some of the trail-side ditches convey streams.

- 23. The project will result in temporary impacts to less than 0.01 acre wetland, 0.55 acres of wetland buffers, and 0.29 acres of stream buffers during construction activities. Temporary impacts will be mitigated through restoration of native vegetation at the affected location following project construction as outlined in the restoration and enhancement policies.

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24. This Project avoids all permanent impacts to wetlands and streams. Permanent impacts to buffers include loss of 0.28 acres of wetland buffer and 0.14 acres of stream buffer. Compensatory mitigation proposed for wetland buffer impacts includes increasing the buffer widths around two wetlands at a 1:1 ratio to meet the City's code requirement for no net loss of wetland buffer area. In addition, 0.26 acre of wetland buffer will be enhanced along with 0.02 acres of wetland. Proposed mitigation for stream buffer impacts is 0.14 acre of stream buffer enhancement within Segment A.
25. Segment A is located in a Class 3 Critical Aquifer Recharge Area (CARA). CARA regulatory protections are found in SMC 21A.50.280, which includes requirements to ensure that proposed activities will not result in a significant increased risk of contamination of drinking water supplies and groundwater. Provisions include limitations on refueling of construction vehicles, requirements related to quality of imported fill materials, and limits on the inappropriate use of nitrates, phosphorous, pesticides, and other chemicals that have the potential to degrade groundwater and surface water quality in the CARA. SMC 21A.50.280 also includes a requirement to infiltrate 75% of the onsite stormwater volume generated from the proposed development provided that a lesser standard may apply or onsite infiltration may be waived in some circumstances. Soils in the project area have been evaluated for use of stormwater infiltration. Infiltration will be utilized where soils are conducive and introduction of additional water into the ground will not adversely affect downslope properties, or nearby wetlands. The infiltration systems will be designed as multiple smaller facilities to avoid adverse impacts. A condition is included related to the CARA fill requirements.
26. The City of Sammamish regulates water quality, stormwater and pollution regulations in SMC 25.06.050. The Project is designed in accordance with the City of Sammamish stormwater regulations found in Title 13 SMC, Title 25 SMC, and the City's Surface Water Design Manual.
27. Vegetation Management Plans are required by the SMC 21A.50.160. The King County Parks and Recreation Division (Parks) uses the East Lake Sammamish Interim Use Trail Vegetation Management Plan originally completed in 2002. Parks provided an addendum Vegetation Management Plan Update dated July 30, 2014 for this Project, consistent with City regulations (Exhibit 7).

### **ANALYSIS:**

The 95% complete plan set was developed taking into account comments from area citizens, City of Sammamish staff, Department of Permitting and Environmental Review (DPER) staff, and other local and state agencies. The proposed widening and improvement of the Interim Trail generated a considerable amount of attention and interest by the citizens residing both along the ELST and outside the ELST corridor. The ELST is a regional recreation facility and as such DPER and the City received positive comments from other users representing a larger geographic area.

Public Comment- The following is a general summary of public comments received during the Notice of Application and the Notice of Public Comment on 95% plans:

- Ownership-- DPER received comments on behalf of a homeowners association disputing the trail right-of-way ownership by the County.

As discussed earlier, King County is the record owner of the ELST corridor which it purchased from The Land Conservancy of Seattle and King County by a way of quit claim deed in 1998. All

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Project improvements are within the trail right-of-way. King County's property rights are documented in Exhibit 3 and fully explained in a letter dated November 20, 2014 (Exhibit 8) from Monica Leers of King County Parks Capital Planning and Land Management Section. Further information on property ownership has also been provided in a letter dated July 31, 2014 (Exhibit 12) from Frank Overton of King County Parks and Recreation Division. In addition to its quit claim deed, King County has produced a valuation and acquisition schedule prepared in 1917 by one of BNSF's predecessors, the Seattle Lake Shore Eastern Railway Co., which shows that the railway acquired by prescriptive easement (or "adverse possession") is 4.71 acres located along the eastern shoreline of Lake Sammamish, including the current ELST corridor.

The width of the ELST right-of-way is established by several sources of information, including conveyance deeds that, for example, specifically refer to BNSF's "100.0 foot wide Snoqualmie Branch Line right-of-way situated in Government Lot 2." A King County Property Tax Assessor's map for this section of right-of-way also shows a width of 100 feet. Additionally, King County's ArcView GIS system satellite photos in 2013 show the length of the rail bed in the project area to be approximately 2,050 feet long. If the railway acquired a 205,167.6 square foot corridor (4.71 acres) in 1917 by prescriptive easement or adverse possession, that would indicate an average width of 100.08 feet along the entire corridor. Other conveyance documents for some of the parcels along the ELST corridor describe a 70-foot-wide railway easement (50 feet on one side of the centerline of the main track for the Snoqualmie Branch of the Burlington Northern Railroad, and 20 feet on the other side). In any event, the documentation clearly shows that the County's right-of-way is significantly wider than the 18-foot width necessary for the Segment A Project. Any further challenge to King County's property rights is beyond the scope of this permitting process.

- Tree removals—A large number of property owners adjacent to the trail expressed concern regarding removal of trees and resulting impact to both privacy and visual aesthetics. These comments were in response to both the 60% and 95% complete plans.

Within Segment A of the corridor, inside the clearing and grading limits and 10 feet beyond, the King County Parks has identified 250 significant trees. Significant trees are defined in the SMC as coniferous trees with a diameter of 8 inches or greater and deciduous trees with a diameter of 12 inches or greater at breast height.

The number of significant trees evaluated to be proposed for removal was reduced from 69 to 29 as part of the 95% complete plan submittal. Additionally, 84 non-potential hazardous significant trees were evaluated and are proposed to be monitored during the construction for their health and longevity with the intent of being saved. In some instances, tree trimming is proposed instead of tree removal to clear an adequate construction path. Extensive planting and landscaping is proposed to replace vegetation loss. Additional landscaping and tree preservation will maintain trail aesthetics as well as privacy of nearby properties.

- Wetland and stream impacts— there are no permanent impacts proposed for the wetlands and streams along Segment A and less than 0.01 acre of temporary wetland impacts are proposed along Segment A. However, the trail expansion will permanently impact approximately 0.42 acres of wetland and stream buffers. There are also expected to be 0.84 acres of temporary buffer impacts. Some of the wetland and stream buffer impacts are the result of the trail having been shifted to avoid removal of significant trees. SMC 21A.50 allows alteration of buffers subject to mitigation. All wetland and stream buffer mitigation will occur onsite and along the trail corridor, as described in the Findings above.

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- Arguments to reduce trail width to avoid significant tree removal and wetland and stream buffer impacts – the ELST is a multi-purpose regional trail serving the City of Sammamish and the residents of King County. The 18-foot wide trail alignment was selected as a preferred alternative under the Environmental Impact Statement (EIS) review. The proposed surface widening of the trail is consistent with SMC 21A.30.210(1). The width meets regional trail standards for safety and accessibility by all users. Where possible, the trail alignment has been shifted to avoid and minimize significant tree removal, wetland and stream impacts, and related buffer impacts, and is further conditioned to be reduced as necessary in specific areas to save additional significant trees evaluated as well as reclassify significant trees evaluated from “monitor” to “save”. As conditioned, the number of significant trees evaluated to be removed has been reduced from 29 in the 95% plans to 25; the number of significant trees evaluated to be monitored has been reduced from 84 in the 95% plans to 25.
- Storm Runoff impacts – Surface stormwater runoff will be collected and managed in accordance with the King County Surface Water Design Manual and the City of Sammamish Surface Water Design Manual Addendum.

A complete log of responses to NOA comments received by citizens is documented in Exhibit 4. Some citizen comments were site specific and outside Segment A.

Muckleshoot Tribe Comments – The Muckleshoot Tribe recommended culvert replacement in all natural drainage systems reaching Lake Sammamish in order to improve fish passage to upstream habitat. As part of the trail improvement project, all drainage structures in the corridor were identified and evaluated to determine which structures were on a significant reach of natural or modified habitat and block fish passage to upstream habitat (Evaluation of Existing Drainage Structures for Replacement on the South Sammamish Segment of the Trail, Parametrix (Exhibit 9)). During this review, conditions and criteria for restorable stream habitat were examined. Eight structures were determined to meet criteria for fish passage improvement. Two of these structures are located within Segment A at mileposts 239+60 and 241+15 where these culverts convey the South and North Fork of a stream that has been labeled #0163. These two culverts are not proposed to be replaced because of limited replacement benefit due to an added fish-passage barrier immediately upstream of the ELST for the South Fork, and due to the North Fork being piped immediately downstream of the ELST. Alternatively, King County Parks proposes to replace two culverts in Pine Lake Creek and Zaccuse Creek in South Sammamish Trail Segment B because it was determined that culvert replacement on these streams would provide greater habitat benefit. The other six culverts along the larger trail project within Sammamish that qualified for replacement are also located within the future South Sammamish Trail Segment B, where a total of eight culvert replacements are proposed.

City of Sammamish Comments to King County – The City provided comments on the initial proposal (see Exhibit 10). The revised 95% plan addressed the majority of the City’s concerns regarding preservation of additional trees, smaller clearing limits, trail alignment and several site specific design recommendations such as application of City’s standards for evaluation of intersection sight triangle at several trail crossings. By reducing the design speed for the trail, the sight distance triangle has been reduced to comply with AASHTO and the City of Sammamish standards. This also has resulted in removing fewer trees for sight distance clearance.

The City recommends changing the right-of-way assignment at the public roadway location on 206th Avenue SE. Currently, there is a stop sign at this location. The applicant’s consultant has indicated that reassignment of the right-of-way is not supported by AASHTO standards (see Exhibit 11; Technical

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Memorandum dated April 14, 2015). The City is not in agreement and has conditioned the relocation of the stop sign accordingly. 206<sup>th</sup> Avenue SE is a public roadway which has a higher functional classification than a trail. On public roadways, drivers typically don't expect to stop at a trail crossing. The trail has been controlled by stop signs at this location since it opened in 2006. There has not been any recorded accident at this intersection for the past nine years to indicate a safety hazard associated with this right-of-way assignment. The right-of-way assignment should be maintained on 206<sup>th</sup> Avenue SE with stop signs on the trail. Accordingly, the applicant should evaluate the intersection sight distance triangle at this intersection based on standard eye height and decision point for bicyclists to reduce clearing impacts to trees and the HOA sign monument at the southwest corner.

Additional adjustment in retaining wall design is proposed to accommodate parking for emergency vehicle access and preservation of additional trees.

The City also raised concerns regarding surface water runoff at driveways #1 and #2. The drainage issue at this location is attributed to both the trail and the East Sammamish Parkway and therefore is part of a larger issue. Collaboration by both City and County is required to improve drainage at this location.

### **Conclusion**

The following conclusions are based on the findings set forth above, applicant-provided information, and the contents of the Project file. Accordingly, the City of Sammamish Director of Community Development concludes:

1. The Residential Shoreline environment is governed by the provisions of the Sammamish Shoreline Master Program, as generally codified in the Sammamish Municipal Code (SMC) Title 25.
2. Pursuant to the Washington Administrative Code (WAC) 173-27-150(1), a substantial development permit shall be granted only when the development proposed is consistent with WAC 173-27-150(1) a-c:
  - a) The policies and procedures of the act;
  - b) The provisions of this regulation; and
  - c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.

*Staff Review: King County staff utilized the Sammamish Shoreline Master Program consistent with the Shoreline Management Act as provided for in Chapter 90.58 RCW. The applicant has provided information regarding the proposed widening and paving of Segment A, and associated improvements. The applicant has supplied the City with information sufficient to confirm that the proposed site improvements, as conditioned, are consistent with the design requirements of the Shoreline Master Program.*

3. The Sammamish Shoreline Master Program encourages shoreline recreational uses subject to the policies in Section 25.04.040. This project has been designed in conformance with those policies.
4. The SMC allows for the reconstruction of a public recreational use, such as a trail, within Lake Sammamish Shoreline Residential environment subject to the general requirements of this chapter and the recreational provisions of SMC 25.07.090.

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*Staff Review: The proposed improvement of the 1.3 mile Segment A is consistent with the provisions of the City of Sammamish Municipal Code and Shoreline Master Program. Through the review, the proposed Project has been modified to comply with the City's development standards as well as safety and environmental protection concerns. The proposed Segment A has incorporated concerns received from the public to retain as many significant trees as possible and reduce clearing limits to maintain privacy of private properties.*

5. Sammamish Shoreline Master Program regulations related to Transportation facilities require vehicle and pedestrian circulation systems to be designed to minimize clearing, grading and alteration of topography and natural features to the extent possible, and roadway and driveway alignment to follow the natural contours and minimize width to the maximum extent reasonable. The Project has been designed in accordance with these regulations in the majority of the Project area. The Project requires adjustment to narrow the footprint width in specific areas, while preserving the width of the paved surface, to conform to these standards. Conditions have been applied to meet these standards.
6. The King County Parks and Recreation Division has submitted a grading permit (KC File GRDE14-0052) to be reviewed concurrently with the Shoreline Substantial Development Permit. DPER staff has reviewed drainage plans and associated studies and has found that the proposal meets the City of Sammamish stormwater regulations in Title 13 SMC.

**DECISION / RECOMMENDED CONDITIONS OF APPROVAL:**

On July 7, 2015, the Director of Community Development hereby approves, with conditions, the proposed Shoreline Substantial Development Permit for the proposed widening and paving of the 1.3 mile East Lake Sammamish Trail - South Segment A within the City of Sammamish limits, and associated site improvements as identified on the attached development plan set (Exhibit 2). Approval of this application is based upon, in part, Exhibits 1 through 12, and is subject to the following conditions of approval:

1. The Applicant shall comply with all city, county, state, and federal rules and regulations in effect on September 14, 2014, the vesting date of the subject application, including any necessary permits from applicable state or federal agencies.
2. A Grading Permit (KC File GRDE14-0052) must be approved prior to commencing project construction. Grading plans showing the proposed trail widening and paving and associated site improvements, including required landscaping, restoration and mitigation plantings, shall be in substantial conformance with the 95% Review Submittal Plans prepared by Parametrix, received April 24, 2015. As part of the grading permit review, drainage from driveway #1 and driveway #2 shall be substantially captured and managed. As part of a larger drainage improvement in that area, additional improvement may be required if deemed appropriate by the City. All construction shall be in compliance with the approved stormwater manual.
3. Prior to Site Development Plan approval and issuance of a grading permit by the City, the culvert located at station 218.5 shall be further analyzed by the County. Additional information/studies shall be submitted to the City to detail culvert stormwater capacity, fish passage potential, and the stormwater outfall location. The applicant shall coordinate with the City and neighboring properties owners on culvert replacement and other needed work for improved fish passage, where appropriate, and any needed flood control measures on this stream (located between stations 218

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and 219). Plans submitted for the site development/grading permit shall reflect the successful outcome of this coordination effort.

4. A total of 24 evaluated significant trees are depicted on the 95% plans between stations 216+50 to 220+50. Of this total, 19 trees are labeled as “monitor” including 3 which are additionally labelled as “potential hazard”. The remaining 5 trees are labelled as “remove”. Through narrowing the trail in this location by the elimination of one soft-surface shoulder and clear zone a minimum of three feet, or as necessary, revise the plans to show all evaluated significant trees as “save” with the exception of the 3 “monitor” trees (tree numbers 200079, 200080, 44158) which are additionally labelled as “potential hazard” and one “remove” tree (tree number 44160). To the greatest extent practicable, all non-significant trees and other vegetation in this location shall also be saved.
5. The applicant shall work with neighboring property owners in the vicinity of stations 224 through 230+50 to review alternatives to the current vault design and to move the proposed wall further away from private properties sufficient to allow for landscaping to be planted and maintained at the base of the wall.
6. A condition will be applied to the site development/grading permit that the stop sign on 206<sup>th</sup> Avenue SE (station 239+00) shall be relocated to have trail users stop and not control traffic on the public roadway.
7. A total of 43 significant trees depicted between stations 259+25 through 260+75 are shown on the 95% plans as “monitor”. Revise the plans to show these significant trees as “save” by narrowing the trail in this location through the elimination of one soft-surface shoulder and clear zone a minimum of three feet or as necessary.
8. Significant trees shown on the approved plans as being “save” or “monitor” within the clearing limits require a separate tree removal permit authorization from the City prior to removal. Obtaining a permit may entail providing an arborist report and/or meeting with neighboring property owners.
9. This Shoreline Substantial Development Permit shall include all mitigation measures listed in the East Lake Sammamish Master Plan Trail Record of Decision, Pages 8 - 13 (Exhibit 5).
10. Where fences, retaining walls, or a combination of fence and retaining wall exceed four feet in height, adequate provisions shall be made to allow wildlife passage at intervals along the trail.
11. Fences over 6 feet tall and retaining walls exceeding 42 inches in height will require structural review through the grading permit or a separate building permit.
12. Consistent with SMC 25.04.040 (2), interpretive educational sign(s) regarding shoreline ecological values and function shall be placed along the corridor where appropriate as an educational tool for protection of the natural resources along the trail.
13. Restoration and compensatory mitigation shall be completed substantially as shown on the Mitigation Plans found on the Landscape Plan sheets (Exhibit 2) and described in the Final Critical Areas Study (Exhibit 6), both by Parametrix.

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An as-built report shall be completed by a qualified professional to document completion of proposed mitigation and restoration work. The as-built report must be supplied to the City. After the City inspects and approves as-built conditions, a required 5-year maintenance and monitoring period will begin. During the 5-year maintenance and monitoring period, a monitoring report shall be prepared by a qualified professional and supplied for City review by October 31<sup>st</sup> of each monitoring year.

14. In addition to mitigation performance standards described in the critical area mitigation plans, all shrubs and trees installed in mitigation planting areas shall meet a 100% survival standard one year following City acceptance of as-built mitigation plans. All shrubs and trees installed in mitigation planting areas shall meet an 80% survival standard during mitigation monitoring years 2 through 5. Planting shall occur as needed to meet these standards in any mitigation monitoring year these standards are not met.
15. Mitigation and landscape plans supplied with the site development application shall depict installation of, or other methods to provide, temporary irrigation that provides a minimum of 1-inch of water per week to installed mitigation and landscape plantings from July 1<sup>st</sup> through September 30<sup>th</sup> during the first two years following plant installation in these areas. The source and layout of the temporary irrigation system shall be depicted on as-built plans. If water trucks are to be utilized, this shall be specifically described.
16. As part of the site development plan approval in order to protect water quality in Lake Sammamish, a condition will be added to the grading permit as follows: *Fertilizer used in planting areas shall be minimized and any fertilizer used shall not contain phosphorous and shall be utilized consistent with the product's timing and quantity specifications. No herbicide shall be used for weed control unless specifically authorized by the City of Sammamish.*
17. A critical areas study must be provided with the site development application that demonstrates how the project meets Critical Aquifer Recharge Area (CARA) protection requirements in SMC 21A.50.280 during and post construction.
18. Due to the project location in a CARA, a condition will be applied to the Site Development/Grading Permit that fill material shall not contain concentrations of contaminants that exceed cleanup standards for soil as specified in the Model Toxics Control Act (MTCA). An imported fill source statement is required if more than 100 cubic yards of fill will be imported to the site. The City may require analytical results to demonstrate that fill materials do not exceed cleanup standards.
19. Per WAC 173-27-090, construction shall be commenced on the proposed trail widening and paving, and associated improvements, within **two** years of the effective date of a shoreline permit. Authorization to conduct development activities shall terminate **five** years after the effective date of this permit. The City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the City.

  
\_\_\_\_\_  
Jeffrey Thomas  
Director of Community Development

  
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Date

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**Exhibit List:**

1. Shoreline Substantial Development Permit Application, date stamp received July 31, 2014
2. Development Plan Set by Parametrix, 95% Review Submittal, dated April 24, 2015
3. Ownership Conveyance Documents
4. King County Parks Division East Lake Sammamish Trail Project – South Sammamish Segment A Communication Log
5. Federal Highway Administration NEPA Record of Decision, August 2010
6. Final Critical Areas Study, by Parametrix, May 2015
7. Addendum to Vegetation Management Plan Update by King County Parks and Recreation Division dated July 30, 2014
8. Letter from King County Parks and Recreation Division addressing disputed property ownership issues dated November 20, 2014
9. Evaluation of Existing Drainage Structures for Replacement in the South Sammamish Segment, Parametrix, February 26, 2015
10. City of Sammamish Comment Letter dated October 29, 2014
11. Technical Memorandum by Parametrix on reassignment of right-of-way dated April 14, 2015
12. Letter from Frank Overton, King County, dated July 31, 2014 with attachments

**TRANSMITTED TO THE FOLLOWING PARTIES OF RECORD FOR SHOR14-0022:**

Gina Auld, KC Executive Services, Capital Project Manager

Monica Leers, KC Parks and Recreation Section Manager

Jenny Bailey, Parametrix, 411 108<sup>th</sup> Ave SE, #1800, Bellevue, WA 98004

Jeffrey Thomas, City of Sammamish

Susan Cezar, City of Sammamish

Mona Davis, City of Sammamish

Kathy Curry, City of Sammamish

Randy Sandin, KC DPER, Resource Product Line Manager

Ty Peterson, KC DPER, Commercial Product Line Manager

Steve Roberge, KC DPER, Rural Residential Product Line Manager

Joe Barto, KC DPER, Review Engineer

Laura Casey, KC DPER, Environmental Scientist - Ecologist

Steve Bottheim, KC DPER, Environmental Scientist - Geologist

Jon Pederson, KC DPER, Site Development Specialist

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