

Exhibit 79

To:
John Galt, Hearing Examiner
City of Sammamish

Hard copy to:
City of Sammamish Hearing Examiner
801 - 228th Ave. SE
Sammamish, WA. 98075

RECEIVED

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Electronic copies to: jegalt755@gmail.com

With copies to:
Lita Hachey, Deputy City Clerk, lhachey@sammamish.us
Lindsey Ozbolt, Associate Planner, lozbolt@sammamish.us

RE: Comments & written public testimony in relation to the public hearing on the Shoreline substantial development permit (SSDP) for the East Lake Sammamish Trail segment 2B, Sammamish File number SSDP2016-00415

Dear Mr. Galt,

I am submitting the following comments with respect to the above referenced permit application.¹ I respectfully submit that for the reasons listed below, the application should be denied.

- 1) **Application Incomplete and Insufficient for Processing:** The ELST Segment 2B SSDP application should not have been determined complete by the City of Sammamish, since it does not comply with the submittal requirements of WAC 173-27-180(9)(f). Specifically, the application does not contain "the dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities." This is specifically called out in the staff report Conclusions, item#6. Because of the failure to provide this

¹ I previously submitted comments focused on impacts to my property. A copy of that comment letter is included as **Attachment 1**. On October 16, 2017, King County released its responses to public comments. I have reviewed the County's responses to my comments and found that, with the exception of a commitment to re-evaluate whether a particular tree should be saved, the County's responses were essentially non-responsive. In particular, the critical issue of a questionably high estimate for trail demand resulting in a wider than necessary trail appears to be addressed only superficially in the County's responses under comment index numbers SB-188a, SB-197k, and SB-721c, in which the County references the trail demand analysis provided to Sammamish on July 11. As explained below, this trail demand analysis was reviewed by Sammamish's consulting trail engineer/planner and determined to be "unreasonable." See Exhibit 66.

information, it is not possible to identify all potential impacts to the built environment and established uses adjacent to the proposed ELST Segment 2.

Since all potential impacts to the built environment and established uses adjacent to the proposed ELST Segment 2 cannot be identified, the SSDP cannot be determined to comply with the following City of Sammamish Comprehensive Plan Shoreline Goals and Policies:

- Public Access Goal 4: Ensure that public shoreline recreational facilities and other public access points are connected by trails, pathways, waterways, and other access links where public access and use will not interfere with private property rights.
- Public Recreation Goal 2: Locate public recreational uses in shoreline areas that can support those uses without risks to human health, safety, and/or security, while minimizing effects on shoreline functions and processes, private property rights, and/or neighboring uses.
- Public Access Policy b: The design of all public shoreline access areas should attempt to minimize potential impacts to private property.

Similarly, since all potential impacts to the built environment and established uses adjacent to the proposed ELST Segment 2 cannot be identified, the SSDP cannot be determined to comply with the following standard of the Sammamish Municipal Code (SMC):

- SMC Sec. 21A.30.210(2), Compatibility with Adjacent Land Uses: The proposed SSDP application does not propose a trail design that would “diminish the likelihood of trespass” or “promote privacy for adjacent landowners.”

2) Trail demand analysis is inaccurate and overestimated, resulting in an overbuilt trail with unjustifiable impacts on the shoreline environment

Finding 20 in the staff report is critical. It is based on the following two significant and unresolved issues discussed in Exhibit 66, review comments from the City’s consulting transportation engineer/planner:

- The trail demand analysis of 300 peak hour users is based on assumptions and methodologies that are unclear and may be greatly overestimated. Yet the demand analysis is used to justify a uniform width of 12 feet paved width (18 foot built footprint) for the entire length of ELST Segment 2B width proposed by the SSDP. In response, the City’s consulting transportation engineer/planner states that the County “altogether omitted a case by case analysis” resulting in an “unreasonable” position (see Page 7 of Exhibit 66). An accurate peak hour demand analysis is essential to ensure that the trail is not overbuilt, since this would result in greater impacts in the shoreline jurisdiction.
- Even if the trail demand analysis is accurate, the width of ELST Segment 2B can and should be reduced to less than 12 feet in constrained areas where multiple objectives must be balanced while still complying with AASHTO guidelines for safety. Despite this conclusion, the ELST Segment 2B width proposed by the SSDP is a uniform 12 feet in paved width (18

feet built width) for its entire length, resulting in greater impacts in the shoreline jurisdiction.

3) Uniform 12-foot paved trail footprint is not consistent with 2010 FEIS and violates numerous provisions of the Sammamish shore line code (Note that the total built footprint is 18-feet and the clearing and grading limits range from 25ft to 30ft or more)

The 2010 FEIS for the ELST included mitigation measures for wetlands and vegetation to “continue to avoid and minimize wetland and vegetation impacts by reducing trails widths and turning radii for transitions, and shifting alignments to avoid wetlands and buffers.” The uniform 12 foot paved trail width (18 foot built footprint) proposed by the SSDP does not implement these mitigation measures, creates additional adverse significant impacts, and is not consistent with the FEIS. Finding 21 should be amended to state as such.

Because of the failure to design the trail to a width narrower than 12 feet in constrained areas of the right of way, the proposal creates additional impacts and does not comply with following City of Sammamish Comprehensive Plan Shoreline Policy:

- Critical Areas and Environmental Protection Policy c: New shoreline uses and developments should be designed and conducted in accordance with the regulations of this Program to avoid, minimize and mitigate damage to the ecology and environment. These regulations are designed to protect shoreline ecological functions and processes. Shoreline ecological functions that should be protected include, but are not limited to, fish and wildlife habitat, conservation and recovery of threatened or endangered species, food chain support and water temperature maintenance. Shoreline processes that should be protected include, but are not limited to, water flow; infiltration; groundwater recharge and discharge; sediment delivery, transport, and storage; organic matter input; and nutrient and pathogen removal.

Because of the failure to design the trail to a width narrower than 12 feet in constrained areas of the right of way, the proposal creates additional impacts and does not comply with the following standards and criteria of the Sammamish Municipal Code (SMC):

- SMC Sec. 21A.30.210(2), Use of Existing Corridors: The proposed SSDP application does not mitigate impacts through avoidance by using reduced trail widths in proximity to sensitive areas, as required by SMP Sec 21A.50.
- SMC Sec. 21A.30.210(3), Width: The proposed SSDP application does not minimize cleared areas by using reduced trail widths.
- SMC Sec. 21A.50.135(1), Avoiding Impacts to Critical Areas: The proposed SSDP application does not comply with the preference for avoiding impacts to critical areas by using reduced widths in constrained areas.
- SMC Sec. 25.06.020(1)(a), Environmental Protection and Conservation Regulations: The proposed SSDP application does not comply with the preference for avoiding environmental impacts by using reduced widths in constrained areas.
- SMC Sec. 25.06.020(1)(b), Environmental Protection and Conservation Regulations: The proposed SSDP application does not comply with the preference for minimizing environmental impacts by using reduced widths in constrained areas.

- o SMC Sec. 25.06.020(5), Clearing and Grading: The proposed SSDP application does not minimize cleared and graded areas by using reduced trail widths in constrained areas.
- o SMC Sec. 25.07.100, Transportation Regulations: The pedestrian circulation system proposed by the SSDP application does not minimize cleared and graded areas or alteration of topography and natural features by using reduced trail widths in constrained areas.

4) The Staff Report improperly attempts to defer analysis of site-specific impacts until after the SSDP is issued.

The City's Staff Report admits that "case-by-case decisions that balance objectives and impacts with risks" is "required," but no such case-by-case analysis of site-specific impacts was provided to the City. The Staff Report recommends approval of the SSDP despite the absence of such an analysis. Rather than analyzing site-specific impacts now, the Staff Report recommends approval of the SSDP subject to conditions that would require such analysis in the future.

This approach is improper and illegal. As noted above, it is impossible for the City to make a properly-informed decision on the County's SSDP application without an analysis of how site-specific impacts will be resolved. Rather than attempting to defer analysis of site-specific impacts until after the SSDP has been issued, City Staff should have insisted that the County provide the information needed to complete the analysis.

The Hearing Examiner should remand the application and instruct Staff to prepare such an analysis.

5) Conclusion

While the conditions of approval recommended by Staff attempt to address the lack of compliance with applicable requirements, the cumulative shortcomings of the conceptual design of the proposal are too significant to merit approval of the application as proposed, and the City's analysis of site-specific impacts may not be deferred until after the SSDP is approved. The application has not met the minimum standards to determine compliance at the conceptual level with the City of Sammamish Comprehensive Plan Shoreline Goals and Policies and the applicable standards and criteria of the Sammamish Municipal Code. Therefore, we respectfully request that the application be denied based on a corrected set of findings of fact and conclusions of law.

Thank you,

Sincerely



Arul Menezes

3145 E Lake Sammamish Shore Ln SE
Sammamish, WA 98075

ATTACHMENT-1: Original comments, submitted 1/26/17

To: Lindsey Ozbolt
Sammamish City Planner

Re: East Lake Sammamish Trail segment#2B, 60% plans

Dear Ms. Ozbolt,

I am writing to comment on the 60% plans for the proposed East Lake Sammamish Trail section #2B. I reside and own the property at 3145 East Lake Sammamish Shore Ln SE, Sammamish, WA 98075, adjacent to the proposed trail between location #294 and #295.

I have the following comments.

- 1) Trail alignment: The proposed alignment of the new trail in the 60% plans is such that the lake side edge of the new trail matches the edge of the existing trail in my neighborhood (trail location 291 to 298). This reduces the impact of the trail on my property and my neighborhood. I want to thank King County for this consideration and I strongly support this proposed trail alignment in this area.
- 2) The clearing & grading limits proposed in the 60% plan encompass most of the embankment that currently exists between the trail and my home and my neighbors' homes. On my property this would imply the removal of six mature trees that I have planted and maintained within this embankment. These trees are not shown in the existing conditions plan because they do not meet the 8" or 12" criteria for significant trees. Nevertheless, they are mature (15-20 years old), quite large (20 to 30 feet tall) and provide an essential privacy buffer between the trail and my home. The windows of my home are only about 20 feet from the trail. Also in the same area, I built a privacy fence in 1997, prior to the acquisition of the trail RoW by King County. The fence is a 6-foot cedar fence topped by a 2-foot privacy lattice. As with the trees, the fence is essential to provide privacy and visual separation between the trail and my house, something to be desired by trail users as well. All of my neighbors between locations 291 and 298 have similar impacts. They would be losing privacy fencing and their homes are also located very close to the trail with severe privacy impacts to the entire neighborhood.

I would request that the clearing and grading limits be moved about four (4) feet closer to the trail to allow me to preserve my trees and fence.²

- 3) My neighbor to the northwest (McNabb) has a huge decades-old dogwood growing in the same embankment between the trail and her house. This tree is not marked on the map as significant,

² The clearing and grading proposed in the current 60% plans appears to violate numerous provisions of the City's Shoreline Master Program (SMP) and the Sammamish Municipal Code (SMC), including without limitation the following: SMP 25.03.020(2); SMP 25.03.020(5); SMP 25.04.010(4)(b); SMP 25.04.010(7)(b); SMP 25.04.010(8)(a); SMP 25.04.010(9)(b); SMP 25.06.020; SMP 25.07.100(7); SMP 25.07.110(9); SMC 21A.30.210(1); SMC 21A.30.210(2); SMC 21A.30.210(3). Because the types of site-specific impacts identified in this letter were not analyzed in the FEIS, they will require supplemental review under SEPA if not fully avoided/mitigated through project changes.

which I believe is an arborist oversight. I am attaching a report (Exhibit-A) from a certified arborist showing the tree to be approximately 12.5" DBH. This meets the criteria for a significant deciduous tree. Sammamish code 21A.15.1333 states "*Tree, significant*" means a tree that is: (1) A coniferous tree with a diameter of eight (8) inches or more DBH; or (2) A deciduous tree with a diameter of twelve (12) inches or more DBH.

The tree was planted by my neighbor's grandmother in the 1930s, and is a neighborhood landmark. Since dogwoods are very slow growing, a mature heritage dogwood of this size & beauty is a civic treasure and will be a joy to trail users as well.

I would request that this significant heritage tree be added to the plans and tree inventory, and would urge that every effort be made to save the tree. I believe this beautiful tree can easily be saved by moving the clearing and grading limits very slightly (approx. 3-4 feet).³

As you know, I previously worked with the City of Sammamish and King County to mitigate similar impacts to my property within the South Sammamish "A" Segment by making minor changes to the project design. In particular, we entered into a settlement agreement that detailed how King County would modify the project design in order to implement one of the City's shoreline permit conditions requiring the County to "work with neighboring property owners in the vicinity . . . to review alternatives to the current vault design and to move the proposed wall further away from private properties sufficient to allow for landscaping to be planted and maintained at the base of the wall" (emphasis added). Because those changes were not incorporated into the trail project prior to the City's issuance of its shoreline permit decision, however, it was more time-consuming and costly for the parties to make those project changes.

For this project, I am hopeful that we can incorporate similar project changes prior to the issuance of the shoreline permit so that we can avoid needless delay and cost. To mitigate the impacts described above, we ask that the County modify the project design as follows, and we request that the City impose a condition on the shoreline permit requiring these project changes:

- (a) Move the clearing and grading limits for the project four (4) feet closer to the trail center line between stations 294 and 295;
- (b) Allow the restoration of any impacted privacy fences, trees and landscaping in their pre-existing locations after trail construction, between trail locations 291 and 298; and
- (c) Inventory and mark as "SAVE" the heritage dogwood located at station 295.

Thank you for your consideration,

Arul Menezes
3145 E Lk Sammamish Shore Ln SE
Sammamish, WA 98075

³ The proposed removal of this tree appears to violate SMC Chapter 21A.37 as well as the SMP and SMC provisions cited above.