

**BEFORE the HEARING EXAMINER for the
CITY of SAMMAMISH**

DECISION

FILE NUMBER: SSDP2022-00163

APPLICANT: Dennis Baerwald
7817 SE 75th Place
Mercer Island, WA 98040

TYPE OF CASE: Shoreline Substantial Development Permit to construct a 462 square foot, fully grated, private dock with an associated free-standing, covered boat lift in Lake Sammamish

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: GRANT subject to conditions

DATE OF DECISION: June 21, 2022

INTRODUCTION¹

Dennis Baerwald (“Baerwald”) seeks approval of a Shoreline Management Act (“SMA”) Substantial Development Permit (“SSDP”) to construct a 462 square foot (“SF”), fully grated, private dock with an associated free-standing, covered boat lift in Lake Sammamish.²

Baerwald filed a Shoreline Substantial Development Land Use Application on March 1, 2022. (Exhibit 2³) The Sammamish Department of Community Development (“Community Development”) deemed the application to be complete when filed. (Exhibit 13) Community Development issued a Notice of Application on March 21, 2022. (Exhibit 14)

The subject property is located at 3201 E Lake Sammamish Parkway NE along the east shoreline of Lake Sammamish.⁴ The subject property is located in Section 20, Township 25 N, Range 6 E, Willamette

¹ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

² “‘Dock’ means a fixed or floating platform structure anchored in and/or floating upon a water body and connected to land to provide moorage or landing for waterborne vessels and/or water-dependent recreation uses.” [SMC 25.02.010(29)]

³ Exhibit citations are provided for the reader’s benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. Citations to exhibits that are available electronically in PDF use PDF page numbers, not source document page numbers. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner’s Decision is based upon all documents in the record.

⁴ The Examiner routinely uses a directional convention which holds that East Lake Sammamish Parkway NE (“Parkway”), the East Lake Sammamish Trail (“ELST”), and the shoreline of Lake Sammamish in the City run north-south, roughly paralleling one another. The Examiner will follow that convention in this Decision.

Meridian and is further identified as King County Assessor’s Parcel 202506-9071 (“Parcel 9071”). (Exhibits 1, PDF 1; 9, PDF 3) ⁵

The Sammamish Hearing Examiner (“Examiner”) viewed the subject property on March 2, 2017 (in preparation for the hearing on application SVAR2016-00053) and via Google Earth in preparation for the hearing in this case: Aerial imagery dated August 14, 2020; Street View imagery dated May, 2022.

The Examiner held an open record hearing on June 16, 2022. The hearing was conducted remotely using the “Zoom” platform due to assembly restrictions attendant to the current COVID-19 pandemic. The Department gave notice of the hearing as required by the Sammamish Development Code (“SDC”). ⁶ (Exhibit 18)

Subsection 21.09.010(M)(1) SMC requires that decisions on SSDP applications be issued within 120 net review days after the application is found to be complete. The open record hearing was held well prior to the 120th net review day. (Exhibit 1, PDF 2)

The following exhibits were entered into the hearing record during the hearing:

Exhibits 1 - 18: As enumerated in Exhibit 1, the Community Development Staff Report

The Hearing Examiner Clerk has the record copy of all exhibits.

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner’s knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

FINDINGS OF FACT

1. Lake Sammamish and shorelands ⁷ within 200 feet of the lake’s Ordinary High Water Mark (“OHWM”) are within the jurisdictional area of the SMA. [SMC 25.02.010(77) and (80)] Lake Sammamish is a designated Shoreline of Statewide Significance under the SMA. [SMC 25.05.030]

⁵ The Staff Report lists Parcel 9071 as Baerwald’s address. (Exhibit 1, PDF 1) The application lists the Mercer Island address given in the titling data, above, as Baerwald’s address. (Exhibit 2, PDF 1) The Examiner understands, based upon the testimony in the record, that the residence Baerwald is having built on Parcel 9071 is not yet complete. It is based on that understanding that the Examiner has used the Mercer Island address.

⁶ All Sammamish Municipal Code (“SMC”) citations are to the most current version of the municipal code unless expressly stated otherwise. Citations to Title 21 SMC, Sammamish Development Code, as adopted by Ordinance No. 2021-540, effective January 1, 2022, will use the citation format promulgated by City Staff: “Title 21 SDC,” “Chapter 21.09 SDC,” etc.

⁷ “‘Shorelands,’ also referred to as ‘shoreland areas,’ means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters that are subject to the provisions of this program; the same to be designated as to location by the Department of Ecology (RCW 90.58.030).” [SMC 25.02.010(77)]

The City's Shoreline Master Program ("SMP") designates the subject property Urban Conservancy. [SMC 25.05.020(3), Appendix A] Uses that are proposed waterward of the OHWM are "governed by the regulations pertaining to the adjoining shoreland area and all such uses shall be considered accessory to the primary use." [SMC 25.05.010(2)] Private docks, floats, and mooring buoys are permitted uses in all SMA jurisdictional areas within the City, including Urban Conservancy. [SMC 25.07.010, Table 25.07.010-1] An SSDP is required because the estimated cost of the proposed dock and boat lift exceeds the established dollar threshold requiring a permit. (Exhibits 2, PDF 2; 9, PDF 6)

2. Parcel 9071 is a slender parcel with about 170 feet of frontage on Lake Sammamish. It is bordered on the north by a joint-use recreation parcel (commonly known as "Eagle Shores") owned by a group of owners whose residences lie to the east of the Parkway; a recreational dock is associated with Eagle Shores. It is bordered on the east by the ELST, the the east of which is the Parkway, to the east of which is a single-family residential neighborhood. Finally, it is bordered on the south by a single-family residence (the "Ogren" residence); a recreational dock is associated with that residence.⁸ (Exhibits 1; 17)
3. Parcel 9071 was essentially an undeveloped parcel in 2016 when Baerwald filed an SVAR application and a zoning variance application to construct a single-family residence on the parcel. Baerwald's application package initially included an application to build a dock. In February, 2017, Baerwald withdrew the dock application. The Examiner held an open record hearing for the SVAR and zoning variance applications in March, 2017, and approved those applications, with conditions, in April, 2017. (Exhibit 13) The City subsequently issued a building permit for the residence (BLD2018-01556); construction of the residence is nearly complete. (Exhibit 1, PDF 3; and testimony)
4. Baerwald now proposes to construct a private dock in Lake Sammamish in front of Parcel 9071. The proposed dock will have an area of 462 SF, extend into the lake approximately 72 feet beyond the ordinary high water mark⁹ ("OHWM") plus about an additional 8 feet for an angled ell, and be built with ACZA treated timbers on galvanized steel piles. An ell, dog-legged to the southwest, will be located at the outer end of the dock. The total length of the dock and ell will be 80 feet. Two 4" piles will form the shore bent; ten 6" piles will support the remainder of the dock and ell. The shoreward 48 feet of the dock will be 4 feet wide; the outer 24 feet will be 5 feet wide,¹⁰ and the ell is proposed to be 7 feet wide. The dock surface will be fully grated (40% open space), and the dock will maintain

⁸ See SVAR2015-00209 and SSDP2021-00010 for cases involving the Ogren residence and dock, respectively. [Official notice]

⁹ "'Ordinary high water mark (OHWM)' means the mark on all lakes and streams that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition existed on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water (RCW 90.58.030(2)(b))." [SMC 25.02.010(61)]

¹⁰ Statements in the record to the effect that the dock will widen to 6 feet are incorrect. (Testimony)

well more than 15 feet of setback from the north and south property lines extended. Baerwald has designed the dock to accommodate one free-standing, covered boat lift. The boat lift will be on the shore side of the ell with a translucent canopy 8 feet wide by 20 feet long.¹¹ (Exhibit 4)

5. The SMP contains extensive design and location standards for docks and associated facilities. [SMC 25.07.010, Table 25.07.010-2; SMC 25.07.050] Section 25.07.050 SMC is divided into three subsections: (1) contains requirements for all docks and associated facilities; (2) contains additional requirements for docks and associated facilities in Lake Sammamish; and (3) contains additional requirements for docks and associated facilities in Pine and Beaver Lakes. The proposed dock and boat lift comply with most of the standards which are applicable to the proposal.

Subsection 25.07.050(2)(i) SMC, which regulates the width of docks in Lake Sammamish, reads as follows:

Docks shall be no wider than four feet, except an additional two feet of width can be allowed without a variance, where associated with a residential property owner or private beach park member with a condition that qualifies for state disabled accommodations. The City can also allow without a variance, up to two feet of additional dock width limited to areas more than 30 feet waterward of the OHWM, if approved by other permitting agencies, such as the U.S. Army Corps of Engineers or the Washington Department of Fish and Wildlife. Otherwise docks shall not exceed four feet in width.

[Emphasis added] Baerwald’s agent and Community Development have both interpreted that provision to allow any dock width so long as it is approved by the U.S. Army Corps of Engineers (“USACE”) and/or the Washington State Department of Fish and Wildlife (“WDFW”). (Exhibits 3 and 1, respectively) That interpretation is a mis-reading of the clear, unambiguous language of the SMC: Unless a variance is sought and obtained, the maximum dock width that may be approved without a variance with USACE and/or WDFW approval is 6 feet. The “up to” language limits the maximum width that may be allowed without a variance.

6. The SMP requires establishment of a Vegetation Enhancement Area (“VEA”) along a property’s shoreline whenever a project will disturb uplands within the established SMA setback area. [SMC 25.06.020(10) {Lake Sammamish} and (13) {Beaver and Pine lakes}] No construction is proposed above the OHWM; all construction work will occur from the lake. Therefore, no VEA is required. (Exhibit 1; and testimony)

¹¹ Exhibit 1, PDF 4, states that the boatlift will be 117.5 feet south of the north property line (extended). That statement is incorrect. The dock will be 60 feet from the north property line (extended); the dock will be 5 feet wide where the boat lift is located; and the boat lift will be right next to the dock. (Exhibit 4) Thus, the boatlift will be on the order of 67 feet from the north property line (extended), not 117.5 feet.

Baerwald's permits for construction of the residence on Parcel 9071 included extensive mitigation requirements. The approved mitigation plan provided 4,232 SF of mitigation when only 2,168 SF was required, resulting in a "surplus" of some 2,064 SF of mitigation. (Exhibits 3, PDF 4; 17)

7. Sammamish's State Environmental Policy Act ("SEPA") Responsible Official issued a threshold Determination of Nonsignificance ("DNS") for the Baerwald dock project on March 21, 2022. (Exhibit 15) The DNS was not appealed. (Testimony)
8. The Community Developmental Staff Report (Exhibit 1) contains an analysis of the project's compliance with SMA and SMP requirements. Discussion during the open record hearing resulted in the following corrections to the Staff Report:
 - A. PDF 3. Parcel 9071 is not adjacent to single-family residential property to the north or east. As stated previously herein, the Eagle Shores community recreation parcel abuts on the north and the ELST abuts on the east.

The boatlift will not be 117' 5" from the north property line (extended). It will be more on the order of 67 feet from that property line.

The dock will not widen to 6 feet, it will widen to 5 feet after the shoreward 48 feet.
 - B. PDF 4. A special allowance for "Platform Size" is not applicable for docks in Lake Sammamish; there is such a provision for docks in Beaver and Pine Lakes. [SMC 25.07.050(3)(f)(ii)] This entry in Table 1 on PDF 4 is an erroneous holdover from a Community Development template used for dock applications in Beaver and Pine Lakes. (Testimony)

The dock surface will be at elevation 31 feet. (Exhibit 4, PDF 3) The elevation of the OHWM is 28.18 feet. (Exhibit 6) Therefore, the dock surface will be 2.82 feet, not 1.5 feet, above the OHWM elevation.

As explained in Finding of Fact 8.A, ¶ 2, above, the boat lift will will be about 67 feet from the north property line (extended).
 - C. PDF 5, Recommended Condition 2. The vesting date of the application is March 1, 2022 (the date the application was filed), not April 2, 2021.
9. Community Development recommends approval of the SSDP subject to nine conditions. (Exhibit 1, PDF 5 & 6)
10. Baerwald has no objection to the Community Development Staff Report, but asks that Recommended Condition 4 (which requires USACE and/or WDFW approval for the part of the dock wider than 4 feet) be deleted . Baerwald's agent argues that Exhibit 10 fulfills Recommended Condition 4, thus making it moot. (Testimony)

11. Exhibit 10 is a March 17, 2021, letter from the USACE approving Baerwald’s “proposal as depicted on the enclosed drawings dated November 16, 2020”. (Exhibit 10, PDF 1) The referenced November 16, 2020, plans are not included in Exhibit 10 nor in any other exhibit in the record. The plans in this record were dated September 14, 2020, and updated December 12, 2021. (Exhibit 4, PDF 2)
12. The Snoqualmie Indian Tribe (“Snoqualmie Tribe”) is concerned that the City is not requiring enough mitigation, resulting in cumulative impacts to the lake and its fisheries resources. The Snoqualmie Tribe accuses the City of allowing applicants to “double-dip” when calculating mitigation for docks in Lake Sammamish. (Exhibit 11)
13. Aurora Merchant (“Merchant”), one of the Eagle Shores owners, testified in opposition to approval of the requested SSDP, largely on the basis that Baerwald has allegedly not followed the conditions imposed by the undersigned in the 2017 SVAR. Merchant set forth numerous points where she believes that the project has been changed in a way not in conformance with the approved permit. (Testimony)

Merchant also argued that the City should not be approving residential docks on each of the several parcels with the Urban Conservancy Environment designation. In her opinion that creates an adverse cumulative impact on the shoreline. (Testimony)
14. Jerry Norman testified in support of Baerwald’s dock proposal. (Testimony)
15. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK ¹²

The Examiner is legally required to decide this case within the framework created by the following principles:

Authority

An SSDP is a Type 4 procedure. A Type 4 land use application requires an open record hearing before the Examiner. The Examiner makes a final decision on Type IV applications which is subject to the right of reconsideration and appeal to the State Shorelines Hearings Board. [SDC 21.09.010(B), 21.09.020(T), and 21.09.020(V) and SMC 25.08.080 and .090]

The Examiner’s decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications, and restrictions as the Examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including Chapter 43.21C RCW and the regulations, policies, objectives, and goals of the interim comprehensive plan

¹² Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

or neighborhood plans, the development code, the subdivision code, and other official laws, policies and objectives of the City of Sammamish.

[SDC 21.09.020(G)(2)]

Review Criteria

Section 21.09.020(T)(1) SDC sets forth requirements applicable to all Examiner Decisions:

When the examiner renders a decision . . . , he or she shall make and enter findings of fact and conclusions from the record that support the decision, said findings and conclusions shall set forth and demonstrate the manner in which the decision . . . is consistent with, carries out, and helps implement applicable state laws and regulations and the regulations, policies, objectives, and goals of the interim comprehensive plan, the development code, and other official laws, policies, and objectives of the City of Sammamish, and that the recommendation or decision will not be unreasonably incompatible with or detrimental to affected properties and the general public.

Subsection 25.08.020(2) SMC requires that a proposed Substantial Development be “consistent with the policies and procedures of Chapter 90.58 RCW, the provisions of Chapter 173-27 WAC, and [the City of Sammamish Shoreline Master Program].”

Vested Rights

The SDC contains a vested rights provision.

Applications for Type 1, 2, 3 and 4 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all the requirements of this chapter. The department’s issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

[SMC 21.09.010(I)(1)] Therefore, this application is vested to the development regulations as they existed on March 1, 2022.

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [SMC 25.08.050(4) and City of Sammamish Hearing Examiner Rule of Procedure 316(a)]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. The Snoqualmie Tribe and Merchant both believe, with slightly different emphases, that inadequate mitigation is being required and that a dock on each Urban Conservancy-designated lot creates adverse cumulative impacts. Their arguments are not supportable under existing City regulations.

The SMP was adopted by the City and approved by the State Department of Ecology. The regulations within the SMP frame and constrain the scope of the Examiner's authority when reviewing SMA permit applications. The adopted regulations provide no basis to do what the Snoqualmie Tribe and Merchant want.

First, the SMP requires a VEA – but only when a project will actually impact the shoreline setback area. (See Finding of Fact 6, above.) Since this dock is built entirely in the water. A VEA is not required. The concept of the SMP's dock regulations is that compliance with the regulations constitutes self-mitigation of dock impacts. That's why there are no piles within 30 feet of the OHWM, why dock width is strictly limited, why dock surfaces have to be grated, why only certain timber treatments are allowed, etc.

Second, even if mitigation for the proposed dock were required (which it isn't), the mitigation approved with the residence's permits is almost double the amount required for the residence's impacts. There would be no "double-dipping" as there is plenty of "excess" mitigation that was approved for the residence.

Third, the SMP allows both single-family residences and associated private docks within all of the SMP's Environment designations, including the Urban Conservancy Environment. Thus, the adopted regulations contemplate and allow a dock for every single-family residence and a single-family residence on every lot in the Urban Conservancy Environment. If there is a cumulative impact, it is one that is built into and accommodated by the SMP.

2. Much of Merchant's testimony was about alleged violations of permits for the residence. This is not a code enforcement hearing and the Examiner has no authority to turn it into such a proceeding. All such concerns are outside the scope of the Examiner's jurisdiction in this proceeding.
3. The proposed dock is consistent with the policies and procedures of Chapter 90.58 RCW, the provisions of Chapter 173-27 WAC, and the SMP, except for the width of the ell.

Chapter 90.58 RCW is the SMA. The SMP, by definition, is consistent with the policies of the SMA. Therefore, a project which is consistent with the SMP is also consistent with the SMA.

Chapter 173-27 WAC contains procedural requirements for implementation of the SMA. The City's procedures were approved by the State when its SMP was approved. Therefore, its procedures are consistent with the WAC requirements.

The proposal complies with the SMP's requirements for docks and boat lifts except for the width of the ell. (See Finding of Fact 5, above.) The proposed dock is thus consistent with the SMP except for the width of the ell.

4. The recommended conditions of approval as set forth in Exhibit 1 are reasonable, supported by the evidence, and capable of accomplishment except as noted below.

A. Section 173-27-190 WAC contains certain content and format requirements for any SSDP which is issued:

(1) Each permit for a substantial development, conditional use or variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140(5)(a) and (b).

(2) Permits for substantial development, conditional use, or variance may be in any form prescribed and used by local government including a combined permit application form. Such forms will be supplied by local government.

(3) A permit data sheet shall be submitted to the department with each shoreline permit. The permit data sheet form shall be as provided in Appendix A of this regulation.

Subsection (2) allows this Decision to serve as the SSDP. Subsection (1) requires that an additional condition be added. The data sheet required by Subsection (3) will be prepared by Community Development when it transmits the SSDP and supporting exhibits to the state as required by Chapter 90.58 RCW.

B. An SSDP involves approval of a specific development plan for a specific parcel. The SSDP should clearly and prominently identify the exhibit which represents the approved plan. While Community Development's recommended conditions indirectly identify the approved exhibit, direct identification is preferred. Therefore, the Examiner will insert a new Condition 1 which will specify that Exhibit 4 is the approved development plan for this SSDP subject to reduction of the width of the ell to not more than 6 feet unless a variance has been sought and obtained for a wider width.¹³

C. Recommended Condition 2. The incorrect vesting date in this condition will be corrected.

¹³ The statements in this Decision about a variance for dock width do not in any way imply any judgment as to the ability of an applicant to meet the criteria to obtain such a variance.

- D. Recommended Condition 3. This condition is written from the perspective of a recommendation from Community Development. Its wording needs to be revised to reflect that it is now a permit issued by the Examiner.
- E. Recommended Condition 4. This condition will not be eliminated. The USACE approval letter was written nearly a year before this application was approved, and three months before the plans now before the Examiner for consideration were last amended. The Examiner has no idea whether the plans approved by USACE are the same as those in Exhibit 4. If they are, then USACE need only say so. If they are not, then USACE needs to have the opportunity to review the differences and submit a new comment.

Most of the text of Recommended Condition 4 paraphrases SMP dock width regulations. Conditions do not need to quote or paraphrase code requirements. The condition will be shortened and revised.

- F. Recommended Condition 8. No evidence in the record nor any SMP regulation addresses the subject of King County Special Use Permits. In the absence of a basis to impose the condition, the Examiner declines to do so.¹⁴
5. There is no justification based upon this SSDP to require any mitigation plantings. If other agencies have requirements that include mitigation, then such agencies may impose mitigation under their authority. But the City should not and cannot do it for them.
6. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner **GRANTS** the requested Shoreline Substantial Development Permit to construct a 462 square foot, fully grated, private dock with an associated free-standing, covered boat lift in Lake Sammamish **SUBJECT TO THE ATTACHED CONDITIONS**.

Decision issued June 21, 2022.

John E. Galt

John E. Galt
Hearing Examiner

¹⁴ This does not mean that a King County Special Use Permit is not required. If King County requires such approval, then it may impose its requirement under its own authority without it being listed as a condition on the City's permit. The City is not in the business of enforcing King County requirements any more than King County is in the business of enforcing City requirements.

HEARING PARTICIPANTS ¹⁵

Alex Capron
Jerry Norman

Jasvir Singh
Aurora Merchant

NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file with the Examiner (in care of the City of Sammamish, ATTN: Cynthia Schaff, Hearing Examiner Clerk, 801 228th Avenue SE, Sammamish, WA 98075) a written request for reconsideration within 10 calendar days following the issuance of this Decision in accordance with the procedures of SDC 21.09.020(V) and Hearing Examiner Rule of Procedure 504. Any request for reconsideration shall specify the error which forms the basis of the request. See SDC 21.09.020(V) and Hearing Examiner Rule of Procedure 504 for additional information and requirements regarding reconsideration.

A request for reconsideration is not a prerequisite to judicial review of this Decision. [SDC 21.09.020(V)(3)]

NOTICE of RIGHT of APPEAL

This Decision is final and conclusive subject to the right of review before the State Shorelines Hearings Board in accordance with the procedures of Chapter 90.58 RCW, the Shoreline Management Act of 1971. See SMC 25.08.090, Chapter 90.58 RCW, and Washington Administrative Code regulations adopted pursuant thereto for further guidance regarding Hearings Board appeal procedures.

The following statement is provided pursuant to RCW 36.70B.130: “Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.”

¹⁵ The official Parties of Record register is maintained by the City’s Hearing Clerk.

**CONDITIONS OF APPROVAL
BAERWALD DOCK
SSDP2022-00163**

This Shoreline Substantial Development Permit is subject to compliance with all applicable provisions, requirements, and standards of the Sammamish Municipal Code, standards adopted pursuant thereto, and the following **SPECIAL CONDITIONS**:

1. **Approved Plans.** Exhibit 4 is the approved project plan set for this SSDP; PROVIDED, that the width of the ell shall be not more than 6 feet unless a variance has been sought and obtained for a wider width. Revisions to approved SSDP plans are regulated under SMC 25.08.140.
2. **Approved Construction Materials:** New structures installed below OHWM or that regularly and frequently come in contact with water shall be constructed of galvanized steel (or other Washington Department of Fish and Wildlife (WDFW)-approved material).
3. **Compliance with Local and State Laws.** The Permittee shall comply with all city rules and regulations in effect on March 1, 2022, the vesting date of the subject application, including any necessary permits from applicable state or federal agencies.
4. **Building Permit.** A building permit issued in accordance with Title 16 SMC must be approved prior to commencing project construction. Final construction plans showing the proposed fixed pile dock and a freestanding boatlift shall be in substantial conformance with Exhibit 4 and the conditions of approval set forth herein.
5. **Dock Width.** That portion of the approved dock which exceeds four feet in width is subject to approval by other permitting agencies, such as the U.S. Army Corps of Engineers or the Washington Department of Fish and Wildlife. In no circumstances may any portion of the dock be wider than six (6) feet unless a variance has first been applied for and granted. Because part of the approved dock exceeds four feet in width, the City will require an approval notice from the U.W. Army Corps of Engineers or the WDFW prior to the issuance of the dock building permit.
5. **Tree Removal.** No significant tree removal is allowed.
6. **Conformance to Plans.** Final construction plans, including staging plans, shall be prepared and submitted to the City for review with application for building permit. Site disturbance shall be the minimum necessary to accommodate the scope of work.
7. **Archeology.** Prior to building permit issuance, a note on the construction plans shall be added regarding compliance with SMC 25.06.010 and requiring notification the Washington State Department of Archaeology and Historic Preservation if artifacts are discovered. Any ground disturbing activities must be monitored by a licensed archeologist.

8. **Permit Expiration.** Pursuant to WAC 173-27-090, construction shall be commenced on the proposed dock within two (2) years of the date that the SSDP is issued (or becomes final following any reconsideration or appeal periods, if applicable). Authorization to conduct development activities under the SSDP shall terminate five (5) years after the effective date of this permit. The City may authorize a single extension for a period not to exceed one (1) year based on a showing of good cause to the Director of 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.

EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a) AND (b), CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN AND IS NOT AUTHORIZED UNTIL TWENTY-ONE DAYS FROM THE DATE THIS PERMIT IS FILED WITH THE WASHINGTON STATE DEPARTMENT OF ECOLOGY AND ATTORNEY GENERAL AS REQUIRED BY RCW 90.58.140(6) AND WAC 173-27-130, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE DAYS FROM THE DATE OF SUCH FILING HAVE BEEN TERMINATED.