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4 **BEFORE THE HEARING EXAMINER**
5 **CITY OF SAMMAMISH**
6

7 In re the Appeal of: Findings/ Conclusions/
8 Decision Town Center Phase 1: SW Quadrant,
9 Unified Zone Development Plan

10 STCA, LLC & STC JV1, LLC,

11 Appellant
12

NO. UZDP2019-00562

**APPEAL OF FINDINGS/
CONCLUSIONS/ DECISION
TOWN CENTER PHASE 1: SW
QUADRANT, UNIFIED ZONE
DEVELOPMENT PLAN**

13 **I. DECISION AND/OR DETERMINATION BEING APPEALED**

14 Appellant STCA, LLC & STC JV1, LLC (“STCA”), by and through its attorneys
15 Duana T. Koloušková and Dean Williams of Johns Monroe Mitsunaga Koloušková, PLLC,
16 and T. Ryan Durkan and Stephen H. Roos of Hillis Clark Martin & Peterson P.S., hereby
17 files this Appeal of the Director of Community Development of the City of Sammamish
18 Findings/Conclusions/Decision, dated November 13, 2020, denying STCA’s UZDP for the
19 Sammamish Town Center SW Quadrant (hereafter the “Decision”). A copy of the Decision
20 is attached hereto as Appendix A.

21 **II. INTRODUCTION**

22 This is an appeal of the Decision’s denial of STCA’s application for approval of a
23 Unified Zone Development Plan (UZDP) application for a mixed-use community in the
24 Sammamish Town Center. The project includes 300 apartment units and 48 townhomes
25 (including 77 affordable housing units), along with 82,000 square feet of commercial space.

1 After a year-long review process, but only a single round of Department comments, the
2 Department abruptly and unexpectedly denied the UZDP, cutting short what had been a
3 productive process that was proceeding in accordance with what the Code intends to be an
4 iterative and collaborative process between the Department and applicant. Without prior
5 notice to STCA, the Department unilaterally terminated that review process, issued the
6 UZDP denial, changed the type of review process (from Type 3 to Type 2), improperly
7 declined to make a SEPA determination, and abruptly ceased its review of the companion
8 plat and binding site plan applications. All of these actions were unlawful, improper and
9 inconsistent with Sammamish Municipal Code, both substantively and procedurally. STCA
10 respectfully requests the Hearing Examiner reverse the Decision and remand for further
11 processing consistent with his instructions.

12 III. FACTUAL BACKGROUND

13 It is necessary to provide a more detailed factual background regarding STCA's
14 UZDP application than might ordinarily be the case in a Statement of Appeal in order to put
15 the issues in this appeal in their full context, including the steps City staff took, without prior
16 notice to STCA, to issue a Denial rather than a second round of review comments on the
17 UZDP application.

18 A. City Adopts Town Center Plan as Smart-Growth Plan to Accommodate 19 Future Residential Housing Needs and Affordable Housing.

20 In 2008, after a several-year development moratorium was invalidated by the Growth
21 Management Hearings Board, the Sammamish City Council adopted a Sammamish Town
22 Center Plan as a Sub-Area Plan of its Comprehensive Plan. Reflecting years of input from
23 planning experts, citizens, and the development community, the Town Center Plan covers an
24 approximately 226-acre area, including an approximately 108-acre area (exclusive of City
25 property) west of 228th Avenue SE, north and south of SE 4th Street. The Plan represents an

1 innovative effort to direct growth to a higher-density, mixed-use, pedestrian-friendly area of
2 the City in a manner that will create a “new heart of the City.”

3 A key component of the Plan is the creation of a range of housing choices, including
4 townhouses and apartment units, as an alternative to the single-family subdivisions that
5 characterize most of the City outside the Town Center. Under the City’s Comprehensive Plan
6 (2015), the Town Center is slated to accommodate approximately 2,000 of the 4,640 new
7 residential units planned for the planning period ending in 2035. The Town Center is also
8 designated to accommodate virtually all of the City’s multi-family and affordable housing.

9 **B. STCA Achieves Necessary Aggregation of Property.**

10 The Town Center Plan recognized that a principal challenge to its implementation
11 was the patchwork configuration of parcels owned by different property owners within the
12 Town Center boundaries. The Town Center Infrastructure Plan, adopted two years after the
13 Town Center Plan and applicable to the designated Town Center (TC) A-1 zone (aka the
14 “Core Mixed-Use Area”) likewise noted that the development of this core area in particular
15 would “require the assembly of land currently under various ownerships.” The inability to
16 achieve this aggregation was one of the primary reasons the Town Center remained largely
17 undeveloped for years after the adoption of the Town Center Plan.

18 Starting in approximately 2015 in reliance on the plan, STCA worked to accomplish
19 the necessary aggregation to allow the Town Center to come to fruition on a broader scale,
20 including development in the A-1 zone. STCA now owns or controls over 85 acres of the
21 property within the various Town Center zoning districts.

22 **C. Moratoria and New Concurrency Standards Delay Applications.**

23 STCA was successful in aggregating the necessary property to undertake a
24 coordinated development plan as envisioned in the Town Center Plan. STCA, however, was
25 unable to move forward with permit applications due to a series of actions the City Council

1 took between October 2017 and June 2019. These actions involved **successive moratoria**
2 followed by the enactment of transportation **concurrency standards** that were eventually
3 deemed invalid by the Growth Management Hearings Board. STCA was able to obtain an
4 exemption from the moratoria by agreeing to a Memorandum of Understanding with the City
5 in November 2018 that limited the allowable initial density of the Town Center development.

6 Even with the MOU, however, STCA was still unable to proceed with the allowed
7 first phase of development due to the City Council’s adoption of new, unprecedented
8 “volume-to-capacity” (V/C) concurrency standards in November 2018. These standards
9 created an existing concurrency failure on certain north segments of Sahalee Way that
10 effectively precluded the issuance of a concurrency certificate if a proposed project would
11 add even a single car trip to north Sahalee Way in the AM peak hour. Thus, even with the
12 MOU, STCA (like other prospective applicants) was unable to obtain the concurrency
13 certificate that is a prerequisite of a complete permit application.

14 **D. STCA Obtains Concurrency Certificate.**

15 At the recommendation of City staff at the time, the City Council finally adopted a
16 Transportation Improvement Plan (TIP) in June 2019 to address the concurrency failures
17 created by the new V/C standards. It did so by adding certain future capital improvements to
18 Sahalee Way and/or 228th Avenue SE to the TIP. Although the increased capacity created by
19 the TIP improvements was modest, it was enough to allow STCA to obtain its concurrency
20 certificate for the current proposal in August 2019. With issuance of this concurrency
21 certificate, STCA was able to move forward with the development permit applications,
22 including the UZDP approval that is at issue in this appeal.

23 The application process that occurred following the issuance of the concurrency
24 certificates is discussed below. However, it is important to note as an initial matter that the
25 review of these applications occurred within an environment of hostility to development

1 within the City, starting with the City Council’s adoption of the first development
2 moratorium in October 2017 and intensifying through 2020. Three actions are illustrative.

- 3 • *Changes to Concurrency Testing.* Upon learning that STCA had received a
4 concurrency certificate, the City Council immediately set a date for a Special Meeting
5 just days later to question City staff about concurrency. Although City staff and the
6 City Attorney at the time explained that the concurrency certificate had been duly and
7 properly issued, the City Council adopted a motion prohibiting staff from running any
8 further concurrency tests that assumed certain of the Sahalee Way road improvements
9 included in the June 2019 Transportation Improvement Plan. The effect of the City’s
10 motion was that the City was again unable to issue concurrency certificates for a new
11 development that would add any vehicle trips to north Sahalee Way in the AM peak
12 hour.
- 13 • *New Moratorium.* After the Growth Management Hearings Board invalidated the
14 City’s V/C concurrency standards due to violations of the GMA and the State
15 Environmental Policy Act, the City Council responded by immediately enacting
16 another development moratorium, first on development broadly, and then on the
17 issuance of any further concurrency certificates, while it undertook another process to
18 change its concurrency standards. This moratorium remains in effect; although it does
19 not affect the proposal at issue in this appeal (which vested prior to the moratorium),
20 it precludes the issuance of concurrency certificates for any new permit applications
21 for private development in the City of Sammamish, including the Town Center.
- 22 • *No-Growth Directive.* On November 2, 2020, following a presentation by the King
23 County planning staff regarding potential new growth targets as part of the update of
24 King County-Wide Planning Policies, the City Council directed its Planning Director
25 to take the position in negotiations with the County and other cities and towns that the
City’s growth target for the 2019-2044 planning period should be *zero*.

1 In short, other than an approximately two-month period between mid-June and late
2 August 2019--when STCA was able to pass concurrency and obtain its concurrency
3 certificate for the current project--the City Council's actions have largely shut down the City
4 to further development permit applications for over three years. And the City Council has
5 now instructed its Community Development Director to take the position that it should not
6 receive any growth target that would require additional housing for the next 25 years. The
7 Council issued this directive 11 days before the Director signed the UZDP denial at issue in
8 this appeal.

9 It should also be noted that during this period of increasing antipathy to managed
10 growth and development, the City has also experienced unprecedented staff turnover,
11 including the termination of two City Managers, the departure of a Community Development
12 Director, the departure of a Public Works Director, and the departure of the City's Traffic
13 Engineer, among others.

14 STCA believes it is important for the Hearing Examiner to understand that this is the
15 context in which STCA's current UZDP application and companion applications were
16 reviewed.

17 **E. STCA Submits Permit Applications.**

18 After completing the pre-application process in May 2019, and obtaining the requisite
19 concurrency certificate in August 2019, STCA along with its development partner STC JV 1,
20 filed an expensive and detailed set of permit applications for its 1st phase of development in
21 the Town Center's TC-A1 zone. The proposed development was within the cap set in the
22 2018 MOU, and included 300 apartment units and 48 townhomes, along with 82,000 square
23 feet of ground-level commercial space below the apartment units. Critically, the proposal
24 included 77 residential units that would be reserved as affordable housing to address the
25 critical need for that type of housing in the City. The applications included a Unified Zone

1 Development Plan (UZDP) application as required for development in TC-A1 zone, and two
2 companion applications, a preliminary plat application to create the residential lots and a
3 binding site plan application to create the commercial lots.¹ The applications reflected the
4 work of a highly experienced team of consultants, engineers, and planners, including Core
5 Design (civil engineering), Coughlin Porter Lundeen (civil engineering), the Transpo Group
6 (traffic and transportation), Wetland Resources (wetlands), and Shook Kelley (a nationally-
7 recognized town center planning team).

8 The UZDP is a unique type of entitlement in the City’s Development Code,
9 applicable only to projects proposed in one of the Town Center’s TC-A zones (or certain
10 combined TC-A/B projects). The UZDP process is envisioned as a more collaborative and
11 iterative process between the applicant and City staff than is the case with other types of
12 entitlements. In part this is because the “planning principles” that a UZDP proposal is
13 intended to incorporate are phrased in extremely broad and general terms. The Code
14 specifically contemplates flexibility in the application of these principles, noting that the use
15 of the word “should” throughout is intended “to allow the City and the proponent flexibility
16 to achieve the Town Center’s Plan’s and these [planning] principles’ objectives through other
17 means than those specified” in the identified principles. *See* SMC 21B.95.050. The process is
18 thus intended to include substantial dialogue, even collaboration. SMC 21B.95.030(4) (“Staff
19 will continue to review [the UZDP application] as needed to ensure the UZDP meets
20 applicable standards.”). Uniquely, the intended outcome of the iterative UZDP process is not
21 identified as a “permit” but rather an “agreement between the applicant and the City
22 describing the terms under which permits will be reviewed.” SMC 21B.95.070. The UZDP

24 ¹ At the same time, STCA sought preliminary plat approval for townhomes and single-family homes in the TC-
25 B and TC-C zones west of the TC-A1 zone. Those applications remain under City review and are not at issue in
this appeal.

1 process is emphatically *not* intended to be a “gotcha” process, where even minor matters that
2 could be easily corrected or clarified, or handled through a condition, are instead made a
3 basis for denial.

4 The Department deemed the UZDP and companion applications complete in a letter
5 dated November 27, 2019 and issued a Notice of Application on December 2, 2019 for all
6 three TC-A zone applications. In addition to deeming the applications complete, the
7 Department made two key additional determinations. First, the Letter of Completion stated
8 that the UZDP, preliminary plat application, and binding site application would be bundled
9 for permit processing, and thus all three applications, including the UZDP, would be
10 reviewed through a Type 3 permit process. This means a staff recommendation to the
11 Hearing Examiner, and then a final decision by the Hearing Examiner. Second, the Notice of
12 Application stated that the Department anticipated issuing a Determination of Non-
13 Significance (DNS) under SEPA. In so doing, it referenced the Final EIS that had been
14 prepared for the Town Center Plan in 2008. That EIS described the adoption of the Town
15 Center Sub-Area Plan as a non-project action and outlined a process for phased review, with
16 individual threshold determinations for future projects. In accordance with that process, the
17 other three UZDP applications approved by the City to date (all prior to the moratoria that
18 started in 2017) received determinations of non-significance.

19 **F. STCA Responds to 1st Round of Review Comments.**

20 The Department issued its first round of review comments on the UZDP and other
21 applications on March 10, 2020 and imposed a deadline of June 8, 2020 for a response. On
22 April 7, STCA requested an extension of time to respond in light of the growing challenges
23 posed by the COVID-19 situation and all private businesses were required whenever possible
24 to work remotely. The Department waited three weeks and then rejected that request on April
25 28.

1 STCA submitted a second request for an extension on May 21. By June 2--just six
2 days before the June 8 deadline--STCA had still not received a response to this second
3 extension request. STCA submitted a modified request on June 2 for simply a two-week
4 extension. The Department granted that 3rd request on June 3.

5 On June 22, 2020, STCA submitted its responses to the Department's 1st round of
6 review comments. The response included a lengthy Response Matrix regarding the public
7 and Department comments received on the initial applications, and provided dozens of pages
8 of revised plans and drawings, and additional 3-D renderings and illustrations. Each of the
9 Department's first round of review comments was noted and addressed. STCA made a
10 number of project modifications in response to Department comments. The key
11 modifications were summarized in a 7-page cover letter that closed in a positive manner with
12 an invitation for further dialogue and discussion:

13 Our team has worked hard to address the City staff's comments, and believes the
14 revisions reflected in Response Matrix and revised Plans strengthen the overall
15 proposal, in keeping with the City's overall vision for this part of the Southwest
16 Quadrant of the Town Center. We are very excited to be moving forward.

17 We would be happy to meet with you to discuss any questions or concerns you have
18 as you review the attached materials. We believe the opportunity to have a couple in-
19 person or video conference meetings together may be a helpful process to resolve any
20 remaining issues.

21 **G. Department Issues Unexpected Final Decision and UZDP Denial.**

22 The Department determined the revised materials complete for further processing in a
23 Second Letter of Completion dated July 13, 2020. Among other things, this Letter stated that
24 the UZDP, Preliminary Plat, and Binding Site applications "will be processed as a Type 3
25 land use permit decision" which would require preparation of three "separate Staff
Recommendations to the Hearing Examiner." The Department issued a second Notice of
Application on July 20, 2020 and another opportunity for public comment. The Notice stated

1 that it anticipated issuing its next round of review letters within 60 days and reiterated that
2 the Department would follow a bundled Type 3 process for all three applications. In short, all
3 appeared on track for continued processing of the applications.

4 Despite STCA's invitation noted above, the Department initiated no further
5 communications with the Applicant until an e-mail (and letter) dated September 30th, 19 days
6 after the expiration of the anticipated 60-day time period for the 2nd round of review
7 comments. The e-mail and later a follow-up "Notice of Extended Review" dated October 8th
8 advised STCA that the Department would be unable to complete its review of STCA's 1st
9 round of comments within the anticipated 60 days. It provided a new target date of
10 November 13th. The only explanation the Department provided for the additional time
11 beyond the previous 60-day estimate was "the complex nature of the development proposal"
12 and the volume of Department and public comments (even though only three public
13 comments were received on the June re-submittal). These were among the reasons that the
14 Department had cited in its July Notice for the 60-day time period. Although the extension
15 was longer than anticipated, STCA had no indication from the Department's e-mail or
16 October 8th Notice that what was coming on November 13th would be anything other than a
17 second round of review comments, that the review process would be anything other than
18 Type 3, or that the eventual threshold determination would be anything other than a DNS as
19 had occurred with other UZDP projects. Accordingly, STCA, in an effort to work with the
20 Department towards a productive outcome, raised no objection to the extension.

21 Other than an invoice for payment on November 9th, STCA heard nothing further
22 from City staff regarding the UZDP and companion applications until the November 13th
23 UZDP Decision. Only then did STCA learn that the Department had taken the five months
24 since receipt of STCA's June re-submittal not to work on a 2nd round of review comments or
25 initiate any further communication with the Applicant to discuss any concerns (as it had been

1 specifically invited to do in STCA’s June letter), but instead to issue the unexpected denial
2 challenged in this appeal.

3 The Department issued a Type 2 decision rather than a Type 3 recommendation as it
4 had stated it would do in prior communications.

5 Moreover, it declined to issue a SEPA threshold determination and ceased further
6 review of the companion binding site plan and preliminary plat, thus leaving those two
7 applications without a staff recommendation to the Hearing Examiner.

8 None of these steps were discussed with the Applicant at any point in time in advance
9 of the November 13th decision, even though the applications had been under review for
10 nearly a full year. Indeed, ever since it received STCA’s materials on June 22, 2020 in
11 response to the 1st round of comments, the Department did not undertake any
12 communication with STCA to discuss any substantive aspect of the UZDP application and
13 companion applications. This is what the Department did despite the mandate that “Staff will
14 continue to review [the UZDP application] as needed to ensure the UZDP meets applicable
15 standards.” SMC 21B.95.030(4).

16 To justify these procedural U-turns and this improper substantive outcome, the
17 Decision appears at various points to try to create a narrative of intransigence, in which the
18 Department has patiently provided guidance about the UZDP and STCA has stubbornly
19 resisted it. This is simply incorrect. In point of fact, as noted above, STCA took seriously
20 the Department’s comments and directly responded to each of them as summarized in
21 STCA’s June re-submittal materials. The modifications in response to Department
22 comments included, among other things: (1) reconfiguring its road network to minimize
23 deviation requests and to meet minimum and maximum block length requirements (with two
24 very minor deviations involving 5-10 feet); (2) providing additional details on the proposed
25 landscaping area and character of the Green Spine; (3) designating a location for the future

1 City Square on STCA property north of 4th Street; (4) designating all streets as “pedestrian-
2 oriented,” with the exception of four small segments that STCA proposed to keep as “mixed-
3 use” but agreed to change to pedestrian-oriented if required by the Department after review
4 of STCA’s detailed rationale for the mixed-use designation; (5) locating townhouses along
5 pedestrian-oriented streets with 30-foot setbacks; (6) providing additional information about
6 the location of wetlands, as requested; and (7) providing additional information about
7 stormwater design and treatment, as requested.

8 Rather than acknowledging and building on the common ground that had been
9 achieved with these and other adjustments made by STCA in response to City comments, the
10 Decision includes analysis and conclusions inconsistent with prior statements or comments,
11 and then rather than continuing the iterative review process envisioned by the Code, the
12 Decision terminates any further dialogue on the proposal, denies the UZDP, withholds a
13 SEPA determination, and ceases review of the companion applications. STCA now files this
14 appeal.

15 **IV. STANDING AND GROUNDS FOR APPEAL**

16 STCA has standing under to file this appeal as the owner and applicant concerning
17 the Property to which the Decision applies. STCA also has standing as an aggrieved party
18 under the State Environmental Policy Act as STCA’s interests are within the zone of interests
19 protected or regulated and has concrete injury in fact resulting from the Department’s SEPA
20 actions and failures. This appeal is timely filed on or before December 4, 2020, pursuant to
21 SMC 20.10.080 and 20.15.130, per the appeal provisions stated in the Decision.

22 The Decision should be reversed due to (1) errors that apply to the Decision as a
23 whole, and (2) specific errors applicable to each of the grounds identified in the Decision as
24 the basis for the denial.
25

1 General Errors

2 1. The Department erred in issuing a UZDP Type 2 decision rather than a 2nd
3 round of review comments to allow the applicant to address the comments identified in the
4 Decision.

5 2. The Department erred in issuing a UZDP Type 2 decision rather than a staff
6 report on a Type 3 decision, as it indicated it would do in its first and second Letters of
7 Completion and Noticed of Revised Application.

8 3. The Department erred in issuing a denial rather than either a conditional
9 recommended approval (if processed as a Type 3 decision) or a conditional approval (if
10 processed as a Type 2 decision). Throughout its Decision, the Department failed to consider
11 approval conditions as an alternative to denial.

12 4. The Department erred in issuing a denial based on requirements it did not
13 apply to other previously approved UZDP applications, or applied in a significantly different
14 manner.

15 5. The Department erred in issuing the Decision without first completing SEPA
16 review and issuing a threshold determination as anticipated in its Notice of Application and
17 Notice of Revised Application, and in violation of SEPA and its implementing regulations,
18 including but not limited to RCW 43.21C.030, -.033, WAC 197-11-055, 197-11-310, and
19 Chapter 20.15 SMC.

20 6. The Department improperly ceased review of the proposed Preliminary
21 Subdivision (PSUB2019-00563) and Binding Site Plan (BSP2019-00564).

22 Specific Errors

23 7. The Department erred in issuing the UZDP as a Type 2 decision and
24 terminating review of the Preliminary Subdivision and Binding Site Plan applications based
25

1 on the Analysis and Conclusion in Section III.A.1 (Administrative Procedures) of the
2 Decision (page 12). Without limitation, the Analysis and Conclusion were erroneous because
3 the Department should have continued to follow a Type 3 process for the UZDP, Binding
4 Site Plan, and Preliminary Subdivision applications, and issued a recommendation to the
5 Hearing Examiner for all three applications, as the Department had indicated it would do in
6 the Letters of Completeness and Notice of Revised Application.

7
8 8. The Department erred in denying the UZDP based on the Analysis and
9 Conclusion in Section III.A.2 (General Application Requirements) of the Decision (pages 12-
10 13). Without limitation, the Analysis and Conclusion were erroneous because the Department
11 had already determined that the UZDP application was complete for processing and therefore
12 satisfied the application requirements of SMC 20.05.050, and because the appropriate time to
13 proceed with any relocation and/or vacation of the right-of-way would be after the UZDP and
14 Binding Site Plan approval, which will include the approval of the location and alignment of
15 proposed rights-of-way as presented during the application process and to be discussed
16 further during the Hearing Examiner hearing.

17
18 9. The Department erred in denying the UZDP based on the Analysis and
19 Conclusion in Section III.A.3 (Critical Aquifer Recharge Area) of the Decision (pages 13-
20 14). Without limitation, the Analysis and Conclusion were erroneous because: (i) the
21 Applicant does not propose infiltration as it is deemed infeasible, (ii) stormwater facilities
22 have been designed in accordance with applicable stormwater standards, (iii) the project's
23 stormwater design was separately deemed compliant, and (iv) the existence of the CARA in a
24 portion of the northeast portion of the project would not necessitate any changes to the
25 project, including its stormwater design.

1 10. The Department erred in denying the UZDP based on the Analysis and
2 Conclusion in Section III.A.5 (Neighborhood Context) of the Decision (page 15). Without
3 limitation, the Analysis and Conclusions were erroneous because the proposed infrastructure
4 and circulation systems could serve other properties, including Blocks 8 and 9, in a manner
5 consistent with the City's plans and applicable standards and the adopted Town Center
6 Infrastructure Plan.

7 11. The Department erred in denying the UZDP based on the Analysis and
8 Conclusion in Section III.A.6 (Project Boundary) of the Decision (page 15-16). Without
9 limitation, the Analysis and Conclusions were erroneous because the City staff instructed the
10 Applicant to exclude these two development tracts from the UZDP, the UZDP project
11 boundaries are clearly defined, the density calculations were based solely on the property
12 within the UZDP project boundaries, any concerns about the inclusion of additional tracts in
13 the Binding Site Plan and Preliminary Subdivision could have been addressed in that review
14 process, and the UZDP boundaries are described with enough detail that the Department
15 could determine whether the UZDP planning principles were met and future applications
16 would be consistent.

17 12. The Department erred in denying the UZDP based on the Analysis and
18 Conclusion in in Section III.A.7 (Density and Dimensions) of the Decision (page 16).
19 Without limitation, the Analysis and Conclusion: (i) erroneously determined that there is
20 insufficient information about the proposal's gross site area, and (ii) misconstrued the
21 Applicant's presentation of an alternative Residential Density Calculation Worksheet
22 alongside the City's calculation as some kind of refusal to cooperate. This alternative did not
23 alter the number of proposed residential units, only modified the number of proposed
24 affordable housing units by a single unit (76 rather than 77), and included other minor
25

1 changes to how the units were accounted for in the City’s density worksheet in light of what
2 STCA stated may have been an inadvertent error in the City’s Density Calculator compared
3 to how the City had calculated density for other approved UZDP applications.

4
5 13. The Department erred in denying the UZDP based on the Analysis and
6 Conclusion in Section III.A.8 (Bonus Residential Density) of the Decision (pages 16-17).
7 Without limitation, the Analysis and Conclusion incorrectly assumed or implied that the
8 applicant is seeking a TC-D residential allocation for the subject UZDP and misconstrued the
9 references in the application materials to a potential future TC-D allocation in future phases
10 outside the subject UZDP.

11
12 14. The Department erred in denying the UZDP based on the Analysis and
13 Conclusion in Section III.B.1 (Pedestrian Circulation) of the Decision (pages 17-18). Without
14 limitation, the Analysis and Conclusion erroneously determined that the information in the
15 application materials and the proposed timing for providing additional detailed information
16 to address ADA standards and Crime Prevention Through Environmental Design (CPTED)
17 guidelines were inadequate.

18
19 15. The Department erred in denying the UZDP based on the Analysis and
20 Conclusion in Section III.B.2 (Vehicle Circulation) of the Decision (pages 18-19). Without
21 limitation, the Analysis and Conclusion is erroneous and incorrect because (i) the Code and
22 other applicable standards and plans do not require all streets in the A-1 zone to be
23 pedestrian-oriented as opposed to mixed-use, and the Applicant notified the Department in its
24 June 22, 2020 submittal that it was nevertheless willing to make all streets in the A-1 zone
25 pedestrian-oriented if required by the Department after review of additional information
presented in the application materials; (ii) STCA did provide a 20-foot alley width; and (iii)
the Decision improperly applied Section 9.3 of the 2016 Public Works Standards to the

1 UZDP application after the Department previously informed the applicant that Section 9.3
2 did not apply to projects in the Sammamish Town Center.

3 16. The Department erred in denying the UZDP based on the Analysis and
4 Conclusion in Section III.B.4 (Open Space) of the Decision (pages 20-22). Without
5 limitation, the Analysis and Conclusion improperly found noncompliance for not including a
6 “City Square” within the Green Spine even though the Town Center Infrastructure Plan
7 identifies a location north of SE 4th Street as an acceptable alternative, the Department
8 acknowledged this at a meeting prior to the June re-submittal, and STCA provided a location
9 for the City Square on STCA property in its revised application materials. The Department’s
10 Analysis also misconstrues and/or ignores provisions in the Town Center Plan regarding
11 public contributions for the City Square.

12 17. The Department erred in denying the UZDP based on the Analysis and
13 Conclusion in Section III.B.5 (Natural Systems and Environmental Quality--Land Use
14 Management LID) of the Decision (pages 24-25). Without limitation, the Analysis and
15 Conclusion unfairly and incorrectly applied SMC 21B.95.050(5) in light of other objectives
16 and goals in the Town Center Plan for the TC-A1 zone, failed to acknowledge aspects of the
17 proposed UZDP that support the goals of low impact development and/or will preserve the
18 natural environment, and failed to identify what “natural areas” or “natural systems” could be
19 reasonably incorporated or exploited in this particular site area, or how, given other required
20 and beneficial aspects of the proposal and other objectives and goals for the A-1 zone.

21 18. The Department erred in denying the UZDP based on the Analysis and
22 Conclusion in Section III.B.6 (Building Scale and Compatibility) of the Decision (pages 25-
23 26). Without limitation, the Analysis and Conclusion incorrectly found noncompliance with
24 due to the inclusion of townhouses in the TC A-1 zone even though the City’s development
25

1 regulations and applicable plans specifically state that townhomes are a permitted use in the
2 TC-A1 zone, including along pedestrian-oriented streets with a 30-foot setback, and the
3 Department's Pre-Application Review Comments on the UZDP specifically stated that
4 townhouses are allowed in the TC-A1 zone with a 30-foot setback from pedestrian-oriented
5 streets. The Analysis and Conclusion also failed to consider or recognize other limitations,
6 challenges, and factors that led to the proposed townhouses in the UZDP application.

7
8 19. The Department erred in denying the UZDP based on the Analysis and
9 Conclusion in Section III.B.7 (Affordable Housing) of the Decision (pages 25-26). Without
10 limitation, the Analysis and Conclusion misconstrued the Applicant's presentation of an
11 alternative Residential Density Calculation Worksheet alongside the City's calculation, an
12 alternative that did not alter the number of proposed residential units proposed, only modified
13 the number of proposed affordable housing units by a single unit (76 rather than 77), and
14 included other minor changes to how the units were accounted for in the City's density
15 worksheet in light of what STCA stated may have been an inadvertent error in the City's
16 Density Calculator compared to how the City had calculated density for other approved
17 UZDP applications.

18 20. The Department erred in denying the UZDP based on the Analysis and
19 Conclusion in Section III.B.8 (Efficient Infrastructure Systems) of the Decision (pages 28-
20 29). Without limitation, the Analysis and Conclusion unfairly and incorrectly applied SMC
21 21B.95.050(8) in light of other objectives and goals in the Town Center Plan for the TC-A1
22 zone, failed to acknowledge aspects of the proposed UZDP and proposed infrastructure plan
23 that support the goals of efficient infrastructure, failed to acknowledge that the City's utility
24 provider had generally accepted the Applicant's proposed sewer and water infrastructure
25 proposal, and failed to allow further dialogue between City staff and the Applicant about

1 what additional specific “systems” could feasibly be incorporated given the other objectives
2 and policies of the Town Center Plan.

3 21. The Department erred in denying the UZDP based on the Analysis and
4 Conclusion in Section III.C (2016 Public Works Standards) of the Decision (page 29).
5 Without limitation, the Analysis and Conclusion improperly applied Section 9.3 of the 2016
6 Public Works Standards to the UZDP application after the Department previously informed
7 the applicant that Section 9.3 did not apply to projects in the Sammamish Town Center.

8 22. The Department erred in denying the UZDP based on the Analysis and
9 Conclusion in Section III.D (Town Center Plan Goals and Policies) and Exhibit 2 of the
10 Decision (page 29). Exhibit 2 lists 69 goals and policies in the Town Center Plan. The
11 Department’s “Compliance Analysis” finds six of them inapplicable. Of the remaining 63, it
12 finds the proposed UZDP meets 26 of them but fails to meet 37. Without limitation, the
13 Department’s Compliance Analysis with respect to these 37 goals and policies is erroneous
14 because (i) the Compliance Analysis misconstrues the purpose and role of the Town Center
15 Plan’s Goals and Policies in the review of UZDP applications; (ii) the Compliance Analysis
16 incorporates or rests upon Analyses and Conclusions in the Decision that are erroneous for
17 reasons noted in the appeal issues above; (iii) the Compliance Analysis fails to adequately
18 explain the basis for the determination of noncompliance; (iv) the Decision and Compliance
19 Analysis fails to allow further dialogue between the Department and STCA about ways to
20 address goals and policies that are in most cases worded in extremely general and broad
21 terms; (v) the Compliance Analysis is erroneous in its specific analysis of each of the 37
22 goals and policies where it found noncompliance; and/or (vi) the Compliance Analysis is
23 erroneous in its failure to recognize the necessity to balance the 63 goals and policies, and
24
25

1 thus for example, the achievement of certain goals and policies may limit the proponent's
2 ability to achieve other goals and policies.


3 **V. RELIEF REQUESTED**

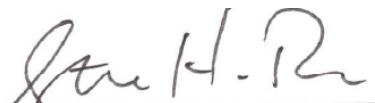
4 STCA respectfully requests that the Examiner: (1) reverse the Department's Decision
5 and approve the UZDP with conditions, or alternatively, remand the matter to the
6 Department with instructions for further review of the UZDP application; (2) direct the
7 Department, following the completion of further review, to issue a recommendation on the
8 UZDP application in accordance with the Type 3 process established in the Department's
9 Notice of Application and Notice of Revised Application; (3) direct the Department to
10 continue processing Binding Site Plan application (BSP2019-00564) and Preliminary
11 Subdivision application (PSUB2019-00563) in accordance with the Type 3 process
12 established in the Department's Notice of Application and Notice of Revised Application;
13 and (4) direct the Department to issue a DNS as anticipated in the Department's Notice of
14 Application.

15 DATED this 3rd day of December, 2020.

17 JOHNS MONROE MITSUNAGA
18 KOLOUŠKOVÁ, PLLC

HILLIS CLARK MARTIN &
PETERSON P.S.

19 By 
20 Duana T. Koloušková, WSBA #27532
21 Dean Williams, WSBA #52901
22 Attorneys for Petitioner STCA

By 
20 T. Ryan Durkan, WSBA #11805
21 Stephen H. Roos, WSBA #26549
22 Attorneys for Petitioner STCA

23 ND: 22029.00205 4829-9587-6051v2

24 01-1918-1 Admin Appeal to HE 12-3-20 FINAL

FINDINGS/CONCLUSIONS/DECISION
Town Center Phase I: SW Quadrant
Unified Zone Development Plan ("UZDP")
File Number: UZDP2019-00562

APPLICANT: STCA JV, LLC & STC, LLC
 Peter Brennan, Representative
 5535 Meadows Road, STE 108
 Lake Oswego, OR 97035

LOCATION: -22315, -22407, -22417, -22515, -22527 SE 4th Street
 Sammamish, WA 98074
 Tax Parcel Number - 3325069024, 3325069085, 3325069016, 3325069138, 3325069091

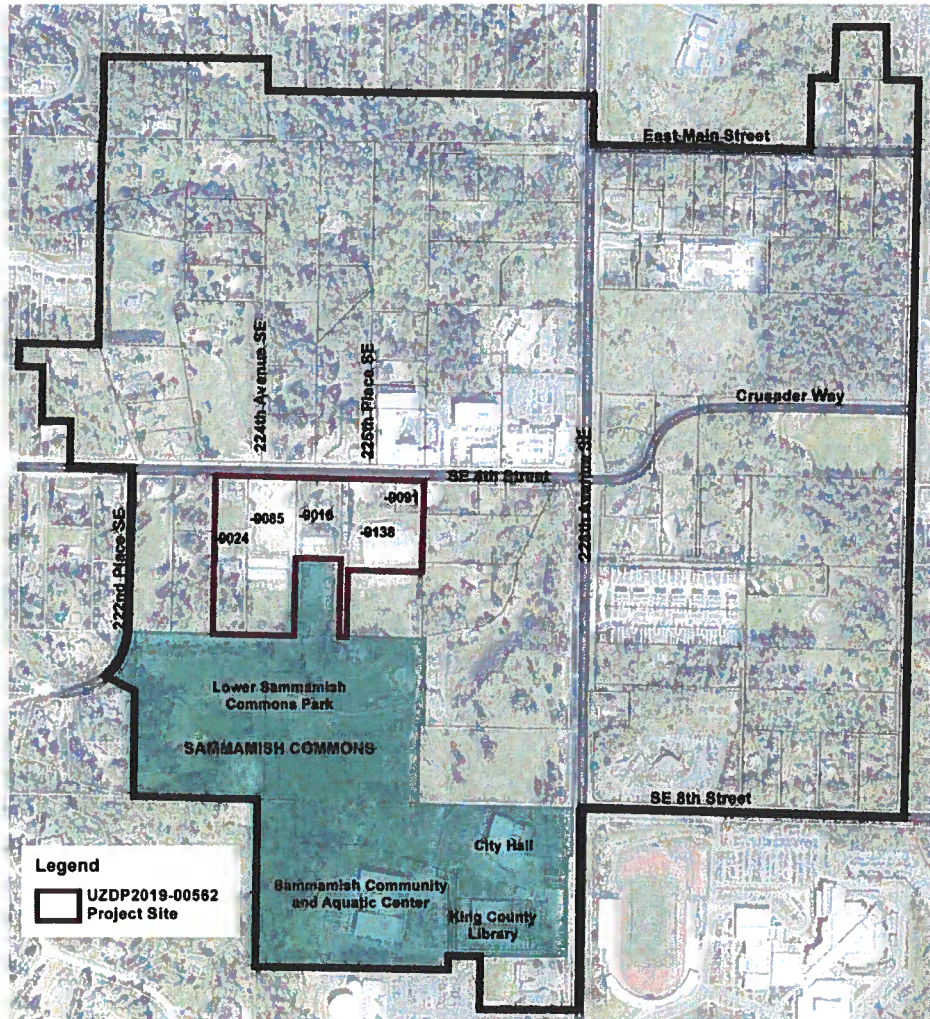


Figure 1: Vicinity Map

PROPOSAL: The applicant ("STCA") has proposed a neighborhood mixed-use development located in the TC-A1 zone, otherwise known as the Core Mixed-Use area ("CMU"), within the Southwest quadrant of the Sammamish Town Center Subarea (Figure 1). The development is situated on 8.09 acres and includes 82,000 square feet of commercial space located in four mixed-use buildings and one commercial use building. The proposal also includes 300 apartment units and 48 townhome units for a total of 348 residential units, of which 77 will be reserved for affordable housing.

The development proposes to implement the first segment of the secondary zone of the Green Spine, a public open space connecting the Sammamish Commons (Lower Sammamish Commons Park, Sammamish Community and Aquatic Center, City Hall, and King County Library) with the CMU; multiple public streets and private alleys; and a pedestrian and bicycle network that links together public open spaces, commercial businesses, and residential areas.

PLANNER ASSIGNED: Chris Hankins, Senior Planner, Community Development Department

DECISION REQUIRED: A UZDP is a Type 2 Decision pursuant to Sammamish Municipal Code ("SMC") 20.05.020.

DECISION AUTHORITY: City of Sammamish by the Community Development Department Director

DECISION: The UZDP is denied.

The UZDP does not meet all four criteria in SMC 21B.95.060, therefore the UZDP cannot be approved.

Refer to Section III.A.1 for further discussion and analysis.

DATE OF DECISION: November 13, 2020

KEY DATES:	May 23, 2019	Preapplication Meeting
	May 31, 2019	Traffic Certification Review Application Submitted
	August 14, 2019	Traffic Certificate Approved
	November 4, 2019	Application Submitted
	November 27, 2019	Completeness Determination
	December 2, 2019	Notice of Application/Open House/SEPA Notification
	December 2-23, 2019	Public Comment Period
	December 16, 2019	Open House
	March 10, 2020	First Round of City Review Comments Issued
	April 7, 2020	Application First Resubmittal Extension Request
	April 28, 2020	City's Response to Resubmittal Extension Request
	May 14, 2020	Meeting #1: First Round of City Review Comments Discussion
	May 21, 2020	Application Second Resubmittal Extension Request
	May 29, 2020	Meeting #2: First Round of City Review Comments Discussion
	June 1, 2020	Meeting #3: First Round of City Review Comments Discussion
	June 2, 2020	Applicant Third Revised Resubmittal Extension Request
	June 3, 2020	City's Response to Revised Resubmittal Extension Request
	June 22, 2020	Application Materials Resubmitted for Second Round of Review
	July 13, 2020	Second Letter of Completeness
	July 20, 2020	Notice of Revised Application and 120-Day Clock Exceedance
	July 20-August 10, 2020	Public Comment Period
	September 30, 2020	Applicant Notification of Extended Review
	October 8, 2020	Notice of Extended Review
	November 13, 2020	Notice of Decision

TABLE OF CONTENTS

I. TOWN CENTER BACKGROUND INFORMATION 7

II. PROJECT DESCRIPTION AND REVIEW PROCESS..... 9

III. ANALYSIS 12

IV. FINDINGS OF FACTS..... 30

V. CONCLUSION 33

VI. DIRECTORS DECISION 34

VII. APPEAL INFORMATION 34

EXHIBITS:

1. Staff Report (November 13, 2020)
2. Town Center Goals and Policies Compliance Analysis Matrix (November 13, 2020)
3. King County/City of Sammamish Interlocal Agreement (July 22, 2011)
4. Director’s Interpretation (May 2, 2017)
5. Email Correspondence – Director’s Interpretation (May 2, 2017)
6. Public Right of Way Recorded Documents
7. Memorandum of Understanding (November 12, 2017)
8. Town Center Coordination Meeting Agenda and Minutes (August 9, 2018)
9. Preapplication Review Comments (May 23, 2019)
10. Traffic Concurrency Certificate (August 14, 2019)
11. Email Correspondence - Green Spine Concept Meeting Request (July 31, 2019)
12. Email Correspondence - Green Spine Concept Meeting Response (August 2, 2019)
13. UZDP Application (November 4, 2019)
 - 13.a. Affidavit of Applicant Status and Acceptance of Financial Responsibility (October 30, 2019)
 - 13.b. Boundary and Topographical Survey (November 4, 2019)
 - 13.c. Project Narrative and Code Criterion Compliance Summary (November 4, 2019)
 - 13.d. Critical Area Affidavit (October 30, 2019)
 - 13.e. Critical Area Study (October 16, 2019)
 - 13.f. Density Calculation Worksheet (November 4, 2019)
 - 13.g. Eastside Fire and Rescue Plan Review Sheet (October 30, 2019)
 - 13.h. Preliminary Geotechnical Engineer Report (November 1, 2019)
 - 13.i. Historic Resources Affidavit (November 4, 2019)
 - 13.j. Site Plan Set (November 4, 2019)
 - 13.k. Legal Description (November 4, 2019)
 - 13.l. Mailing List (November 4, 2019)
 - 13.m. Preliminary Technical Information Report (October 31, 2019)
 - 13.n. Letter of Description (November 4, 2019)
 - 13.o. Public Works Standards Deviation (November 4, 2019)
 - 13.p. SEPA Environmental Checklist (November 1, 2019)
 - 13.q. Stormwater Facility Information Form (October 29, 2019)
 - 13.r. Title Report (November 4, 2019)
 - 13.s. Traffic Concurrency Certificate (August 14, 2019)
 - 13.t. Traffic Impact Analysis Report (October 2019)
 - 13.u. Water and Sewer Certificates (October 15, 2019)
14. Letter of Completeness (November 27, 2019)

15. Notice of Application / Open House / SEPA Notification (December 2, 2019)
16. Open House Agenda (December 16, 2019)
17. Open House Attendee Sign-in Sheet (December 16, 2019)
18. Open House Follow-up Correspondence (December 17, 2019)
19. Public Comment Summary Matrix (March 10, 2020)
20. Plan Review Summary Letter and Review Comments (March 10, 2020)
 - 20.a. Project Narrative and Code Criterion Compliance Summary Review Comments (March 10, 2020)
 - 20.b. Density Calculation Worksheet Review Comments (March 10, 2020)
 - 20.c. Preliminary Geotechnical Engineer Report Review Comments (March 10, 2020)
 - 20.d. Site Plan Set Review Comments (March 10, 2020)
 - 20.e. Technical Information Report Review Comments (March 10, 2020)
 - 20.f. Public Works Standards Deviation Review Comments (March 10, 2020)
 - 20.g. SEPA Environmental Checklist Review Comments (March 10, 2020)
 - 20.h. Traffic Impact Analysis Report Review Comments (March 10, 2020)
 - 20.i. Public Comments (March 10, 2020)
 - 20.j. Critical Area Study Review completed by ESA (February 27, 2020)
21. Applicant Request to Meet with City Staff (March 13, 2020)
22. City Response to Applicant's Request for a Meeting (March 17, 2020)
23. First Extension Request Letter from Applicant (April 7, 2020)
24. City Response to First Extension Request Letter (April 28, 2020)
25. Meeting #1: City/Applicant Meeting Agenda (May 14, 2020)
26. Meeting #1: Meeting Minutes and Response Matrix (May 19, 2020)
27. Second Extension Request Letter from Applicant (May 21, 2020)
28. City Response to Second Extension Request Letter (May 22, 2020)
29. Meeting #2: City/Applicant Meeting Agenda (May 29, 2020)
30. Meeting #2: Meeting Minutes (June 3, 2020)
31. Meeting #3: City/Applicant Meeting Agenda (June 1, 2020)
32. Third Extension Request Letter from Applicant (June 2, 2020)
33. City Response to Third Extension Request Letter (June 3, 2020)
34. Meeting #3: Meeting Minutes and Response Matrix (June 3, 2020)
35. Revised UZDP Submittal Intake Checklist (June 22, 2020)
 - 35.a. Cover Letter (June 22, 2020)
 - 35.b. Boundary Topographic Survey (June 22, 2020)
 - 35.c. Legal Description (June 12, 2020)
 - 35.d. Critical Areas Review (June 22, 2020)
 - 35.e. Density Calculation Worksheet (June 22, 2020)
 - 35.f. Departure – Block Length (June 22, 2020)
 - 35.g. Project Narrative and Code Criterion Compliance Summary (June 22, 2020)
 - 35.h. Project Narrative and Code Criterion Compliance Summary Review Matrix and Response (June 22, 2020)
 - 35.i. Deviation - Maximum Block Length (June 22, 2020)
 - 35.j. Deviation – Minimum Block Length (June 22, 2020)
 - 35.k. Department of Ecology Response (June 22, 2020)
 - 35.l. Eastside Fire and Rescue Review Sheet (October 30, 2019)
 - 35.m. Preliminary Geotechnical Engineer Report (June 22, 2020)
 - 35.n. Preliminary Geotechnical Engineer Report Review Matrix and Response (June 22, 2020)
 - 35.o. Muckleshoot Tribe Response (June 22, 2020)
 - 35.p. Site Plan Set (June 22, 2020)
 - 35.q. Site Plan Set Review and Response Matrix (June 22, 2020)

- 35.r. Public Comment Response Matrix (June 22, 2020)
- 35.s. Project Renderings (June 22, 2020)
- 35.t. SEPA Environmental Checklist (June 22, 2020)
- 35.u. SEPA Environmental Checklist Review and Response Matrix (June 22, 2020)
- 35.v. Sammamish Plateau Water and Sewer District Response Letter (June 19, 2020)
- 35.w. Stormwater Facility Information Forms – Vaults A, B, and C (June 22, 2020)
- 35.x. Technical Information Report (June 19, 2020)
- 35.y. Technical Information Report Review and Response Matrix (June 22, 2020)
- 35.z. Traffic Impact Analysis Report (June 20, 2020)
- 35.aa. Traffic Impact Analysis Report Review and Response Matrix (June 22, 2020)
- 36. Second Letter of Completeness (July 13, 2020)
- 37. Notice of Revised Application and 120-Day Clock Exceedance (July 20, 2020)
- 38. Letter of Extended Review (September 30, 2020)
- 39. Notice of Extended Review (October 8, 2020)
- 40. Notice of Decision of Denial (November 13, 2020)

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I. TOWN CENTER BACKGROUND INFORMATION

The design and development of the Town Center subarea are guided by the City's Comprehensive Plan, Town Center Subarea Plan, Sammamish Municipal Code (SMC) Title 21B, and the Town Center Infrastructure Plan for the TC-A1 zone otherwise known as the Core Mixed-Use (CMU) area.

A. Comprehensive Plan¹

The Town Center subarea is a mixed-use center within the City that provides an opportunity for various housing types, specialty retail and restaurants, professional services, pedestrian and transit connections, civic and community services, and recreational uses. The Town Center subarea has a distinctive design character focusing on promoting sustainability by balancing the natural and built environment. The Comprehensive Plan's Land Use Goal LU.3 describes the Town Center subarea as a designed commercial/mixed-use center planned to host a diversity of high-quality places to live, work, shop, and recreate.

Town Center subarea zoning designations reflect the Town Center Plan (Figure 2). The purpose of the mixed-use (TC-A) zones is to develop core mixed-use areas that are vibrant and walkable. Sub-zone TC-A1 provides a pedestrian-oriented mix of retail, office, residential, and civic uses that function as the focal point for the Town Center and the City. This sub-zone emphasizes pedestrian-oriented retail and civic uses on the ground floor with office and residential uses on the upper floors.

The mixed residential (TC-B) zone provides a mixture of housing types that support the desired activities of adjacent mixed-use zones and opportunities for commercial development in certain cases. The lower intensity residential (TC-C) zone provides predominately single detached dwelling units and cottage housing that buffer existing residential communities from more intensively developed Town Center zones.

The civic campus (TC-D) zone provides open space, recreational, civic uses, and residential uses that serve the entire City. The reserve zone (TC-E) allows current uses to remain while preserving the opportunity for future development.

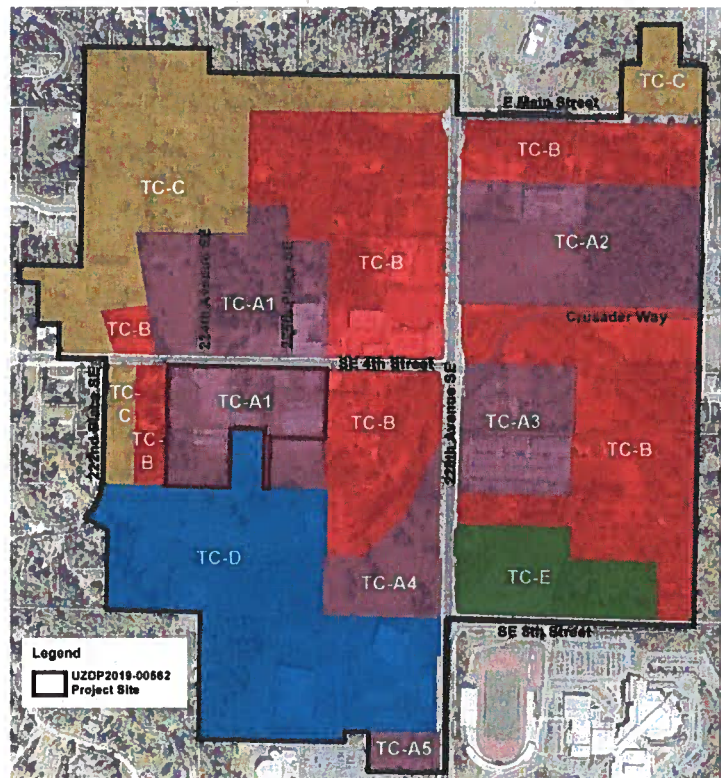


Figure 2: Town Center Subarea Zoning Map

¹ Ordinance O2015-396. 2015. City of Sammamish Comprehensive Plan. City of Sammamish

B. Town Center Plan²

The Town Center Plan, adopted in 2008 and amended in 2020, provides a framework with specific goals and policies for the subarea's land use, transportation, open space, trails and public facilities, natural systems, design, and housing elements. The Plan envisions the Town Center as a vibrant, urban, family-friendly gathering place in a healthy natural setting where the City's sense of community reflects a balance between its natural and urban characteristics. To accomplish the vision for integrated urban and natural qualities, the Plan incorporates the following fundamental concepts:

- **Focus mixed-use development into village centers:** The Plan envisions village type centers in each of the four quadrants. The villages in the northeast and southeast quadrants are primarily neighborhood-oriented, providing local services and opportunities for offices. A larger CMU development area is centralized within the Town Center's western quadrants and focused near SE 4th Street around an open space spine and encircled with multi-family residences. The City's most intense development (up to 6 stories) is encouraged in this primary mixed-use core.
- **Provide a variety of housing types:** To encourage a diversity of housing to meet the needs of current and future residents, the Plan calls for a mix of multi-family, townhouse, cottage housing, and single-family units. These will provide housing choices, allow for affordable housing initiatives, reduce impacts, and support desired commercial uses.
- **Create a comprehensive system of parks, open space, and trails:** Building on the Sammamish Commons and protected stream and wetland corridors, the Plan calls for a system of parks, open spaces, trails, and natural areas that provide a wide variety of recreational opportunities, environmental enhancements, and physical connections to all four quadrants of the subarea.
- **Employ an integrated strategy for managing stormwater and enhancing the natural environment** The Town Center offers an opportunity to "do it right" in terms of environmentally sensitive development and comprehensive ecological enhancement. To be effective, environmental management and ecological enhancement activities must be combined in a comprehensive strategy that integrates low impact development (LID) techniques to more closely emulate the natural hydrology.
- **Construct an efficient circulation system:** The roadway system emphasizes pedestrian and bicycle travel and promotes transit use.
- **Provide important community and civic facilities:** Public facilities accommodating recreation, senior, youth and community activities, library and educational resources, social services and other civic functions are clustered around the Commons for greater access, shared use of parking, and other infrastructure, and the synergy that results from a mix of activities.
- **Establish a distinctive design character:** The envisioned design character emphasizes integration with the natural rolling and wooded landscape and new buildings that exhibit an intimate scale, inviting architectural character, high-quality construction, and integration with the Town Center's natural setting.
- **Sustainability:** Development of the Sammamish Town Center is an opportunity to encourage maintenance and enhancement of the health, diversity, and productivity of the environment for the benefit of future generations. The Town Center should be developed using ecologically sustainable building and development practices, including, but not limited to, LID, Green Building and/or LEED techniques and certification process, and others.

² Ordinance O2010-232, O2020-496 and O2020-497. 2008 and 2020. [Town Center Plan](#). City of Sammamish.

C. Town Center Infrastructure Plan³

The Town Center Infrastructure Plan, adopted in 2010, identifies the infrastructure needed to develop the CMU area identified in the Comprehensive Plan and Town Center Plan as the TC-A1 zone. This is where the maximum development densities are placed along with the most highly pedestrianized streetscape and open space system. The CMU must be a vibrant civic, cultural, and economic center, connected to the surrounding neighborhoods by both an efficient transportation network and a system of public trails and pathways.

The Town Center Infrastructure Plan gives guidance to private entities regarding the CMU framework structure, core principles of the Plan, and selected guidelines to achieve the desired outcome.

D. SMC Title 21B Town Center Development Regulations⁴

The Town Center development regulations, adopted in 2010, implement the City of Sammamish Comprehensive Plan and Town Center Plan policies through land use regulations. Pursuant to SMC 21B.05.040(3), all land uses, and development authorized by SMC Title 21B shall comply with all other regulations and/or requirements of the title, and any other applicable local, state, or federal law. Where a difference exists between this title and other City regulations, the more restrictive requirements shall apply.

II. PROJECT DESCRIPTION AND REVIEW PROCESS

The Project Description and Review Process section is intended to provide a general overview of the project and the policies and regulations this proposal is reviewed under.

A. Project Description

The applicant (“STCA”) has proposed a neighborhood mixed-use development located in the TC-A1 zone, within the Southwest quadrant of the Sammamish Town Center Subarea (**Figure 1**). The development is sited on 8.09 acres and includes 82,000 square feet of commercial space located in four mixed-use buildings and one commercial use building. The proposal also includes 300 apartment units and 48 townhome units for a total of 348 residential units, of which 77 will be reserved for affordable housing.

The development proposes to implement the first segment of the secondary zone of the Green Spine, a public open space connecting the Sammamish Commons (Lower Sammamish Commons Park, Sammamish Community and Aquatic Center, City Hall, and King County Library) with the TC-A1 zone; multiple public streets and private alleys; and a pedestrian and bicycle network that links together public open spaces, commercial businesses, and residential areas.

The revised Project Narrative and Code Criterion Compliance Summary are included as **Exhibit 35.g**. A revised Site Plan is included as **Exhibit 35.p**.

B. Project Site

Site Location

The proposed development site consists of five King County tax parcels, comprising of 8.09 acres. The project site is located west of 228th Ave SE, south of SE 4th Street, north of the Lower Sammamish Commons Park between 222nd Avenue SE and 226th Avenue SE and within the portion of Southeast

³ Ordinance O2010-293. 2010. Town Center Infrastructure Plan. City of Sammamish.

⁴ Ordinance O2010-293. 2010. SMC Title 21B. City of Sammamish.

Quarter Section 33, Township 25 North, Range 6 East, W.M. King County Assessor Tax parcels included with this proposal are: 3325069024, 3325069085, 3325069016, 3325069138, and 3325069091 (**Figure 1**).

The subject parcels that make up the project site were previously developed with either single-family residences or large storage structures, many of which have been demolished prior to application. Rural residential parcels generally surround the project site except to the south and northeast. South of the project site is the Lower Sammamish Commons Park. Northeast of the project site is Sammamish Village, a mixed-use residential and commercial development.

A revised legal description is provided as **Exhibit 35.c**. A revised Boundary and Existing Conditions Plan is provided as **Exhibit 35.b**.

Site Vegetation, Critical Areas, and Wildlife

The project site is made up of pockets of forest and scrub/shrub vegetation; however, most vegetation in the project area consists of maintained lawn and landscaping. The unmaintained non-wetland areas are generally dominated by a canopy comprised of Douglas fir (*Pseudotsuga menziesii*) and Western red cedar (*Thuja plicata*). The understory is comprised of sparse Himalayan blackberry (*Rubus armeniacus*), cut-leaf blackberry (*Rubus lacianatus*), creeping buttercup (*Ranunculus repens*), hairy cat's ear (*Hypochaeris radicata*), and common velvetgrass (*Holcus lanatus*).

Pursuant to SMC 21B.35.200(3), significant trees and other vegetation in the TC-A zone must be retained within environmentally sensitive areas and associated buffers.

There is a depressional emergent wetland on the project site located on parcel 3325069085 near the intersection of SE 4th Street and 224th Avenue SE. Wetland 14 is classified as a Category IV wetland with a habitat score of 4 and an associated buffer of 50'. Wetland 14 provides a moderate value for the hydrologic function, moderate to high value for water quality functions, and a low value for wildlife habitat. A portion of this wetland was filled as part of the City's improvement to SE 4th Street. Development proposals on property containing a wetland and associated buffer must comply with SMC 21A.50.290-320.

A Class 2 CARA, 10-year Time of Travel Wellhead Protection Zone for a Group A water supply well has been identified on the northeast corner of the project site⁵. Development proposals on property containing a CARA must comply with SMC 21A.50.280.

Given the habitat available and the proximity to a designate wildlife habitat corridor, a variety of mammalian, avian, and amphibian species may utilize the site. Species may include Columbian black-tailed deer (*Odocoileus hemionus columbianus*), coyotes (*Canis latrans*), Eastern cottontail rabbits (*Sylvilagus floridanus*), raccoons (*Procyon lotor*), mallard (*Anas platyrhynchos*), American crow (*Corvus brachyrhynchos*), Stellar's jay (*Cyanocitta stelleri*), Black-capped chickadee (*Poecile atricapillus*), and Dark-eyed junco (*Junco hyemalis*).

More information related to site vegetation, critical areas, and wildlife habitat can be found in the Critical Area Report dated October 16, 2019 and is included as **Exhibit 13.e**.

Site Geology

⁵ 2006 Critical Aquifer Recharge Areas Map. City of Sammamish.

The project site features a relatively gradual southern facing slope. The underlying soils are mostly Vashon lodgement till. Vashon lodgement till is a dense, poorly sorted mixture of clay, silt, sand, and gravel. Vashon lodgement till is suitable for structure and pavement support, however due to its high content of fine-grained sediments and high density, is not suitable for stormwater infiltration.

More information related to the existing geological conditions can be found in the revised Preliminary Geotechnical Report dated June 22, 2020 and is included as **Exhibit 35.m**.

C. Property Ownership

A title report (**Exhibit 13.r**) was submitted for five tax parcels verifying STCA owns the project site except a 30' public right-of-way, which is owned by the City of Sammamish (**Exhibit 6**).

D. Zoning Designation

The Comprehensive Plan Future Land Use Map and Zoning Map identify the project site as located in the TC-A1 zone (**Figure 2**). The project must comply with the zoning controls applicable to the TC-A1 zones.

E. UZDP Approval Required

In accordance with SMC 21B.95.020, a UZDP is required for this project.

The purpose of a UZDP application is to ensure that development in the TC-A zones proceeds in an orderly fashion such that infrastructure and open space, appropriate intensities of uses, and mutually compatible development are consistent with the adopted Sammamish Town Center Plan and the Town Center Infrastructure Plan for applications in the TC-A1 zone. The approval of a UZDP is required before issuance of subsequent land use and building permits to provide both the City and applicant and/or property owners certainty regarding the requirements, conditions, and means to support new development.

An approved UZDP will result in an agreement between the applicant and the City describing the terms under which permits will be reviewed. Development permit applications will also be reviewed for conformance to other provisions of the SMC. The requirements stated in the UZDP must address the parameters and conditions stated in SMC 21B.95.040.

F. UZDP Review Process

UZDPs are Type 2 decisions made by the City of Sammamish Department of Community Development Director ("Director") in accordance with SMC 20.05.020. Type 2 decisions require compliance with the review process described in Chapter 20.05 SMC. The UZDP process generally includes a notice of application, a 21-day public comment period, an open house, and project review timelines for City review of application materials, with time allowed for applicant response. The review process culminates with the Director's decision based on the approval criteria outlined in SMC 21B.95.060.

G. State and Federal Agencies with Jurisdiction

Pursuant to SMC 21B.05.040, all land uses and development authorized by SMC Title 21B shall comply with all other regulations and/or requirements of other applicable local, state, or federal law. This includes, but is not limited to, meeting the requirements of the Washington State Department of Fish and Wildlife, Washington State Department of Natural Resources, and Washington Department of Ecology.

III. ANALYSIS

STCA has not demonstrated compliance with the requirements for approval of a UZDP pursuant to SMC 21B.95.060. As described within this section, approval of a UZDP requires compliance with the applicable procedural and technical requirements of SMC Title 21B and 21A; UZDP planning principles described in SMC 21B.95.050; the 2016 Public Works Standards and other public plans and requirements; and the goals and policies of the Town Center Plan.

A. The Applicable Procedural and Technical Requirements of SMC Title 20, Title 21A, and Title 21B.

The UZDP does not satisfy the procedural and/or technical requirements of the SMC including:

1. Administrative Procedures

Pursuant to SMC 20.05.020(2), land use permit decisions for Type 2, 3, 4 decisions may be consolidated, processed, and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application. A UZDP and Binding Site Plan are Type 2 land use permit decisions made by the Director and appealable by the Hearing Examiner. A Preliminary Subdivision is a Type 3 land use permit decision involving a recommendation by the Director and a hearing and decision by the Hearing Examiner.

Analysis

Originally, the City intended to bundle and process the applications for a Unified Zone Development Plan (UZDP2019-00562), Preliminary Subdivision (PSUB2019-00563), and Binding Site Plan (BSP2019-00564) concurrently in accordance with the procedures for a Type 3 Land Use Decision Permit and pursuant to SMC 20.05.020(2). However, while the categories of plans, reports, and supporting documents originally submitted by STCA fulfilled the requirement for a facially complete application, subsequent review of the content of the submitted materials revealed significant substantive deficiencies, particularly with regard to the UZDP. The City engaged STCA in writing and meetings in order to thoroughly and specifically address requirements necessary for UZDP approval: the City provided several pages of comments and suggested revisions in its March 10, 2020 letter (See Exhibit 20), met with STCA on May 14, 2020, May 29, 2020, and June 1, 2020, and, after each meeting, the City provided STCA with meeting minutes containing detailed summaries of the UZDP requirements and expectations (See Exhibits 26, 30, and 34, respectively). Each one of these numerous communications with STCA contained specific instructions to assist STCA in developing a UZDP capable of approval. Because the UZDP fails to meet these clear instructions, the City is unable to process additional permits for which an *approved* UZDP is a condition precedent.

Conclusion

The Preliminary Subdivision and Binding Site Plan applications are contingent on an approved UZDP pursuant to SMC 21B.95.040(2). The denial herein of the UZDP accordingly results in the cessation of Preliminary Subdivision and Binding Site Plan review.

2. General Application Requirements

Pursuant to SMC 20.05.040(1)(r), UZDPs applications are required to include verification that the property affected by the application is in the exclusive ownership of the applicant, or the applicant has a right to develop the site, and that the application has been submitted with the consent of all owners of the affected property.

Analysis

The UZDP (both original and revised documents) include development of City owned public right-of-way, which extends from SE 4th Street to the northern boundary of the Lower Sammamish Commons Park property (**Exhibit 6**). STCA indicated on the UZDP application form dated November 4, 2019 that they were in complete control of all parcels in the application (**Exhibit 13**). STCA has not obtained permission from the City to include the 30' wide public right-of-way as part of the UZDP nor have they initiated the street vacation process as described in the 2016 Public Work Standards, Appendix I. City staff does not have the authority to grant a right-of-way use application for this proposal, nor can staff assume that property not owned by STCA will be acquired through a formal street vacation process at some later date.

Conclusion

The UZDP does not comply with SMC 20.05.040 and will therefore be denied.

3. Critical Areas - Critical Aquifer Recharge Areas (CARA)

Pursuant to SMC 21A.50.130, applicants are required to submit a critical areas study prepared by a qualified professional using guidance based on best available science pursuant to Chapter 36.70A RCW. A critical area study must disclose to the City the presence of critical areas such as Critical Area Recharge Areas (CARA), on the project site.

Wellhead protection areas (WHPA) have been established to protect surface and subsurface areas surrounding wells and well fields that supply public water. Protection areas reduce the possibility that contaminants are able to reach the aquifers and wells and affect water quality. A WHPA is defined as the surface and subsurface area surrounding a well through which potential contaminants are likely to pass and reach the wells. In Washington, WHPAs are defined based on the time of travel (TOT) for groundwater to move from its point of infiltration to its point of discharge at the well.

CARAs are defined in SMC 21A.15.253 as areas in the City with a critical recharging effect on aquifers used for potable water. CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater. Class 2 CARAs include those areas located within the mapped 10-year capture zone of a wellhead protection area. Development proposals on property containing a CARA must comply with SMC 21A.50.280.

Analysis

Based on the 2006 Critical Aquifer Recharge Areas (CARA) Map and the Sammamish Property Tool⁶, a Class 2 CARA, 10-year TOT Wellhead Protection Zone for a Group A water supply well has been identified on the northeast corner of King County parcel number 3325069091.

In the Preapplication Meeting Minutes dated May 23, 2019 (**Exhibit 9**), the City informed STCA that a Class 2, 10-year TOT CARA was located in the northeastern portion of the project site. STCA still did not include a CARA analysis within the Critical Areas Study dated October 16, 2019 (**Exhibit 13.e**) as required in SMC 21A.50.130 nor did it include a hydrogeologic critical area assessment report.

STCA submitted a revised Technical Information Report (TIR) dated June 19, 2020, that states the *“project site is not located within a CARA”* (**Exhibit 35.x**). Yet, the TIR includes the 2006 CARA Map identifying the location of the Class 2, 10-year TOT CARA on the project site. The TIR map identifies

⁶ Sammamish Property Tool -

<https://cityofsammamish.maps.arcgis.com/apps/webappviewer/index.html?id=502ef0f4845147f99868cffe497612d0>

the project site incorrectly and does not include all the parcels that make up the project site, including parcel 3325069091 where the CARA is located.

Conclusion

The UZDP does not comply with SMC 21A.50.130 and will therefore be denied.

4. Critical Areas – Wetland and Associated Buffer

Development proposals on property containing a wetland and associated buffer must comply with provisions of SMC 21A.50.290-320.

Analysis

In accordance with SMC Chapter 21A.50, STCA has provided a Critical Areas Study prepared by Wetland Resources, Inc dated October 16, 2019 (**Exhibit 13.e**). The Critical Area Study identified a depressional emergent wetland (Wetland 14) on the project site located on parcel 3325069085 near the intersection of SE 4th Street and 224th Ave SE. Wetland 14 is a Category IV isolated, depressional wetland with no outlet and is surrounded by upland development overfill. It is highly disturbed, small, and low in functionality and may be of anthropogenic origin, as indicated by condition, and lack of tree and shrub strata. Wetland 14 provides minimal water quality functions. Although the surrounding land use suggests the opportunity to treat water quality and quantity, this urbanized area is likely well-equipped with controlled and treated stormwater design facilities. Wetland 14 may provide some limited hydrologic functions, such as stormwater capture and infiltration, because of its position near upland development. However, the wetland area is small, and storage capacity is deficient, so hydrologic function is limited to minor reductions of surface flows during storm events.

The northern portion of Wetland 14 was previously impacted by the City's SE 4th Street Improvements project. The project added a roundabout at the intersection of 224th Ave SE and SE 4th Street with a road stub stub-out for future connectivity to the south. As proposed, the project will connect to this existing stub-out and extend 224th Avenue SE (a public right-of-way) south in accordance with the Town Center Infrastructure Plan. STCA's consultant has provided a detailed analysis of this circumstance in their study submitted with the UZDP application. The alteration of this wetland is proposed to be accomplished through the Public Agency and Utility Exception allowed pursuant in SMC 21A.50.070(1) (a-b). The impacts of filling Wetland 14 are also addressed by providing enhanced functions and values equivalent to those associated with the impacted area in a regional wetland mitigation bank through a fee-in-lieu program. This program is known as the King County Mitigation Reserves Program.

The City has determined the proposed alteration meets the applicable criteria in SMC 21A.50.070(1)(a)-(b). The City sent the Critical Area Study to its third-party environmental review consultant Environmental Science Associates (ESA) for their review and comments. ESA indicated that based on their assessment of the study, they agreed that proposed impacts by filling the existing Wetland 14 is consistent with allowances under SMC 21A.50.070(1) (a-b), and that the proposed mitigation approach for the impacts is appropriate (**Exhibit 20.j**). ESA also noted that the STCA has received concurrence from the Army Corps of Engineers that the features of Wetland 14 are isolated and as such determined to not be jurisdictional under the Clean Water Act.

The City's critical area regulations allow mitigation in the form of credits from a wetland mitigation bank or a fee-in-lieu when the criteria set forth in SMC 21A.50.315(1) or (2) are met. Both of these options are/will be available for mitigation within WRIA 8 and meet the requirements of SMC 21A.50.315 (1) and (2).

Conclusion

The UZDP does comply with SMC 21A.50.070(1)(a) and (b) and SMC 21A.50.315(1) and (2).

5. UZDP – Neighborhood Context

Pursuant to SMC 21B.95.020, the UZDP must contain assurances that infrastructure and circulation systems can be constructed to serve other properties in the area in a manner consistent with the City's plans and standards and the adopted Town Center Infrastructure Plan.

Analysis

The UZDP does not identify a conceptual development plan for adjacent parcels on a Neighborhood Context Map or other such document. More specifically, the UZDP does not address future build-out of Blocks 8 and 9 as shown in the Project Narrative and Code Criterion Compliance Summary dated June 22, 2020, and the impacts that development may have on the area of the Lower Sammamish Commons Park commonly referred to as the "Notch" property (**Exhibit 35.g**). The little that is shown in the summary document identifies a potential north-south street connection between SE 5th Street and SE 6th Street. This connection does not comply with minimum intersection spacing requirements in the 2010 Town Center Interim Street Design Standards. This example highlights the need for STCA to thoughtfully examine the impacts of the UZDP as it relates to future infrastructure and circulation systems. Because this has not been done, the City cannot determine if the UZDP satisfies this requirement in SMC 21B.35.020.

Conclusion

The UZDP does not comply with SMC 21B.95.020 and therefore is denied.

6. UZDP – Project Boundary

Pursuant to SMC 21B.95.040(2), all areas within the UZDP's boundary must be described with enough detail such that the City can determine whether the UZDP planning principles in SMC 21B.95.050 are met and that future permit applications such as a Binding Site Plan and Preliminary Subdivision are consistent with an approved UZDP.

Analysis

The UZDP contains insufficient information from which to determine whether the gross site area of the UZDP is accurate. STCA submitted the UZDP along with a Binding Site Plan and Preliminary Subdivision application to be processed and reviewed concurrently pursuant to the City's discretion and in accordance with SMC 20.05.020(2). During the review of all three applications, the City discovered that the applications are inconsistent, in conflict among themselves, and ultimately with code requirements. The gross site area identified on the revised UZDP Site Plan dated June 22, 2020, does not equal the total gross site areas of the Binding Site Plan and Preliminary Subdivision applications (**Exhibit 35.p**). More specifically, both the Binding Site Plan and Preliminary Subdivision applications include project areas located outside of the project boundary identified on the UZDP. The Binding Site Plan includes two tracts outside of the UZDP project area, Tract M and Tract N, with no use identified, which by itself fails to meet SMC 19A.20.030. The Preliminary Subdivision also identifies Tract N but refers to it as Tract L and describes it as future development.

STCA cannot use the land division process of a Preliminary Subdivision and Binding Site Plan application to circumvent the UZDP submittal requirements.

Conclusion

The UZDP does not comply with SMC 21B.95.040(2) and therefore is denied.

7. UZDP - Density and Dimensions

Residential density in the Town Center subarea is calculated in accordance with Chapters 21B.25 and 21B.75 SMC.

Analysis

STCA submitted a revised Residential Density Calculation Worksheet (hereafter "Worksheet") on June 22, 2020, that presented insufficient and erroneous information (**Exhibit 35.e**). The Worksheet requires adding the gross site area of the project site to determine minimum allocated and maximum density as well as the number of affordable housing units required for the UZDP. As discussed in **Section III.A.6 UZDP Project Boundary**, the City cannot determine if residential density, including the number of affordable housing units proposed, is accurate based on the project site's unsubstantiated gross site area.

STCA also included "corrections" in red on the revised Residential Density Calculation Worksheet purporting to correct errors STCA alleges were created by the City on its official form to determine residential density for a project site (**Exhibit 35.e**). The Worksheet was created as an attachment to a Director's Interpretation issued on May 2, 2017 (**Exhibit 4**). The City e-mailed the Director's Interpretation to STCA on the same day the Interpretation was issued, notifying STCA of the Interpretation as well as the 21-day appeal period that followed (**Exhibit 5**). No appeals were filed within that period, nor have any questions been raised in the ensuing years, including the development and approval of a Memorandum of Understanding in which the Worksheet was included as an attachment (**Exhibit 7**) nor at the Preapplication Meeting on May 23, 2019, when the City addressed the Interpretation and Worksheet as part of the Meeting Notes (**Exhibit 9**). It wasn't until this year that STCA questioned the accuracy of the City's interpretation of SMC 21B.25.030 and SMC 21B.75.020 through their "corrected" submittal of the density calculation worksheet on June 22, 2020.

Conclusion

The UZDP does not comply with Chapters 21B.25 and 21B.75 SMC and therefore is denied.

8. Bonus Residential Density

Pursuant to SMC 21B.25.040(2)(b) applications requesting available bonus commercial and residential development capacity awarded by the City from its TC-D residential density allocation must first demonstrate as part of a pending land use application a higher level of design performance than those specifically required in the Town Center development regulations.

Analysis

STCA's purports that the UZDP design elements and development features are listed in SMC 21B.25.040(2)(b) and will contribute to the Project's eligibility for bonus commercial and/or residential capacity for a future phase. However, the Project Narrative and Code Criterion Compliance Summary (both original and revised documents) submitted with the UZDP application do not specify

what design elements of its proposal demonstrate that higher level of performance; it simply restates the Code's list of design elements but does not identify which ones have been incorporated into the development proposal.

Failure to identify the design elements in the UZDP does not comply with the eligibility requirements to purchase the TC-D residential allocation. STCA also states that the TC-D residential allocation will be used as part of a future development phase if purchased from the City. However, this banking of allocations is not allowed pursuant to SMC 21B.25.040(2)(d).

Furthermore, the TC-D residential allocation cannot count towards an application's bonus density under the governing Interlocal Agreement between the City and King County (**Exhibit 3**). As stated in Section D-II of the King County Interlocal Agreement as well as the Preapplication Meeting Notes dated May 23, 2019 (**Exhibit 9**), the first 20 development rights or TDRs used for additional residential and commercial development capacity in the Town Center must be those purchased through the King County program. STCA has purchased these 20 TDRs, but they have not been exhausted as part of an approved building permit. Until these 20 TDRs are exhausted, development rights from other programs such as the TC-D residential density allocation program may not be utilized.

Conclusion

The UZDP does not comply with SMC 21B.25.040(2)(b) and therefore is denied.

B. Adherence to Unified Zone Development Planning Principles.

The UZDP does not adhere to the UZDP Planning Principles including:

1. Pedestrian Circulation

SMC 21B.95.050(1)

Pursuant to SMC 21B.95.050(1)(d), development proposals in the TC-A1 zone must conform to the Americans with Disabilities Act (ADA) standards and incorporate Crime Prevention Through Environmental Design (CPTED) guidelines.

Staff Analysis: ADA and CPTED Requirements

STCA has not demonstrated compliance with SMC 21B.95.050(1)(d) by failing to provide the basic design information needed to fully address how the proposal for the pedestrian and bicycle network conforms to ADA standards and CPTED guidelines.

In both the Preapplication Meeting Minutes dated May 23, 2019 (**Exhibit 9**) and the City's Plan Review Summary dated March 10, 2020 (**Exhibit 20.d**), the City specifically requested that the UZDP site plan be updated to include spot elevations for pedestrian-oriented spaces and corridors to confirm compliance with SMC 21B.30.060(7) and SMC 21B.30.160(1)(g). STCA responded to the review comment by stating that full design, including compliance with ADA requirements, would be provided at final design (**Exhibit 35.q**). The City repeatedly advised STCA that the information is required at the time of application and cannot be deferred to final design.

The City also requested that STCA provide necessary information demonstrating compliance with CPTED guidelines by providing an illumination plan identifying lighting levels as required in SMC 21B.30.160(1)(d)(ii) and SMC 21B.30.190 (**Exhibit 20.d**). STCA again responded that analysis of lighting levels would be deferred to final design. STCA also asserted that it was acceptable that the project be

conditioned to defer fulfillment of this requirement suggesting that the UZDP could be reviewed and approved without the required information (**Exhibit 35.q**).

Conclusion

The UZDP does not comply with the UZDP planning principle for pedestrian circulation and therefore is denied.

2. Vehicle Circulation

SMC 21B.95.050(2)

Pursuant to SMC 21B.95.050(2)(a), development proposals for the TC-A1 zone must comply with the Town Center Infrastructure Plan which identifies the infrastructure needed and principles and application required to develop the TC-A1 zone. The Plan describes the street right-of-way as highly pedestrianized where pedestrian and bicycle circulation are on par with vehicle circulation. Streetfront orientation includes street level commercial uses such as cafes, restaurants, and shop fronts that spill out onto the sidewalk. Sidewalks act as gathering areas allowing commerce and non-commercial recreation to contribute to the vibrancy of this highly pedestrianized streetscape.

To implement the Plan's vision and pursuant to SMC 21B.30.030a, 21B.30.030(1), 21B.30.040(2)(b), and 21B.30.120(2), the appropriate streetfront orientation standard for the TC-A1 zone is the pedestrian-oriented street designation. Pedestrian-oriented streets are intended feature continuous storefronts (located within 3' of the sidewalk), wide sidewalks, street trees, bioretention, and on-street parking.

Staff Analysis: Street Designation

STCA has not demonstrated compliance with SMC 21B.95.050(2)(a) by failing to designate all proposed streets as pedestrian-oriented.

In both the Preapplication Meeting Minutes dated May 23, 2019 (**Exhibit 9**) and the City's Plan Review Summary dated March 10, 2020 (**Exhibit 20.d**), the City specifically reminded STCA that all streets within the TC-A1 zone must be designated as pedestrian-oriented only. The City also discussed this direction as part of its follow-up meetings with STCA on May 14, 2020 (**Exhibit 26**) and May 29, 2020 (**Exhibit 30**), in which the City stated that in order to implement the Town Center Infrastructure Plan, all streets within the TC-A1 zone must be pedestrian-oriented streets and must comply with the design requirements outlined in SMC 21B.30.030(1), 21B.30.040(2)(b), and 21B.30.120(2). STCA's response was to maintain the mixed-use street designation for four street segments within the TC-A1 zone based on STCA's interpretation of SMC 21B.30.040(2) and asked for the City to reconsider its position. If the City was unwilling to reconsider, STCA requested that an explanation as to why a mixed-use street designation will not be considered in the TC-A1 zone, although an explanation had already been provided more than once (**Exhibit 35.h**).

As previously stated, the Town Center Infrastructure Plan provides a clear vision for the TC-A1 zone. The pedestrian-oriented street designation supports this vision whereas the mixed-use street designation does not. Mixed-use streets designations as described in SMC 21B.30.030 provide an opportunity for residential only uses such as townhomes which by design does not provide the commercial and retail space desired and required for the TC-A1 zone. Refer to **Section III 6 Building Scale and Compatibility** for further discussion related to townhomes.

Staff Analysis: Street Access and Congestion

In both the Preapplication Meeting Minutes dated May 23, 2019 (**Exhibit 9**) and the City's Plan Review Summary dated March 10, 2020 (**Exhibit 20.d**), the City specifically requested that STCA provide a vehicle circulation plan that complies with the 2015 International Fire Code and 2016 Public Works Standards.

STCA has not demonstrated compliance with the 2015 International Fire Code and Chapter 9 of the 2016 Public Works Standards, instead proposing an alley design that does not meet the minimum width requirements to accommodate a fire truck, and that, contrary to what is required, provides primary vehicle access to residential lots without full frontage on a public street, and includes intersections and 90-degree bends. The City's Plan Review Summary dated March 10, 2020 specifically requested that alleys should be a minimum of 20' wide to accommodate a fire truck (**Exhibit 20.d**). STCA responded that they "understood", and that the City should refer to the revised site plan set submitted on June 22, 2020 (**Exhibit 35.q**). The revised plan set did not address the review comment as the paved alley width proposed is only 16'-wide (**Exhibit 35.p**).

STCA has also proposed a lot configuration that fronts a common open space with alleys serving as the primary access (**Exhibit 35.p**). Pursuant to Chapter 9.3.A and G of the 2016 Public Work Standards, alleys are only allowed for primary access when lots served have full frontage on a public street. STCA has also proposed an alley design with intersections and 90-degree bends which is noncompliant with Chapter 9.3.I of the 2016 Public Work Standards (**Exhibit 35.p**). Any alignment other than straight must have approval by the Public Works Director which STCA has not applied as part of the revised application submitted on June 22, 2020 (**Exhibit 35**).

Conclusion

The UZDP does not comply with the UZDP planning principle for vehicle circulation and therefore is denied.

3. Parking and Access

SMC 21B.95.050(3)

Pursuant to SMC 21B.95.050(3) development applications must fulfill the intent of the parking standards in SMC Title 21B SMC and Chapter 21B.40 SMC; locate parking, especially nonstructured parking, at the periphery of the mixed-use nodes; and exploit joint-use parking opportunities where possible.

Staff Analysis

STCA has demonstrated compliance with SMC 21B.95.050(3) by designing parking garages that accommodate the required parking needed to support the development proposal and potential joint-use parking opportunities.

In the revised Project Narrative and Code Criterion Compliance Summary dated June 22, 2020 (**Exhibit 35.g**) and Review and Response Matrix dated June 22, 2020 (**Exhibit 35.h**), the development proposal includes two parking garage structures (A and B) configured within Blocks 5-7 that maximize efficient and safe layout, circulation, and access supporting the mix of uses proposed. The parking garages are also designed to obscure the view of parked cars at the ground level.

Parking Garage Structure A is designed with four underground levels (U1-U4), which extend below the Green Spine open space and serve the proposed mixed-use development above within Block 5 and 6. Parking Garage Structure B is designed with three underground levels (U1-U3), which extend below

and serve the proposed commercial development above within Block 7. In total, STCA proposes to locate 925 garage parking spaces to support residential and commercial uses. STCA is also proposing 34 on-street parking spaces as required by the 2010 Town Center Interim Street Design Standards.

The UZDP meets the minimum parking requirements pursuant to SMC 21B.40.030.

STCA is also proposing “surplus parking spaces that may be available for private/public lease and/or use during special events pending final shared/joint parking analysis per determination of specific commercial tenants (retail/restaurant/office).”

Conclusion

The UZDP does comply with the UZDP planning principle for parking and access.

4. Open Spaces

SMC 21B.95.050(4)

Pursuant to SMC 21B.95.050(4)(a)(c)(g) development proposals within the TC-A1 zone are required to have at least one central open space, such as a City Square, that connects directly to the Sammamish Commons, is ADA compliant, incorporates CPTED guidelines, takes the form of a Green Spine, and complies with the adopted Town Center Infrastructure Plan.

The Green Spine is composed of a hierarchy of spaces and is categorized into three zones; Primary, Secondary, and Neighborhood Transition (Figure 3). North of the Lower Sammamish Commons Park is the Primary Zone which is considered the Town Center’s “City Square”. This block-size, highly active pedestrian public open space must incorporate a variety of forms, colors, and textures, including public art, water features, and a range of different places to sit and gather.

Staff Analysis: City Square

STCA has not demonstrated compliance with SMC 21B.95.050(4)(a)(c)(g) by failing to include the City Square, the primary zone of the Green Spine as part of the UZDP.

STCA originally proposed that the City Square be located on City owned property (i.e. Lower Sammamish Commons Park) (Exhibit 13.j). The City responded, as summarized in the Plan Review Summary dated March 10, 2020, that the area where STCA proposed to locate the City Square is actually identified in the Town Center Infrastructure Plan as the secondary zone of the Green Spine and directed STCA to locate the City Square south of SE 4th Street between Blocks 5

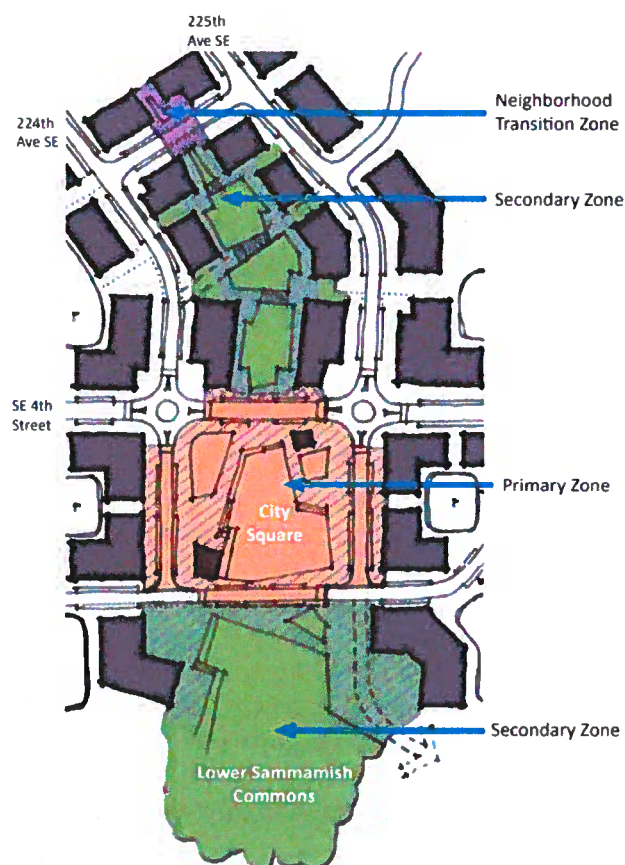


Figure 3: The Green Spine as described in the Town Center Infrastructure Plan

and 6 on the proposed site plan. The City also directed STCA that the design of the City Square must adhere to the primary zone development guidelines described in the Town Center Infrastructure Plan and as required by SMC 21B.95.050(1)(g) (**Exhibit 20.a**).

Following the issuance of the City's review comments, the City and STCA further discussed the location of the City Square at a meeting held on June 1, 2020. During this discussion, STCA argued that the concepts identified in the Town Center Infrastructure Plan provided flexibility in locating the City Square to a site other than as directed by the City and that the City should contribute financially to its development as referenced in the Town Center Plan. The City responded and stated that any design alternative proposed or financial contributions by the City needed to be negotiated prior to submitting the UZDP. The City also reminded STCA that the cost estimates summarized in the Town Center Plan serve as a guide for the City to consider when developing its annual capital improvement plans and in no way commits the City to any financial investments towards the development of the Green Spine and City Square. Following the June 1, 2020 meeting, the City further reviewed the Town Center Plan, Infrastructure Plan, and SMC Title 21B and confirmed that the planning documents and implementing regulations supported the City's initial review and direction. The City summarized its findings in the June 1, 2020 meeting minutes issued to STCA on June 3, 2020 (**Exhibit 34**).

In response to the City's initial review comments and the June 1, 2020 meeting, STCA submitted an updated site plan on June 22, 2020 proposing that the City Square be located north of SE 4th Street and excluded it altogether from the Phase I development proposal (**Exhibit 35.g**). STCA further described *"that they will work with the City to identify the appropriate area for a City Square north of SE 4th Street. That the City, as contemplated in the Town Center Plan and Infrastructure Plan, contributes to key infrastructure components, including the Green Spine, and that all this could be part of the final site selection process in future phases."*

The location of the Green Spine and City Square has been a point of discussion as far back as August 2018, when the City issued a Guide to Assist with the Development of the Green Spine⁷ and the Green Spine Design Companion⁸ to provide further guidance to applicants proposing development in the TC-A1 zone. On August 9, 2018, the City met with STCA to discuss the location of the City Square and the primary open space development guidelines. The City provided STCA with visual examples, links to adopted plans, regulations, and guidance documents as well as a list of design criteria that must be incorporated into the proposal to fulfill the City's vision of the Green Spine and City Square (**Exhibit 8**).

Additionally, during the May 23, 2019 preapplication meeting, the City informed STCA that if they were interested in further discussing design alternatives and any financial contribution by the City, an agreement would need to be negotiated prior to submitting a UZDP (**Exhibit 9**). This included any improvements proposed to the Lower Sammamish Commons Park. Following the preapplication meeting, STCA requested a meeting with the City on August 7, 2019 to discuss an updated concept for the Green Spine. The updated concept proposed that 50% of the site area identified as the Green Spine secondary zone located within the Lower Sammamish Commons Park will be allocated to full street improvements supporting STCA's development proposal (**Exhibit 11**). The City immediately cancelled the August 7, 2019 meeting and informed STCA via email that the concept did not address any of the review comments discussed during the preapplication meeting and that any private

⁷ Guide to Assist with Development of the Green Spine. 2018. City of Sammamish.

⁸ Green Spine Design Companion. 2018. City of Sammamish

development proposed on city property could not be approved by the Department and would require an agreement proposed by STCA to and approved by City Council (**Exhibit 12**).

As summarized in the Preapplication Meeting Notes dated May 23, 2019, and discussed on June 1, 2020, STCA has neither proposed nor reached an agreement with the City related to the Green Spine or City Square and any financial contribution by the City (**Exhibit 9**). As explained, the Department has no authority to commit the City to such an agreement, which would have had to been proposed by STCA, negotiated with, and approved by the City Council prior to submitting an application.

Conclusion

The UZDP does not comply with the UZDP planning principle for open space and therefore is denied.

5. Natural Systems and Environmental Quality

SMC 21B.95.050(5)

Pursuant to SMC 21B.95.050(5)(b), development proposals must indicate how low impact development (LID) techniques and Town Center Goal NS-1 and supporting policies are incorporated into the development proposal. SMC 21B.15.230 defines LID as a stormwater and land use management strategy that strives to mimic predisturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

The Town Center Stormwater Standards in Chapter 21B.85 SMC require that development proposals fully incorporate stormwater and land use management LID into all aspects of the project design. Stormwater LID or Flow Control Best Management Practices (BMPs) are methods and designs for dispersing, infiltrating, or otherwise reducing or preventing development-related increases in runoff at or near the source of those increases. The 2016 King County Stormwater Design Manual and Sammamish Addendum specify large projects must apply BMPs to the maximum extent feasible, pursuant to Core Requirement #9: Flow Control BMPs.

Land use management LID under SMC 21B.85.010, is a site planning approach to reduce stormwater runoff by maximizing the retention of trees, native vegetation, understory plants, and native soils; minimizing soil disturbance; minimizing the conversion of site surfaces from vegetated to nonvegetated surfaces; and maximizing the quantity and use of appropriate native plants on site.

The development proposal must also address Town Center Plan Goal NS-1 which states that development should incorporate exemplary environmental stewardship in the Town Center to the extent that it is a model for the region. The supporting policies of Goal NS -1 are as follows.

- NS-1.1 Planning and development in the Town Center should take special note of sensitive drainage basin issues for Ebright Creek and George Davis Creek.
- NS-1.2 Innovative environmental management techniques should be employed where appropriate.
- NS-1.3 Regional stormwater management systems should be designed and constructed as part of the master planning and development of mixed-use nodes.
- NS-1.4 Opportunities for environmental education should be explored.

- NS-1.5 The City should acknowledge that the Town Center is the single best opportunity to create district-scale environmentally responsive development.

Lastly, pursuant to SMC 21B.95.050(5)(c), development proposals must incorporate natural areas such as wetlands, stream corridors, wildlife corridors, and stands of mature trees as amenities where possible.

Staff Analysis: Stormwater LID

STCA has demonstrated compliance with SMC 21B.85.030, as the UZDP meets the criteria described in Core Requirement #9 of the 2016 King County Surface Water Design Manual and the Sammamish Addendum.

SMC 21B.85.030 states that stormwater standards in the Town Center shall be in accordance with the adopted 2016 King County Surface Water Design Manual and Sammamish Addendum. Pursuant to the 2016 KCSWDM, the development proposal is subject to full drainage review and must demonstrate that it meets Core Requirement #9: Flow Control Best Management Practices (BMPs).

Section 1.2.9.1 - Flow Control BMP Requirements Overview in the 2016 KCSWDM provides implementation guidance for flow control BMPs for various project types. This section separates out potential projects into several types. The two types applicable to the STCA project are:

Non-subdivision projects making improvements on an individual site/lot: Implementation of this requirement shall be in accordance with the "Individual Lot BMP Requirements" in Section 1.2.9.2. This requirement applies to the townhome lots proposed in the UZDP.

In Section 2.1.9 of the TIR dated June 19, 2020, feasibility of BMPs on the individual lots of the project site was assessed using Section 1.2.9.2.1, Small Lot BMP Requirements, of the 2016 KCSWDM (Exhibit 35.x). This section applies to individual lots smaller than 22,000 square feet and requires BMPs be implemented, at minimum, for an impervious area equal to at least 10% of the site/lot for site/lot sizes up to 11,000 square feet and at least 20% of the site/lot for site/lot sizes between 11,000 and 22,000 square feet. The TIR noted that permeable pavement is feasible for use on private tracts and driveways to mitigate impervious area equal to greater than 10% of the total lot areas, therefore meeting Core Requirement #9. Installation of an underdrain may be required, pending review by a Geotechnical Engineer during final design. If an underdrain is installed, no facility sizing credit shall be granted, pursuant to the 2-16 KCSWDM, Table 1.2.9.A. If permeable pavement is not utilized, the individual lots must reassess use of native growth retention credits or reduce impervious surface credits to meet Core Requirement #9.

Subdivision projects on sites less than 5 acres in size OR within the Urban Growth Area: Implementation of flow control BMPs for associated plat infrastructure improvements (e.g. roads, sidewalks) shall be done pursuant to Section 1.2.9.3, "Subdivision and Road Improvement Projects BMP Requirements." This requirement applies to the commercial/mixed use developed area and the road, sidewalk, and other infrastructure improvements proposed as part of the UZDP.

STCA assessed feasibility of flow control BMPs for the site infrastructure portions of the project using the criteria in the 2016 KCSWDM, Section 1.2.9.3.1. Pursuant to this section, all target impervious surfaces not mitigated by full dispersion must be mitigated to the maximum extent feasible using full or limited infiltration, bioretention, permeable pavement, and basic dispersion. Use of a given BMP is subject to evaluation of its feasibility and applicability as detailed in Appendix C. Infeasible BMPs are

not required to be implemented. STCA assessed that implementation of BMPs is not feasible pursuant to Section 1.2.9.3.1 of the 2016 KCSWDM.

STCA has demonstrated compliance with Core Requirement #9 of the 2016 KCSWDM, and therefore has demonstrated compliance with SMC 21B.85.030 pertaining to stormwater LID.

Staff Analysis: Land-Use Management LID

STCA has not demonstrated compliance with SMC 21B.95.050(5)(b) by failing to address land use management LID pursuant to SMC 21B.85.010 in the UZDP.

In both the Preapplication Meeting Minutes dated May 23, 2019 (**Exhibit 9**) and the City's Plan Review Summary dated March 10, 2020 (**Exhibit 20.a**), the City specifically requested that STCA describe how the UZDP incorporates LID. STCA responded that the revised Preliminary Geotechnical Engineering Report dated June 22, 2020, concluded that infiltration and stormwater LID practices were not suitable because of the glacial till sediments underlying the project site (**Exhibit 35.m**). The revised TIR, dated June 19, 2020, included a discussion around flow control BMPs and viable options for the project (**Exhibit 35.x**). These responses to the City's review comments only addressed stormwater LID, as discussed above, and did not consider land use management LID under Chapter 21B.85 SMC.

In contrast to the purpose and intent of Chapter 21B.85 SMC, and as described in the SEPA checklist submitted with the application on June 22, 2020 (**Exhibit 35.t**), STCA is proposing to clear the entire site, including all significant trees (approximately 53) and existing vegetation identified on the Existing Conditions and Tree Survey sheet of the revised Site Plan (**Exhibit 35.p**). Though STCA is not required to retain significant trees outside environmentally sensitive areas and associated buffers in the TC-A1 zone pursuant to SMC 21B.35.200(3), they are required pursuant to SMC 21B.85.010(3) to fully incorporate LID into all aspects of the project design including maximizing the retention of trees, native vegetation, understory plants and native soils. Furthermore, pursuant to SMC 21B.95.050(5)(c), STCA is required to incorporate natural areas such as stands of mature trees as amenities as part of their development proposal.

As described in the SEPA checklist submitted with the application on June 22, 2020, STCA is proposing that approximately 90% of the site will be converted to impervious surfaces with only 10% allocated as pervious surfaces such as open space and landscape areas (**Exhibit 35.t**). Though minimum and maximum impervious surface percentages are not defined in SMC Title 21B, STCA is required pursuant to SMC 21B.85.010(5) to fully incorporate LID into all aspects of the project design including minimizing the conversion of site surfaces from vegetated to nonvegetated surfaces and minimizing soil disturbance.

The UZDP does not comply with SMC 21B.95.050(5)(b) as it does not fully address and is entirely inconsistent with important land use management LID measures. Therefore, pursuant to SMC 21B.85.020(2) the City cannot approve the UZDP without first verifying compliance with the requirements of Chapter 21B.85 SMC.

Staff Analysis: Town Center Goal NS-1 and Supporting Policies

STCA has not demonstrated compliance with SMC 21B.95.050(5)(b) by failing to incorporate exemplary environmental stewardship into the development proposal. As defined in the Merriam-Webster Dictionary, exemplary means to serve as an example, instance, or illustration. The UZDP is not a satisfactory example of environmental stewardship as it does not propose any sustainable measures that implement the environmental strategies described in the Natural Systems Chapter of

the Town Center Plan. These include, but are not limited to, incorporating LID, regional stormwater facilities, rain gardens, green roofs, retaining native vegetation, and reducing building footprints.

In the City's Plan Review Summary dated March 10, 2020, STCA was directed to describe how the development proposal incorporates exemplary environmental stewardship under the Town Center Plan Goal NS-1 (**Exhibit 20.d**). STCA responded by deferring sustainable features, that could be considered exemplary, such as solar and green roofs, stormwater capture canopies, green space, and streetscape implementing LID methods to be further studied for feasibility as the project advanced into future stages of design and only if these design features were reasonably and cost-effectively practicable (**Exhibit 20.a**).

STCA's development proposal does not comply with SMC 21B.95.050(5)(b) as their proposal is noncommittal and does not incorporate exemplary environmental stewardship by including sustainable features into the UZDP, ensuring that these features will be constructed under subsequent land use and building permits as required by SMC 21B.95.040(2).

A complete analysis of the UZDP and its noncompliance with Town Center Goal NS-1 and supporting policies can be found in the Town Center Goals and Policies Compliance Analysis (**Exhibit 2**).

Staff Analysis: Incorporating Natural Areas

STCA has not demonstrated compliance with SMC 21B.95.050(5)(c) by failing to address how the UZDP incorporates natural areas such as wildlife corridors and stands of mature trees as amenities on the project site.

In the City's Plan Review Summary dated March 10, 2020 (**Exhibit 20.a**), the City specifically requested that STCA address how the development proposal will incorporate natural areas into the project design as required by SMC 21B.95.050(5)(c). STCA responded by describing in the revised Project Narrative and Code Compliance Summary that *"the Project is situated with frontage along the northern edge of Sammamish Lower Commons, which is comprised of significant natural areas including wetlands, wildlife corridors, and stands of mature trees together with landscaped park amenities including pedestrian trails (with connections to Sammamish Upper Commons - City Hall, Library, YMCA, Farmers Market), playground, picnic shelter, community garden and rain gardens"* (**Exhibit 35.g**). STCA's development proposal highlights the natural features and park amenities on property neighboring the project site and does not propose any opportunity to either preserve or integrate the natural features existing on its own project site therefore STCA's development proposal does not comply with SMC 21B.95.050(5)(c).

Conclusion

The UZDP land use application materials do not comply with the UZDP planning principle for natural systems and environmental quality and therefore is denied.

6. Building Scale and Compatibility

SMC 21B.95.050(6)

Pursuant to SMC 21B.95.050(6)(b) development within the TC-A1 zone must include a building organization or unifying design concept which unifies the node and provides a distinctive development character. This might be accomplished, for example, through orientation of buildings around open space or other feature, use of axial symmetry, vistas, topography, etc., or a hierarchy of building massing (such as a stepped up "wedding cake" formation). To achieve the desired "wedding

cake” land formation, the Town Center Plan describes a configuration with mixed-use development in the TC-A1 zone that transitions to medium and low intensity residential uses (apartments and townhomes) in the TC-B zone and finally to the TC-C zone where low intensity residential uses (single-family and cottage housing) blend seamlessly with adjacent well established neighborhoods. This fundamental site planning objective is directly related to the Town Center Plan Land Use Goal 2.3 and Housing Goal 3.1.

Pursuant to SMC 21B.10.030(1)(a), the purpose of the TC-A1 sub-zone is to provide for a pedestrian-oriented mix of retail, office, residential, and civic uses that functions as the focal point for the Town Center and the City. This sub-zone emphasizes pedestrian-oriented retail and civic uses on the ground floor of core areas and has the greatest allocation of retail floor area of all the Town Center’s mixed-use zones. Office and residential uses are encouraged on upper floors

Staff Analysis: Residential Permitted Uses

By failing to provide pedestrian-oriented retail and civic uses on the ground floor with office and residential uses above, and instead proposing residential only townhomes in the TC-A1 zone with entrance at the ground floor, STCA has not demonstrated compliance with SMC 21B.95.050(6)(b) or SMC 21B.10.030(1)(a).

In the City’s Plan Review Summary dated March 10, 2020, the City specifically addressed that the TC-A1 zone is intended to be developed as medium scale mixed-use (4-6 stories) and that STCA should revise their development proposal as necessary to demonstrate compliance (**Exhibit 20.a**). STCA responded by submitting a revised site plan that did not address the City’s initial review comments and instead continued to propose residential townhomes in the TC-A1 zone (**Exhibit 35.g**). STCA further responded that the orientation of mixed-use buildings between 224th Avenue SE and 225th Place SE as well as SE 4th Street and SE 6th Street provided building organization for the mixed-use core area of the Town Center and that the transition to townhomes within the TC-A1 zone west of 224th Street SE respects the "wedding cake" formation by unifying the TC-A1 zone with the TC-B and TC-C zone.

STCA’s response to the City’s initial review comments; their interpretation of the Town Center Plan, SMC 21B.95.050(6)(b), and SMC 21B.10.030(1)(a); and their proposal to include residential-only uses in the TC-A1 zone is incorrect and noncompliant. The TC-A1 zone, in its entirety, is the core mixed-use area of the Town Center subarea. It should include multi-story mixed-use buildings with pedestrian-oriented retail on the ground floor and office and residential uses on the upper floors.

Townhomes are not an outright permitted use in the TC-A1 zone. Townhomes are only allowed as part of an approved UZDP pursuant to SMC 21B.20.040(1). STCA’s proposal to include residential only townhomes in the TC-A1 zone does not comply with Town Center Plan Land Use Goal 2.3 and Housing Goal 3.1, SMC 21B.10.030(1)(a), 21B.30.030(1), 21B.30.040(2)(b), and 21B.95.050(6)(b).

Conclusion

The UZDP does not comply with the UZDP planning principle for building scale and compatibility and therefore is denied.

7. Affordable Housing SMC 21B.95.050(7)

Pursuant to SMC 21B.95.050(7), development must be compliant with the affordable housing requirements in Chapter 21B.75 SMC. The purpose of this Chapter is to provide incentives and regulations as a means of meeting the City's commitment of encouraging affordable housing to all economic groups and to meet its regional share of affordable housing requirements.

This is achieved by requiring ten percent (10%) of the allocated residential density to be affordable housing units as authorized in SMC 21B.75.020(1). Pursuant to SMC 21B.75.020(2), required affordable housing units shall be counted as one half a dwelling unit, otherwise known as the Affordable Housing Dwelling Unit (AHDU) incentive, for purposes of calculating allocated density. For example, if a development proposes 40 dwelling units, 4 of those dwelling units must be affordable. To achieve allocated density, 50% of required affordable housing units or 2 units count towards the total allocated density or 42 housing units. This equates to 38 market-rate units and 4 affordable units.

The AHDU incentive calculated to establish the allocated density only applies to the 10% required affordable housing units provided for under SMC 21B.75.020(1). The AHDU incentive does not carry forward when calculating maximum density nor does it apply to affordable housing units obtained as bonus residential density above the allocated residential density.

The City further incentivized building affordable housing by creating the Affordable Housing Bonus Pool. The Town Center Plan allocated 344 residential bonus units to this pool to be used to achieve maximum density as authorized in SMC 21B.25.040. To determine the number of bonus units needed, the applicant must subtract the minimum allocated density from the maximum density. For example, if a project proposes to develop 2.50 acres in the TC-A1 zone the minimum allocated density will be 40 units (16 du/ac) and the maximum density will be 100 units (40 du/ac). The number of bonus units to achieve maximum density is 60 units in which 20 are affordable units and 40 are market-rate units pursuant to SMC 21B.75.020(3). An affordable housing unit built for the purposes of increasing site density above the allocated residential density shall be counted as one dwelling unit for the purposes of calculating maximum residential density pursuant to SMC 21B.25.030.

Residential units awarded from the Affordable Housing Bonus Pool are distributed on a first come, first served basis, up to the maximum number of bonus pool units, provided the development does not exceed the density limit for the zone. To date, 193 residential bonus units remain in the pool. These units must be exhausted before any other bonus units, such as TDRs, can be used to achieve maximum density.

Staff Analysis: Affordable Housing

STCA has not demonstrated compliance with SMC 21B.95.050(7) by failing to address the basic density provisions in SMC 21B.75.020. STCA submitted a revised Residential Density Calculation Worksheet on June 22, 2020 that included "corrections" in red purporting to correct errors STCA claims were created by the City on its official form for determining residential density for a project site (**Exhibit 35.e**). STCA's interpretation of the code is that the AHDU incentive calculated to establish allocated density should carry forward when proposing to use bonus residential units from the Affordable Housing Bonus Pool to achieve maximum density. STCA's further argued that *"there is a financial cost to providing the 10% affordable housing [requirement], and that cost is partially recovered through the AHDU incentive. That compensation should still apply for the allocated density portion, even if an applicant then utilizes other methods (e.g., TDRs or the Affordable Housing Bonus Pool) to go beyond allocated density. We note that for other projects, the City has indeed allowed the AHDU incentive units to carry forward. Both as a matter of fairness and sound policy consistent with the language of*

the Code, we will ask the City to take the same approach here and apply the revised density calculations in red.”

Neither STCA’s argument to carry forward the AHDU incentive calculated to establish the allocated density nor their “corrected” Residential Density Calculation Worksheet demonstrating their argument complies with SMC 21B.25.030 and 21B.75.020.

Furthermore, when the City discovered in late 2016, after completing an analysis of previously approved Town Center projects, that other Town Center projects may have obtained approval while “carrying forward” the AHDU incentive, the City issued on May 2, 2017 a Director’s Interpretation of SMC 21B.25.030 and 21B.75.020 as a corrective measure. The City e-mailed the Director’s Interpretation to STCA on the same day the Interpretation was issued, notifying them of the Interpretation as well as the 21-day appeal period that followed (**Exhibit 5**). Within that period, no appeals were filed within that period, nor have any questions been raised in the ensuing years, including the development and approval of a Memorandum of Understanding in which the Worksheet was included as an attachment (**Exhibit 7**) or at the Preapplication Meeting on May 23, 2019. It wasn’t until June 22, 2020, through their “corrected” submittal of the density calculation worksheet, that STCA, without prior discussion, questioned the City’s interpretation of SMC 21B.25.030 and 21B.75.020.

Conclusion

The UZDP does not comply with the UZDP planning principle for affordable housing and therefore is denied.

8. Incorporation of Efficient Infrastructure Systems

SMC 21B.95.050(8)

Pursuant to SMC 21B.95.050(8), development proposals are required to incorporate, where effective, innovative infrastructure systems such as water capture and re-use, solid waste management systems, and waste-water treatment.

Staff Analysis: Infrastructure Systems

STCA has not demonstrated compliance with SMC 21B.95.050(8) by failing to incorporate innovative infrastructure systems into the development proposal.

In the Preapplication Meeting Minutes dated May 23, 2019, the City requested that STCA submit a Utilities Infrastructure Plan and an assessment for the use of innovative infrastructure systems to manage water, wastewater, and solid waste (**Exhibit 9**). The City also requested as part of the Plan Review Summary dated March 10, 2020, that STCA describe how the development proposal incorporates innovative environmental management techniques (**Exhibit 35.g**). STCA’s response was to propose that the project will “*explore opportunities for implementing water capture and reuse strategies that include integration of urban water gardens and/or underground cisterns for stormwater capture and reuse in landscape irrigation and installation of weather protection canopies of various sizes, potentially commissioned and installed as public art features and dynamic water capture features in key open space locations.*” STCA has not provided any design details or identified such features on the UZDP site plans to demonstrate compliance with SMC 21B.95.050(8). Instead the UZDP has “committed” only to future “exploration” of “strategies” and “potential” actions when the exploratory process should have been accomplished and concrete actions formulated before submitting the UZDP.

The UZDP proposes as an innovative infrastructure system that alley connections between public streets provide rear driveway and garage access, and concealed solid waste/recycle container storage for each unit with solid waste/recycle collection vehicles utilizing the alleys for regular service. Solid waste collection as it exists today is not an innovative infrastructure technology and proposed use of commonly found procedures and facilities does not satisfy the requirement of incorporating efficient infrastructure systems into the project proposal.

Conclusion

The UZDP land use application materials do not comply with the UZDP planning principle for incorporation of efficient infrastructure systems and therefore is denied.

C. The City's Roadway Standards.

The UZDP does not adhere to the 2016 Public Works Standards and therefore is denied.

1. 2016 Public Works Standards

Analysis

Pursuant to Chapter 9.3.A and G of the 2016 Public Work Standards, alleys are only allowed for primary access when lots served have full frontage on a public street.

The UZDP has not demonstrated compliance with Chapter 9.3 of the 2016 Public Works Standards by providing primary vehicle access from an alley for lots not served by full frontage on a public street. STCA submitted a revised plan set on June 22, 2020 showing lots 45-62 with primary vehicle access from an alley fronting on common open space that is being proposed to be provided offsite as part of a separate land use application submitted by STCA and that is currently under review by the City (**Exhibit 35.p**).

Pursuant to Chapter 9.3.I of the Public Work Standards, alleys shall not contain intersections or 90-degree bends. These requirements are intended to protect public safety. Any alignment other than straight must be submitted to the Public Works Director as a deviation request pursuant to the requirements in Chapter 6.2 and Appendix H of the 2016 Public Work Standards. STCA has proposed both intersections and 90-degree bends for Alleys A, B, and D as part of the revised plan set submitted on June 22, 2020 (**Exhibit 35.p**). STCA does not acknowledge the conflict with these standards. Further STCA has not applied to the Public Works Director for a deviation from these standards in connection with the separate revised UZDP application to is Department submitted on June 22, 2020 (**Exhibit 35**).

Conclusion

The UZDP does not comply with the 2016 Public Works Standards for alleys and therefore is denied.

D. The Goals and Policies of the Town Center Plan.

The UZDP does not adhere to the Town Center Goals and Policies.

1. Town Center Plan

A complete analysis can be found in the Town Center Goals and Polices Compliance Analysis Matrix as provided in **Exhibit 2**.

The UZDP does not adhere to all the Town Center Goals and Policies and therefore is denied.

IV. FINDINGS OF FACTS

Based on information provided by STCA, the Project file, SMC, Sammamish Comprehensive Plan, Town Center Subarea Plan, and the Town Center Infrastructure Plan, the City of Sammamish Department of Community Development Director finds:

A. Application Submittal and Review Timeline

1. On April 8, 2019, an application for a Preapplication Conference (PRA2019-00180) was submitted by STCA, in accordance with SMC 20.05.030. The Preapplication meeting was held on May 23, 2019 (**Exhibit 9**).
2. Traffic Concurrency (TCR2019-00271) was issued on August 14, 2019 for 82,000 square feet of commercial space and 357 multi-family residential units (**Exhibit 10**).
3. STCA filed its application for a UZDP with the City on November 4, 2019 (**Exhibit 13**).
4. The UZDP application was deemed complete on November 27, 2019 (**Exhibit 14**).
5. The Notice of Application/Open House/SEPA Notification was published in the newspaper, mailed, and posted onsite in accordance with Chapter 20.05 SMC on December 2, 2019 and followed by a 21-day comment period from December 2, 2019 - December 23, 2019 (**Exhibit 15**).
6. A public Open House was held on December 16, 2019 in accordance with SMC 20.05.037 (**Exhibit 16**). Forty-four members of the community attended the Open House (**Exhibit 17**). Following the Open House, staff provided further clarification and reassurance that public comment related to the development proposal will be accepted for the duration of the project review timeline. The published required 21-day public comment period in accordance with SMC 20.05.060 serves as a guide to prompt public engagement early in the process and that public comment will continue to be accepted, cataloged, and processed for the duration of the project review (**Exhibit 18**).
7. The City received several written comments during the Project Review. All written comments are included in the Project file (**Exhibit 19**). Comments received generally addressed:

Inadequate Infrastructure

- Lack infrastructure capacity (roads, schools, parks, etc) to support this project.
- Lack of adequate parking and available transit.
- Existing street capacity cannot handle the trips generated from development proposal.

Green Spine/Open Space/Trails

- The Green Spine does not incorporate existing topography, vegetation, or the natural environmental.
- The Green Spine should include LID measures
- Green infrastructure is not being integrated into the overall design of the Green Spine.

Environmental

- The development does not implement the goals and polices of the Town Center Plan where the existing natural environment is required to be retain.
- The development proposes to destroy existing old growth native trees.

- Topography and viewpoints are not preserved.
- Mass grading should not be allowed.

Stormwater Management and LID

- LID measures should be required.
- The development proposal should include a regional stormwater system.
- Concerns that stormwater runoff is detrimental to the trees, wildlife, and humans.

Housing

- More affordable housing is needed.
- More housing choices are needed.

Commercial Space

- The City needs more retail and commercial services for its residents so they don't have to leave Sammamish to get what they need.

8. On March 10, 2020, the City issued a Plan Review Summary Letter and Review Comments. Pursuant to SMC 20.05.100(1)(a)(i), required corrections had to be received by the City within 90 calendar days from the date of transmittal of the Plan Review Summary Letter and Review Comments or by Monday June 8, 2020 (**Exhibit 20**).
9. On March 13, 2020, STCA requested an in-person meeting to further discuss the City's review comments issued on March 10, 2020 (**Exhibit 21**). The City responded on March 17, 2020 and stated that due to COVID-19 and in accordance with the City's response to the virus, there will be no in-person meetings scheduled. City staff offered to setup a "go to meeting" and conduct all necessary meetings via teleconference (**Exhibit 22**);
10. On April 7, 2020, STCA submitted the first of three requests to extend the 90-day resubmittal period for response to the City's review comments. STCA requested that the resubmittal period be tolled from the date they received the Plan Review Summary Letter and Review Comments on March 10, 2020 until the date when the Governor's stay-at-home order (Proclamation 20-25) was lifted and City Hall was again open to the public (**Exhibit 23**). On April 28, 2020, the City responded that the City remained open for business and staff were available to accommodate a virtual meeting with STCA to discuss their development proposal. Furthermore, the City requested that additional details specifying the need for an extension be provided and if not then the June 8, 2020 submittal deadline will stand (**Exhibit 24**);
11. On May 14, 2020, City staff and STCA met virtually to discuss the City's review of the Project file (**Exhibit 25**). On May 19, 2020, the City issued meeting minutes and a response matrix documenting the City's response to STCAs project related questions (**Exhibit 26**);
12. On May 21, 2020, STCA submitted a second request to extend the 90-day resubmittal period for response to the City's March 10, 2020 review comments. STCA requested six (6) additional weeks to prepare revisions/corrections to their development proposal measured from the date of any follow-up meeting with City staff (**Exhibit 27**). On May 22, 2020, the City responded informing STCA that a follow-up meeting for Friday May 29, 2020 will be scheduled and that a response to STCA's second request for an extension will follow shortly thereafter (**Exhibit 28**);

13. On May 29, 2020, City staff and STCA met virtually to discuss the City's review of the Project file **(Exhibit 29)**. On June 3, 2020, the City issued meeting minutes and a response matrix documenting the City's response to STCAs project related questions **(Exhibit 30)**;
14. On June 1, 2020, City staff and STCA met virtually to discuss the City's review of the Project file **(Exhibit 31)**;
15. On June 2, 2020, STCA submitted the third and final request to revise the 90-day resubmittal period. This time, STCA requested a two-week extension past the 90-day timeframe to resubmit their application in response to the City's Plan Review Summary Letter dated March 10, 2020 **(Exhibit 32)**;
16. On June 3, 2020, the City granted a two-week extension which resulted in the resubmittal deadline being revised from June 8, 2020 to June 22, 2020 **(Exhibit 33)**. Included as an attachment to the City's response granting the extension were the June 1, 2020 meeting minutes and response matrix documenting the City's response to STCAs project related questions **(Exhibit 34)**;
17. STCA resubmitted its revised UZDP application with the City on June 22, 2020 **(Exhibit 35)**;
18. The revised UZDP application was deemed facially complete on July 13, 2020. In accordance with SMC 20.05.100(4), STCA was notified that the City will not meet the target of 120-days from the original date the application was deemed complete on November 27, 2019 to the time a decision will be issued **(Exhibit 36)**;
19. The Revised Application and 120-day Exceedance Notification was published in the newspaper, mailed, and posted onsite in accordance with Chapter 20.05 SMC on July 20, 2020 and followed by a 21-day comment period from July 20, 2020 – August 10, 2020 **(Exhibit 37)**;
20. On September 30, 2020, the City notified STCA that it will not complete its review of the revised application within 60-days from the date the application was deemed complete on July 20, 2020 **(Exhibit 38)**;
21. The Notice of Extended Review was published in the newspaper and mailed to the parties of record on October 8, 2020 **(Exhibit 39)**;

B. Zoning / Project Review

1. The goals, policies, and regulations relevant to this UZDP are found in the Town Center Plan, Town Center Infrastructure Plan, and Sammamish Municipal Code
2. The UZDP does not comply with the Sammamish Comprehensive Plan.
3. The UZDP does not comply with the Town Center goals and policies.
4. The UDZP does not comply with the Town Infrastructure Plan.
5. The UZDP does not comply with the provisions of Chapter 14A.01 SMC Public Works Standards Adopted.

6. Preliminary Subdivision (PSUB2019-00563) and Binding Site Plan (BSP2019-00564) applications are contingent on the UZDP (UZDP2019-00562) approval pursuant to SMC 21B.95.040(2). Therefore, in light of the UZDP application's denial, the City cannot continue to review the Preliminary Subdivision and Binding Site Plan applications.
7. The UZDP does not comply with the provisions of SMC 20.05.040 Application Requirements.
8. The UZDP does not comply with the provisions of SMC 21A.50.130 Contents of Critical Areas Study.
9. The UZDP does comply with SMC 21A.50.070(1)(a)(b) Exceptions and SMC 21A.50.315(1)(2) Wetlands Alternative Mitigation.
10. The UZDP does not comply with the provisions of Chapter 21B.10 SMC Zone, Maps, and Designations.
11. The UZDP does not comply with the provisions of Chapter 21B.25 SMC Density and Dimensions.
12. The UZDP does not comply with the provisions of Chapter 21B.30 SMC Development Standards – Design Requirements.
13. The UZDP does comply with the provisions of SMC 21B.40.030 SMC Computation of Required Off-Street Parking Spaces.
14. The UZDP does not comply with the provisions of Chapter 21B.75 SMC Affordable Housing.
15. The UZDP does not comply with Chapter 21B.85 SMC Interim Stormwater Standards.
16. The UZDP does not comply with Chapter 21B.95 SMC Unified Zone Development Plans.

C. SEPA Review / Determination:

1. Chapter 197-11 WAC-SEPA Rules, together with SMC 20.15 governs the processing of SEPA Reviews.
2. A SEPA Checklist was submitted by STCA on November 4, 2019 (**Exhibit 13.p**). Updates were made by STCA in response to the City's Summary Letter and Review Comments issued on March 10, 2020 (**Exhibit 20.g**) and revised and resubmitted on June 22, 2020 (**Exhibit 35.t and 35.u**).
3. Following review of the Environmental Checklist and supporting information submitted by STCA, including its application submittals, the City is unable to make a "SEPA Threshold Determination" for this proposal. Until such time as STCA has provided an application that demonstrates ownership of and authority to use all areas included in the plans as well as compliance with the City's development regulations and the City of Sammamish Town Center Plan, the City is unable to make a SEPA threshold determination regarding STCA's proposal.

V. CONCLUSION

The UZDP application does not meet all four criteria of SMC 21B.95.060, therefore it cannot be approved.

VI. DIRECTORS DECISION

STCA’s UZDP for the Sammamish Town Center SW Quadrant (UZDP2019-00562) is hereby **denied**. The Sammamish Town Center SW Quadrant development proposal does not adequately meet the requirements of a UZDP pursuant to SMC 21B.95.060.

RESPONSIBLE OFFICIAL: David Pyle 11/13/2020
David Pyle 11/13/2020 (Nov 9, 2020 15:24 PST)

David Pyle

TITLE: City of Sammamish Director of Community Development
ADDRESS: Department of Community Development
801 228th Ave SE
Sammamish, WA 98075
Phone: 425-295-0521

DATE: November 13, 2020

VII. APPEAL INFORMATION

Per SMC 20.10.080 and 20.15.130, appeals must be submitted in writing with the appropriate filing fee (\$250.00) and received by 5:00 pm on December 4, 2020. Appeals may be submitted to City of Sammamish City Hall, Attn.: Community Development Department, 801 228th Ave SE Sammamish, WA 98075. Appeal instructions are available at City Hall or are available upon request at (425)-295-0500.