

## Lindsey Ozbolt

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**From:** Lindsey Ozbolt  
**Sent:** Friday, February 3, 2017 4:00 PM  
**To:** 'Steve Roberts'  
**Subject:** RE: SSDP 2016-00415 Sections 353 - 355

Dear Steve,

Thank you for contacting the City of Sammamish regarding the current Shoreline Substantial Development Permit Application for East Lake Sammamish Trail Segment 2B (SSDP2016-00415).

Your comments have been received and will be included in the project record. At the close of the comment period, all comments will be compiled and provided to King County for review and response. You will be included in future notices the City issues for this proposal.

Regards,

Lindsey Ozbolt

Associate Planner | City of Sammamish | Department of Community Development  
425.295.0527

**From:** Steve Roberts [mailto:steve@roberts.org]  
**Sent:** Friday, January 27, 2017 3:10 PM  
**To:** Steve Leniszewski <SLeniszewski@sammamish.us>  
**Cc:** Lindsey Ozbolt <LOzbolt@sammamish.us>; william rissberger <williamrissberger@comcast.net>; frankmckulka@comcast.net; Michelle Eden <mmeden@hotmail.com>; Jerry <jerryj27@msn.com>; Susan Roberts <susan@roberts.org>  
**Subject:** SSDP 2016-00415 Sections 353 - 355

[In case the pictures are lost in transmission I have also attached this comment letter as an attachment.]

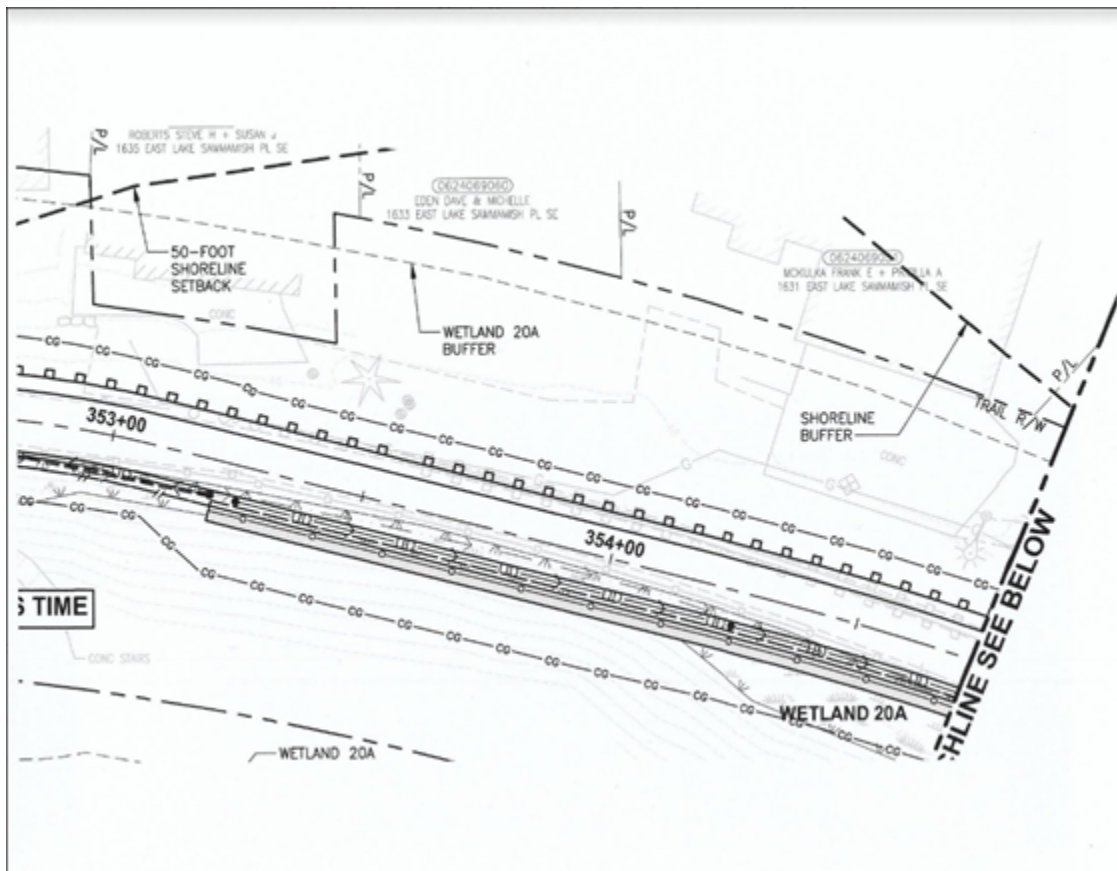
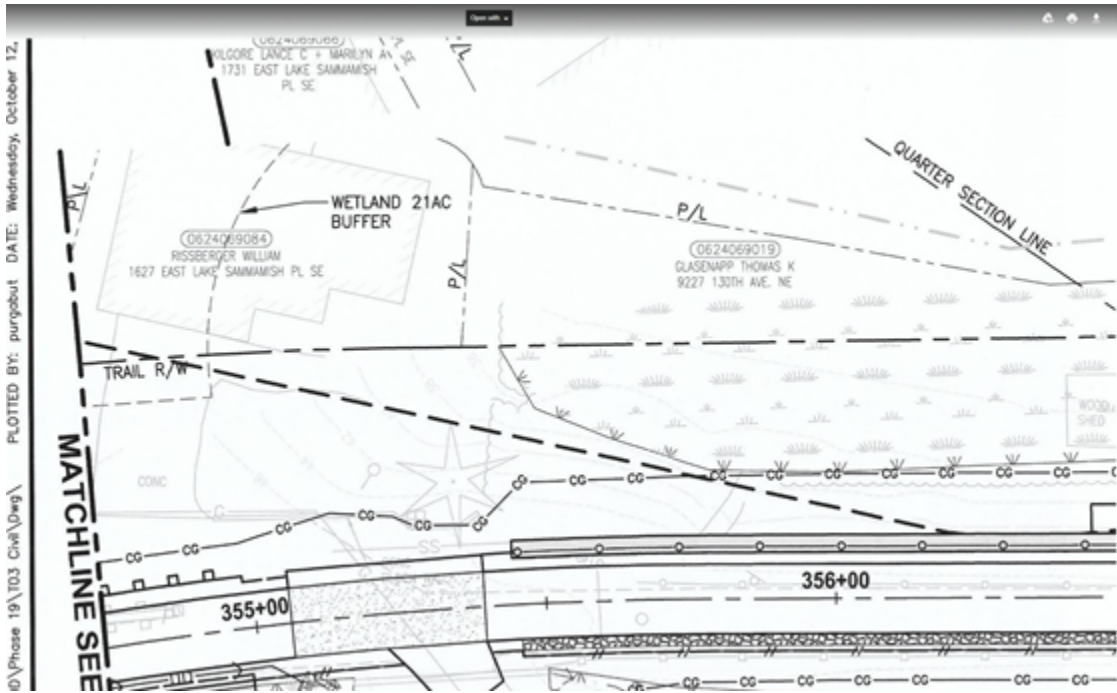
Lindsey and Steve,

Thanks for meeting with me today. As I mentioned we 4 neighbors met on Wednesday with Kelly Donahue from King County. Kelly reviewed the plans and our comments and said that comments need to be sent to you for sending on to King County. Kelly suggested I amend my earlier document to you to address concerns as they are related to the formal county plans. In that regard we are looking for solutions to our issues in sections 353 to 355. My specific property is nearest to section 353. I would also like to say that none of the 4 neighbors are fundamentally opposed to the trail at all. (And never have been.) We are all looking forward to its completion and having it available for our use. We do have concerns but also believe we have workable solutions for those concerns.

Our concerns are as follows:

1. During construction the CG line for fencing on the west side of these sections will keep us from entering any of our properties. Even assuming I could get past section 355 I could not get past the tree or turn into my garage with the proposed CG fence. From the county documents it is evident that they do not have my newly constructed home on their drawings at section 353.

Exhibit 29  
SSDP2016-00415  
002571



2. Post construction the 60% plans, as drawn, will not allow access for emergency equipment, trucks (FedEx, UPS, DHL etc.) and perhaps larger residential vehicles.

3. Post construction the 60% plans, as drawn, will not allow my family (section 353) to safely pass parked vehicles parked at Edens (section 353 + 50). As shown below it is currently a tight fit as built

**Exhibit 29**  
**SSDP2016-00415**  
**002572**



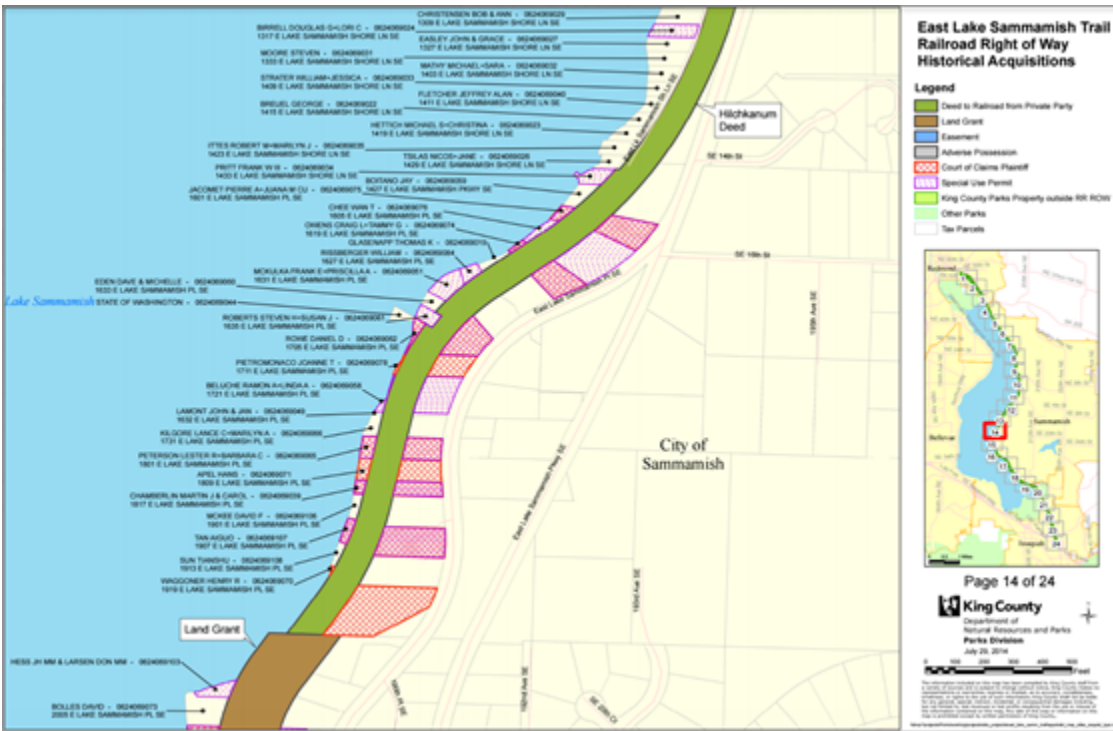
4. Post 60% plans, as drawn, will not allow us to turn into our garage. My home was permitted (B15-00019) by the city with the minimum required turning radius to enter our garage. We also designed our home such that we could back out south to drive north making egress safer for the 4 resident families and the trail users. The 60% plan does not permit that. The picture below shows a cone where the 60% plans propose the edge of the trail will be. Removing the tree, which we and the eagles love, does not help as the turn into the garage would be restricted by the shortened distance. My family and I have worked upfront with the city and county every step of the way to ensure we are working together. It took years to get our permit, dealing with wet land buffers etc and we never pushed for a variance for a reduced set back and in fact built our garages further back than required after working with city and the architect so that we could safely turn into our garage and back out of our garage to the south such that we have safe ingress and egress from our home. In the past I've worked with the county for landscaping needs and the installation of a gate across the ROW. (See attached SUP S-134-07) Even now I'm working working upfront with the county in efforts to get a more permanent driveway rather than asking forgiveness later as seems often to be the case on the lake. (See attached email example.)





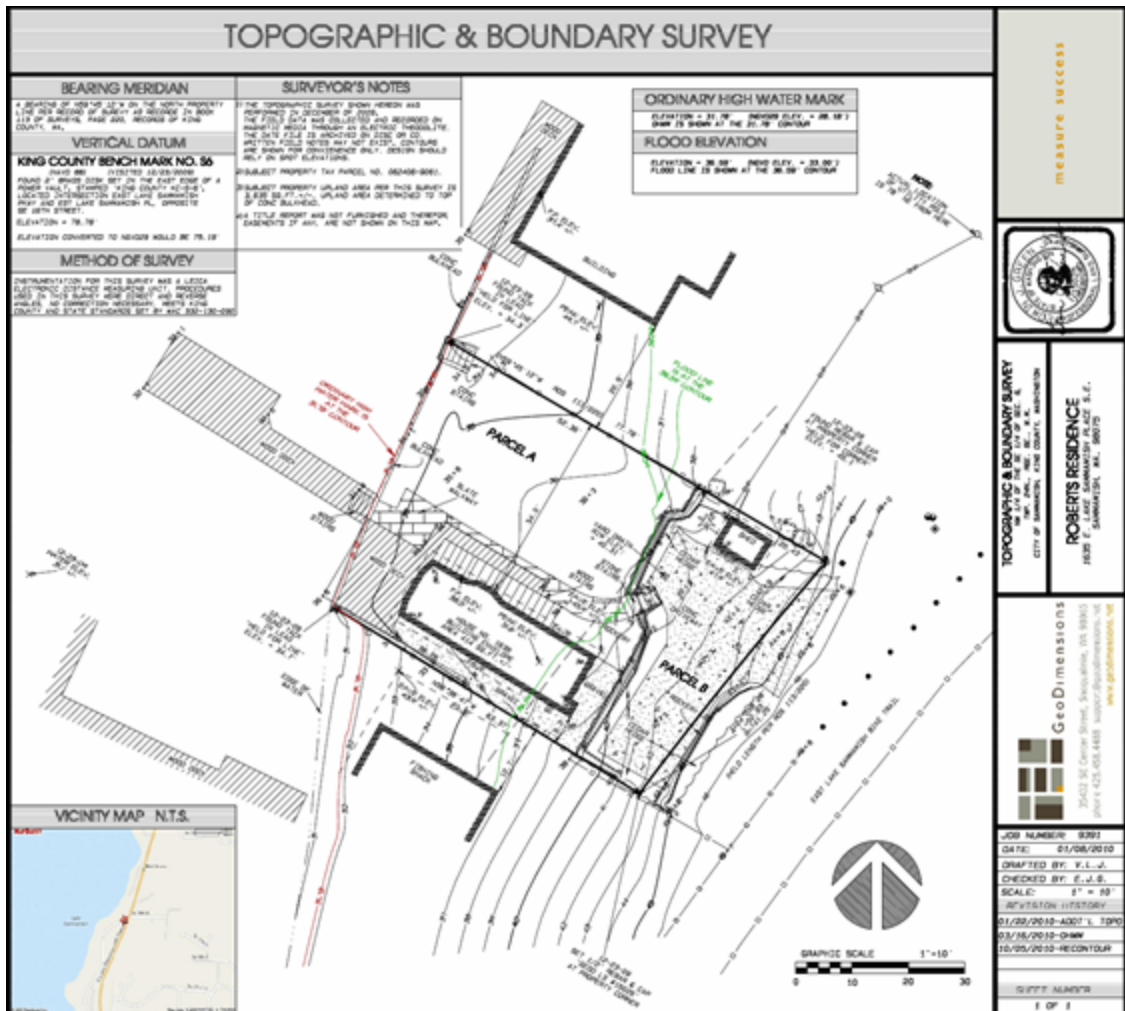
5. Also I've noticed that the recently installed ROW markers do not align with the commonly understood and enjoyed property/boundary lines. In fact the recently installed ROW markers do not agree with prior materials supplied by the county. My builder tells me that is likely because the county only used crude GPS for setting the points and not a true survey. This is important because they need to adjust the Clearing and Grading (CG) line and indeed the final barrier in line with the established and acknowledged property lines. The first picture below shows a county document which closely resembles the true observed property line boundaries. The second picture shows the ROW line which does not line up with the earlier county document or my, or my neighbors, surveys and property lines. (The property lines appear all to be shifted north by 5 or more feet.)





6. Regarding this discrepancy in the the shown boundary lines we of course built our home based on the long established survey of our property as permitted by the city. That survey is attached.

**Exhibit 29**  
**SSDP2016-00415**  
**002575**



7. When working with the county, city and fire department in the early stages of our home planning it was determined that the bollards in front (east) of our property should not have horizontal members such that they could be easily removed for emergency vehicle egress. The placement of these bollards were such that wide emergency vehicles could service our 4 home neighborhood. (This is shown in one of the pictures above.) Our home was permitted based on the access being wide enough for emergency vehicle ingress and egress.

We are asking that prior to construction the following changes are made to the 60% plans.

1. The CG fence line be adjusted to allow access for emergency, residential and commercial vehicles to our properties. Practically speaking the CG fence should not be further west than the current fence/bollards are now.
2. The trail center line be moved east greater than two feet in sections 353 to 355 to allow for access to our properties. In essence move the trail east such that our final fence/bollards are no further west than they are currently on the temporary trail. This is important for my family along the entire width of my property so we can back out south and not need to back out across multiple neighbors north to turn around.
3. The north end of the proposed wooden barrier (near section 355) be moved south to its current endpoint (or further south) to allow for safe vehicle access.
4. That the ROW is aligned with the well established west - east boundary lines of the properties. This is important for my family to have safe access for entering and backing out of our garage.

**Exhibit 29**  
**SSDP2016-00415**  
**002576**

5. Currently we have a bollard barrier. In order to increase access space this could be changed to a chain link fence. We are also happy to instead of having removable bollards as shown now to have this be changed to a sliding fence which would increase the access width and allow egress by emergency vehicles.

In summary, while we have identified a number of issues the good news is that the county already is proposing to develop the permanent trail east of its current temporary location. We are only asking that it be moved a couple of feet further east allowing us to have the access as we currently have now. Given the nature of the existing terrain in our area (Section 353 - 355) and the proposed work in the 60% plan this request should not significantly change the construction details and would allow our neighborhood safe access during and after construction. It would also not be a burden on neighbors east of us as they are up the hill and this move east would not impact the enjoyment of their properties.

I'd like to ask that the SSDP 2016 - 0045 approval be put on hold until the 90% plans are released and there is resolution to our requests.

I would also like to track the progress and process of my requests. Please let me know how I can do that.

Again thank you for your time working with me today. It was very helpful.

Best regards,

Steve and Susan Roberts  
1635 East Lake Sammamish PL SE  
Sammamish WA 98075

January 27th, 2017





Steve Roberts &lt;steve.roberts@gmail.com&gt;

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**Fwd: 1635 East Lake Sammamish Place SE**

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Dan Buchser <dan@macphersonconstruction.com>  
To: Steve Roberts <steve@roberts.org>

Fri, Nov 4, 2016 at 2:22 PM

Steve,

See email below from Nunnenkamp. Sorry for the bad news. Not sure how exactly to push back as we've already made it clear that if trail work affects the paving you would take on the responsibility. Also, not sure exactly how we're dealing with drainage, but isn't that the whole idea behind "pervious" paving?

Let me know what you think.

Dan Buchser

Associate Architect

Cell: (360)-461-6064

Office: (425) 391-3333



21626 SE 28th Street Sammamish, WA 98075-7125 | 425-391-3333

dan@macphersonconstruction.com | www.macphersonconstruction.com

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**From:** Nunnenkamp, Robert [mailto:Robert.Nunnenkamp@kingcounty.gov]  
**Sent:** Friday, November 4, 2016 2:15 PM  
**To:** Dan Buchser <dan@macphersonconstruction.com>  
**Cc:** Leers, Monica <Monica.Leers@kingcounty.gov>  
**Subject:** RE: 1635 East Lake Sammamish Place SE

I discussed the pervious drive with other project staff after I received the 11'-width recommendation from the project engineer. The staff expressed concerns regarding constructability conflicts with our upcoming trail construction. While it looks like we now have the correct width, the pervious drive surface would be too close to Parks' trail construction work and we would likely damage (and have to repair) the pavement or create impractical difficulties in attempts to work around it. Because of this, we are going to pause your paving until after our project is complete and the conflict is no longer there. At that time it looks like we'll be able to accommodate the 11'-width. We'll need a drainage plan for area at that time to make sure no drainage will impact the new trail.

**Exhibit 29**  
**SSDP2016-00415**  
**002578**

SB-56

This means for the moment that you'll have to stick with a gravel surface. Sorry for the inconvenience, but I need to make sure we can reasonably get in to do our work without making a bigger mess for everybody.

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**From:** Dan Buchser [mailto:[dan@macphersonconstruction.com](mailto:dan@macphersonconstruction.com)]

**Sent:** Thursday, November 03, 2016 9:00 AM

**To:** Nunnenkamp, Robert

**Cc:** Leers, Monica

**Subject:** RE: 1635 East Lake Sammamish Place SE

**Importance:** High

Hi Robert,

We noticed that the trail survey team was out on site this week to mark the County ROW across the Roberts property. Your survey makes it clear where the 11' foot strip will be placed per your previous correspondence and our resubmitted plan. We are in the final stretch of finishing up the Roberts home and would really like to get the pervious drive scheduled as soon as possible. Are we good to go? Is there any additional information you need from us?

[Quoted text hidden]

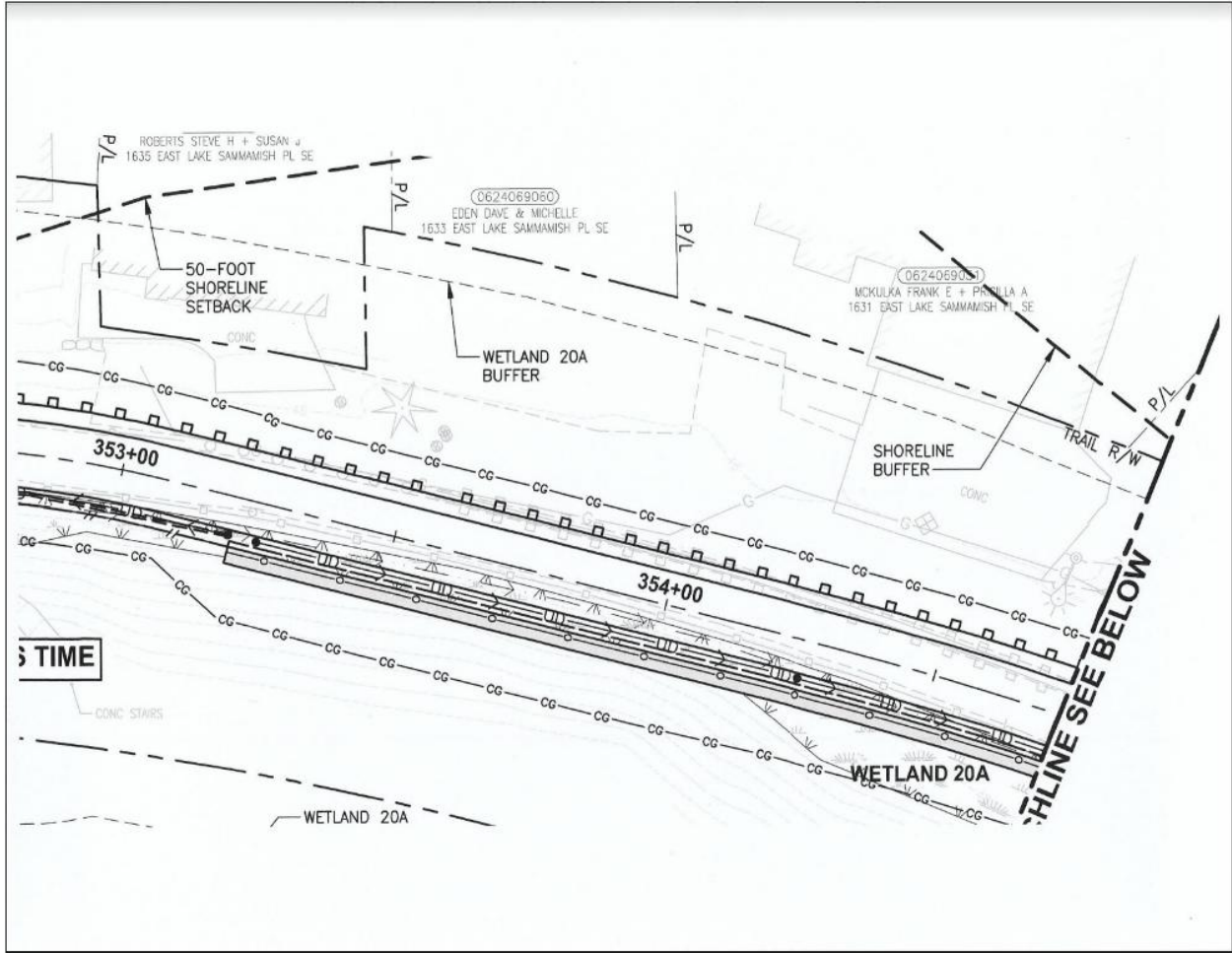
**Exhibit 29**  
**SSDP2016-00415**  
**002579**

**SB-56**









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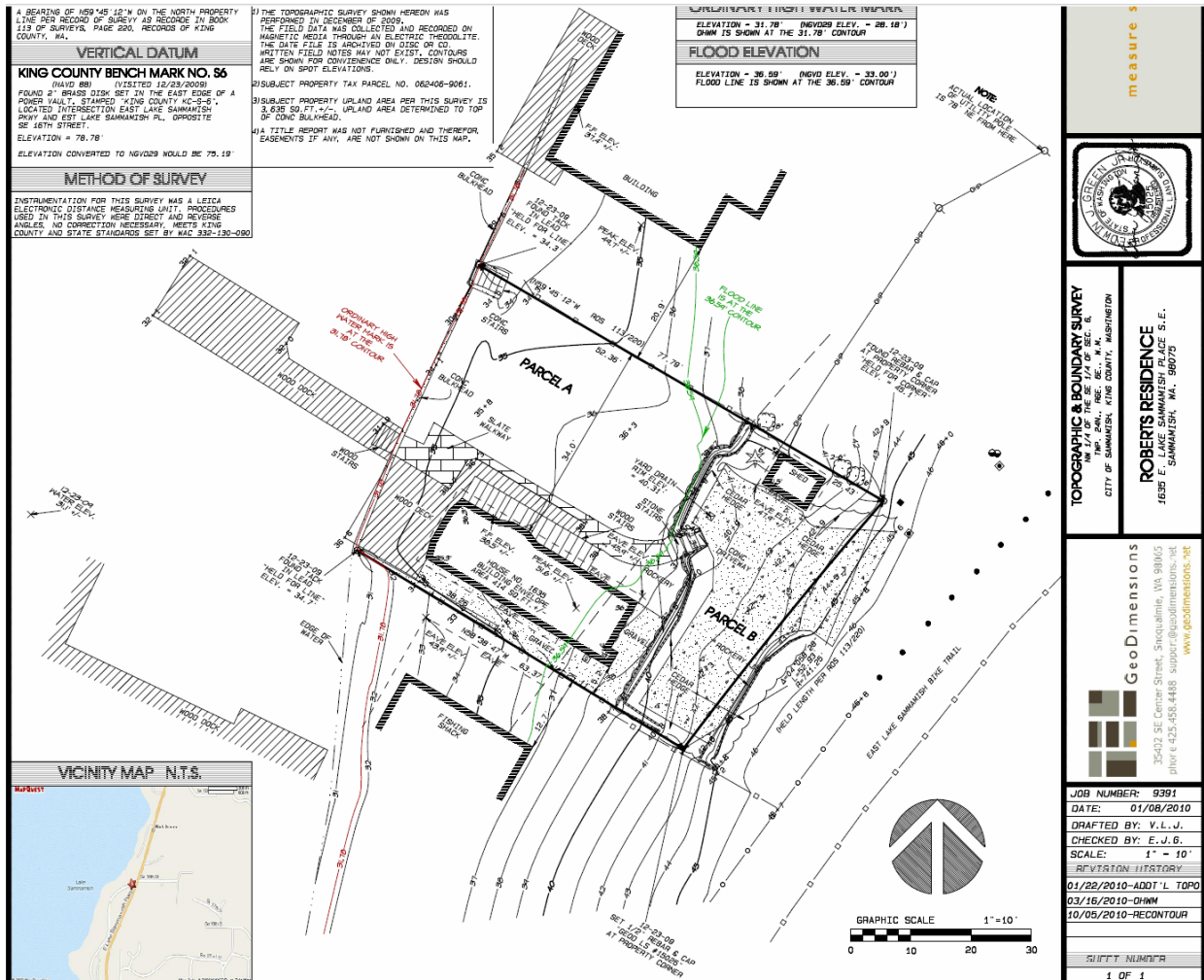
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**Exhibit 29**  
**SSDP2016-00415**  
**002584**





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Again thank you for your time working with me today. It was very helpful.

**Exhibit 29**  
**SSDP2016-00415**  
**002587**

Best regards,

Steve and Susan Roberts  
1635 East Lake Sammamish PL SE  
Sammamish WA 98075

January 27, 2017

**Exhibit 29**  
**SSDP2016-00415**  
**002588**



25' to Roberts  
1635SE

EAST LAKE SAMMAMISH PL SE

EAST LAKE SAMMAMISH PKWY SE

Exhibit 29  
SSDP2016-00415  
002589





Lake Sammamish  
STATE OF WASHINGTON - 0624069044



BIRRELL DOUGLAS G+LORI C - 0624069024  
1317 E LAKE SAMMAMISH SHORE LN SE  
CHRISTENSEN BOB & ANN - 0624069029  
1309 E LAKE SAMMAMISH SHORE LN SE  
EASLEY JOHN & GRACE - 0624069027  
1327 E LAKE SAMMAMISH SHORE LN SE

MOORE STEVEN - 0624069031  
1333 E LAKE SAMMAMISH SHORE LN SE  
MATHY MICHAEL+SARA - 0624069032  
1403 E LAKE SAMMAMISH SHORE LN SE  
STRATER WILLIAM+JESSICA - 0624069033  
1409 E LAKE SAMMAMISH SHORE LN SE  
FLETCHER JEFFREY ALAN - 0624069040  
1411 E LAKE SAMMAMISH SHORE LN SE

BREUEL GEORGE - 0624069022  
1415 E LAKE SAMMAMISH SHORE LN SE  
HETTICH MICHAEL S+CHRISTINA - 0624069023  
1419 E LAKE SAMMAMISH SHORE LN SE

ITTES ROBERT M+MARILYN J - 0624069035  
1423 E LAKE SAMMAMISH SHORE LN SE  
TSILAS NICOS+JANE - 0624069026  
1429 E LAKE SAMMAMISH SHORE LN SE

PRITT FRANK W III - 0624069034  
1433 E LAKE SAMMAMISH SHORE LN SE  
BOITANO JAY - 0624069059  
1427 E LAKE SAMMAMISH PKWY SE

CHEE WAN T - 0624069076  
1605 E LAKE SAMMAMISH PL SE  
OWENS CRAIG L+TAMMY G - 0624069074  
1619 E LAKE SAMMAMISH PL SE  
GLASENAPP THOMAS K - 0624069019  
1827 E LAKE SAMMAMISH PL SE

RISSBERGER WILLIAM - 0624069084  
1827 E LAKE SAMMAMISH PL SE  
MCKULKA FRANK E+PRISCILLA A - 0624069051  
1631 E LAKE SAMMAMISH PL SE

EDEN DAVE & MICHELLE - 0624069060  
1633 E LAKE SAMMAMISH PL SE  
ROBERTS STEVEN H+SUSAN J - 0624069061  
1635 E LAKE SAMMAMISH PL SE  
ROWE DANIEL D - 0624069062  
1705 E LAKE SAMMAMISH PL SE

PIETROMONACO JOANNE T - 0624069078  
1711 E LAKE SAMMAMISH PL SE  
BELUCHE RAMON A+LINDAA - 0624069058  
1721 E LAKE SAMMAMISH PL SE

LAMONT JOHN & JAN - 0624069049  
1632 E LAKE SAMMAMISH PL SE  
KILGORE LANCE C+MARILYNN A - 0624069066  
1731 E LAKE SAMMAMISH PL SE

PETERSON LESTER R+BARBARA C - 0624069065  
1801 E LAKE SAMMAMISH PL SE  
APPEL HANS - 0624069071  
1809 E LAKE SAMMAMISH PL SE

CHAMBERLIN MARTIN J & CAROL - 0624069106  
1817 E LAKE SAMMAMISH PL SE  
MCKEE DAVID F - 0624069107  
1901 E LAKE SAMMAMISH PL SE

TAN AIGUO - 0624069107  
1907 E LAKE SAMMAMISH PL SE  
SUN TIANSHU - 0624069108  
1913 E LAKE SAMMAMISH PL SE

WAGGONER HENRY R - 0624069070

Hilchkanum  
Deed

**Exhibit 29**  
**SSDP2016-00415**  
**002590**

City of  
Sammamish

195th Ave SE

SE 16th St

SE 14th St

East Lake Sammamish Pkwy SE

East Lake Sammamish Pl SE

East Lk Sammamish Sh Ln SE

ROBERTS STEVE H + SUSAN J  
1635 EAST LAKE SAMMAMISH PL SE

EDEN DAVE & MICHELLE  
1633 EAST LAKE SAMMAMISH PL SE

MCKULKA FRANK E + PRINILLA A  
1631 EAST LAKE SAMMAMISH PL SE

P/L

P/L

P/L

50-FOOT  
SHORELINE  
SETBACK

WETLAND 20A  
BUFFER

SHORELINE  
BUFFER

353+00

354+00

WETLAND 20A

WETLAND 20A

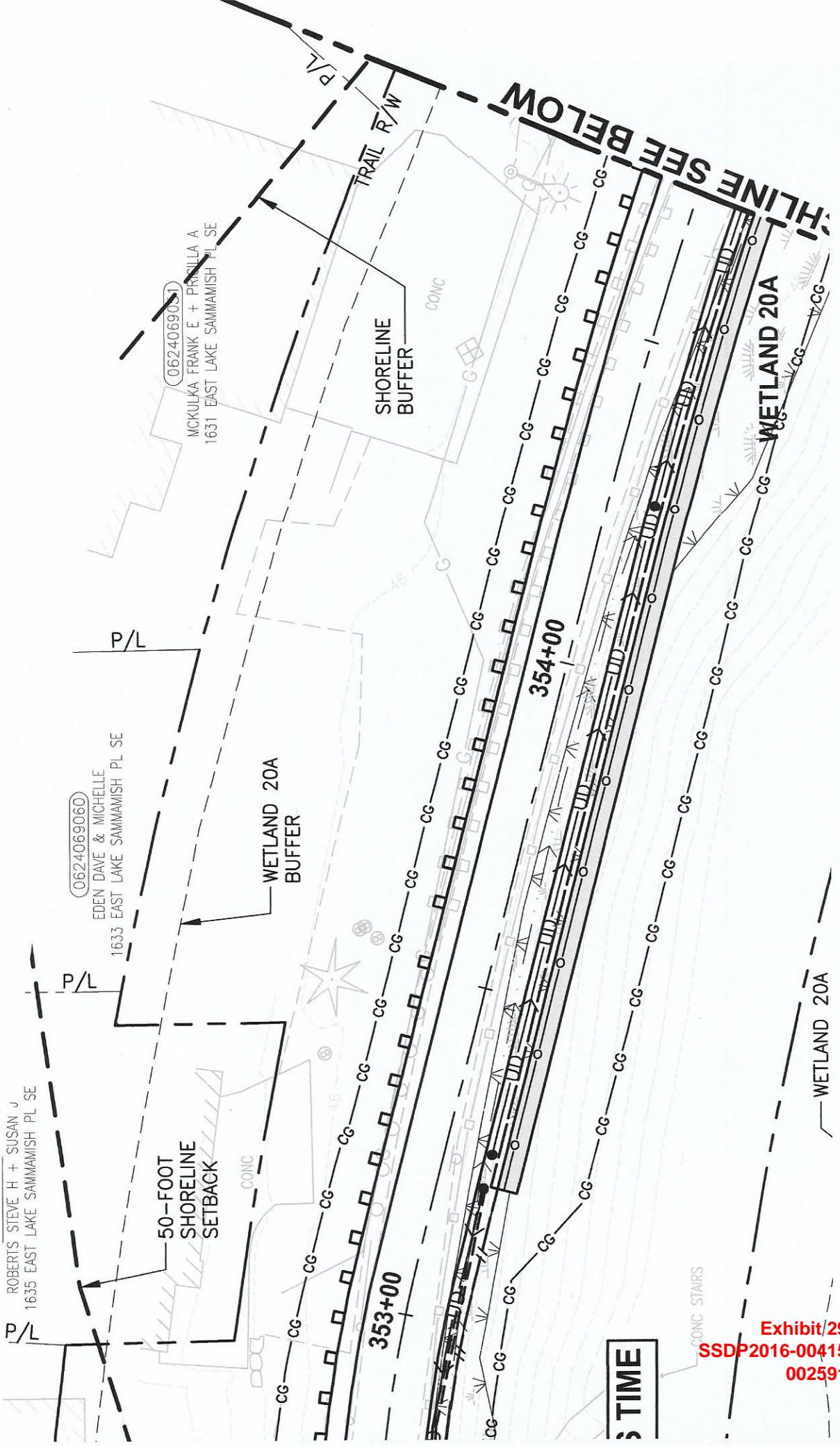
SHORELINE SEE BELOW

TIME

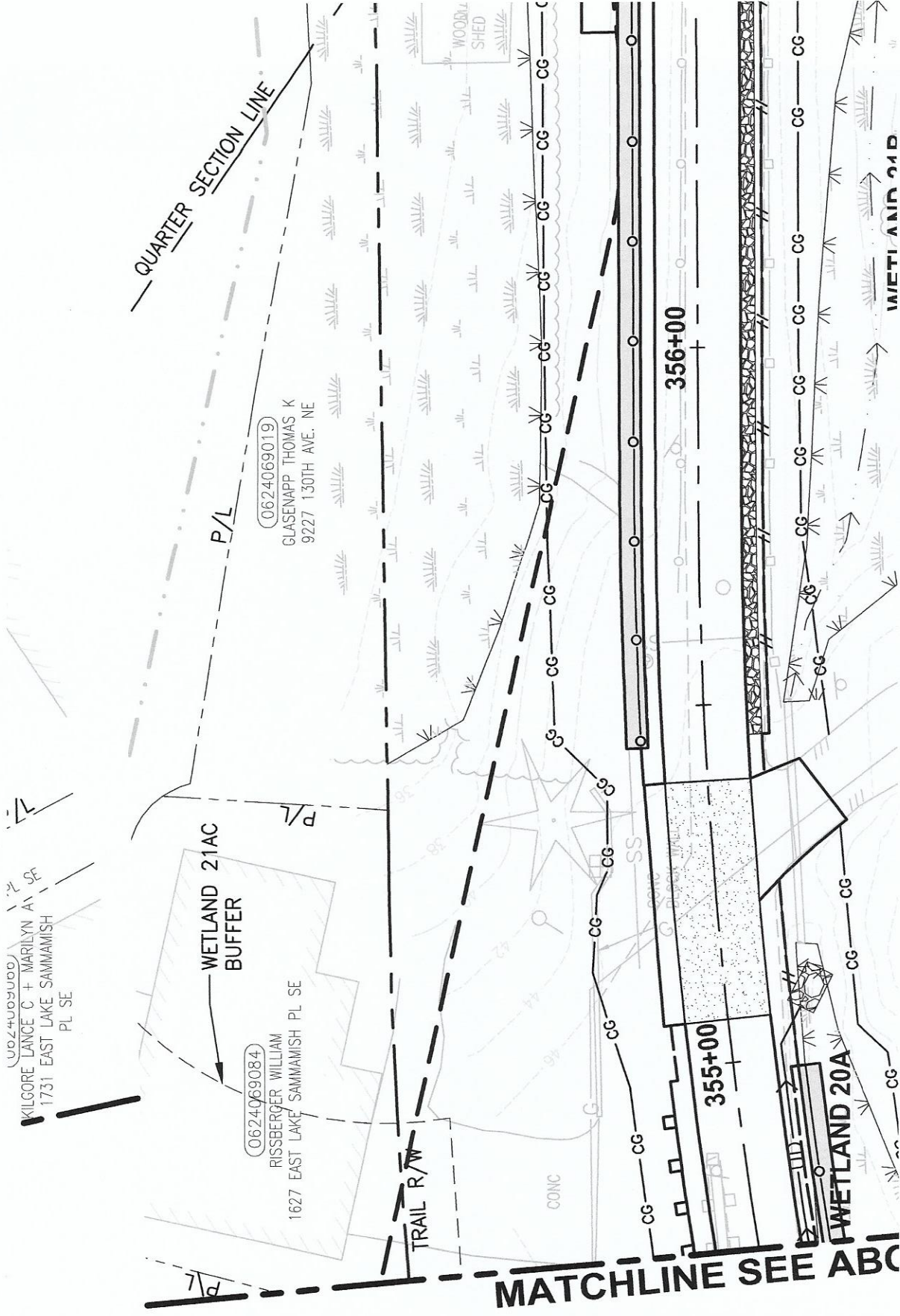
CONC STAIRS

Exhibit/29  
SSDP2016-00415  
002591

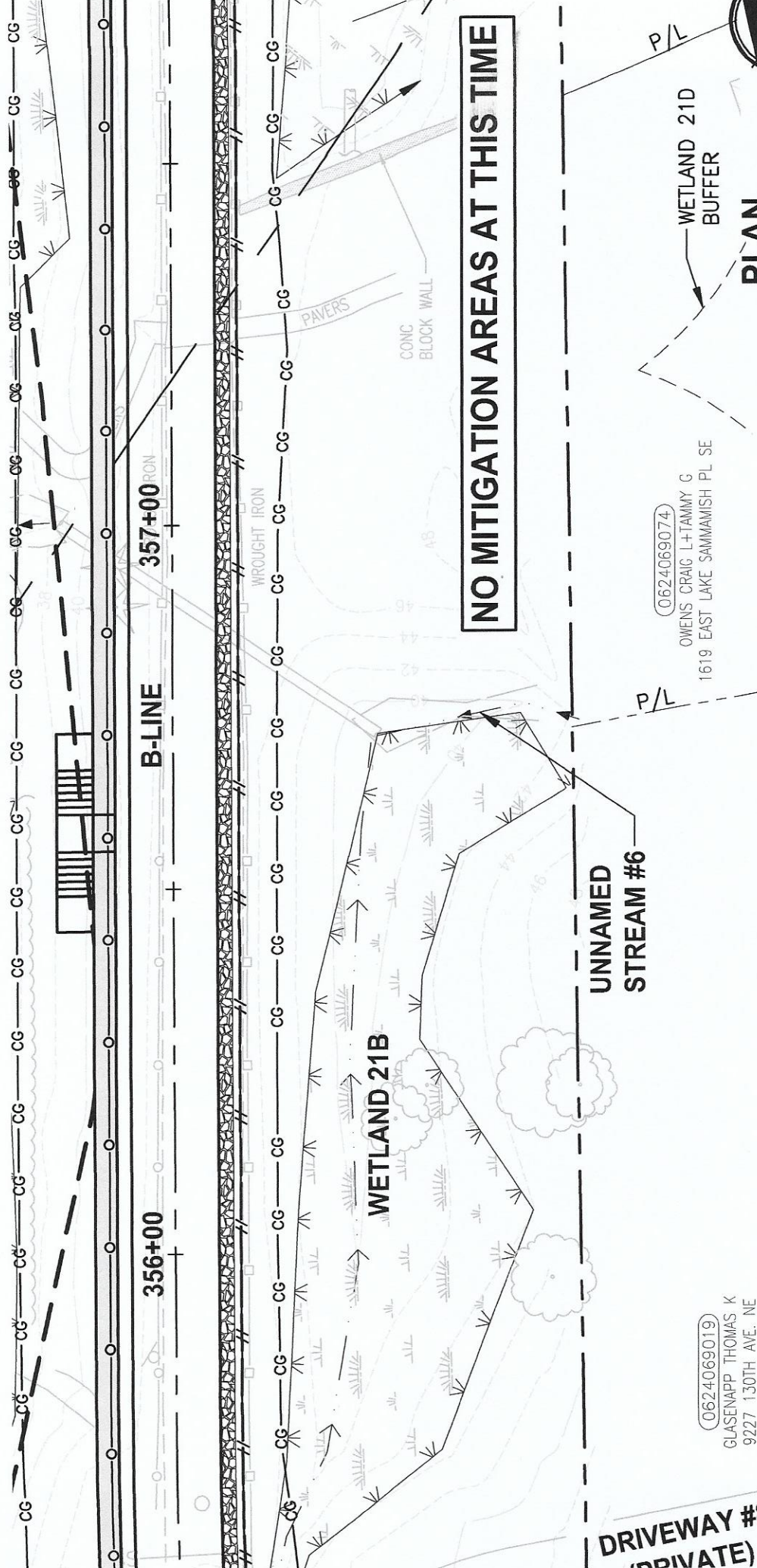
SB-56











**NO MITIGATION AREAS AT THIS TIME**



WETLAND 21D  
BUFFER

OWENS CRAIG L+TAMMY G  
1619 EAST LAKE SAMMAMISH PL SE

0624069074

UNNAMED  
STREAM #6

WETLAND 21B

B-LINE

356+00

357+00

DRIVEWAY #8  
(PRIVATE)

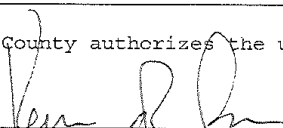
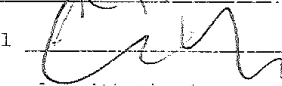

GLASENAPP THOMAS K  
9227 130TH AVE. NE

0624069019

Exhibit 29  
SSDP2016-00415  
002593

KING COUNTY  
 Department of Construction and Facilities Management  
 Property Services Division  
 500 King County Administration Building  
 500 Fourth Avenue  
 Seattle, WA 98104 (206) 356-7456 FAX 206-0196

SPECIAL USE PERMIT  
 Use of County Owned Property

PERMIT NUMBER: S-134-07		FILE NO.		DATE: 07/31/2007		
PERMITTEE:						
STEVE ROBERTS 20423 NE 16TH ST. SAMMAMISH, WA 98074-						
DAY PHONE: 425-836-8275			OTHER/FAX PHONE:			
PURPOSE:						
TO ALLOW EXISTING INGRESS/EGRESS, UTILITIES CROSSINGS, INSTALLATION OF A GATE & TO INSTALL & MAINTAIN LANDSCAPING IMPROVEMENTS.						
LEGAL DESCRIPTION	1/4	Sec	Twp	Rge	Account No.	Kroll Page
	SE	06	24	06		547E
PIN 062406-9013 EAST LAKE SAMMAMISH TRAIL CORRIDOR WITHIN THE BOUNDARIES OF THE ABOVE REFERENCED PARCEL ADJACENT TO PIN 062406-9061 AKA 1635 E.LK. SAMMAMISH PL. SE						
EXPIRATION: This permit shall not be valid for more than 10 YEARS and expires on the <u>17th</u> day of <u>September</u> 2017.						
PERMIT FEE:	\$	35.00	INSPECTION FEE:	\$	0.00	
ADMINISTRATIVE FEE:	\$	0.00	PLAN REVIEW FEE:	\$	0.00	
LAND USE FEE:	\$	0.00	OTHER FEE:	\$	0.00	
BOND AMOUNT:	\$	0.00	INSURANCE AMOUNT:	\$	500,000.00	
Permittee MUST notify ROBERT NUNNENKAMP AT: 206-263-6207 AT LEAST 72 HOURS PRIOR TO BEGINNING ANY WORK & IMMEDIATELY UPON COMPLETION.						
By this permit King County authorizes the use of the above described property:						
Custodial Approval				Date	9/12/07	
Property Services Approval				Date	9/12/07	
The Permittee agrees to comply with the terms and conditions contained herein. SEE REVERSE SIDE FOR TERMS AND CONDITIONS.						
Signature of Permittee				Date	9/15/07	

NOTE: Permit not valid without all necessary signatures and expiration date.  
 Ordinance 4099, King County Code 14.46

**Exhibit 29**  
**SSDP2016-00415**  
**002594**

STEVE ROBERTS  
SPECIAL USE PERMIT  
S-134-07

15. SPECIAL TERMS AND CONDITIONS:

- a. All prior existing railroad permits, agreements or leases are terminated and replaced by this King County Special Use Permit.
- b. All use of King County's East Lake Sammamish Trail corridor ("corridor") is restricted to existing ingress, egress and utility crossing in place & a gate & landscaping installation and maintenance.
- c. Gate location must be approved on-site by KCPR prior to its installation. Access gate must slide or swing outward from the trail corridor.
- d. The permittee understands that no additional work, use, improvements or alterations shall be made to King County property.
- e. The permittee shall call (800) 424-555 for underground utility locations prior to performing any digging for tree planting or any other landscaping improvements.
- f. The permittee shall be solely responsible for the replacement and/or repair of any subsurface or surface utilities damaged and/or destroyed as a result of any work authorized by this permit.
- g. Maintenance of all landscaped areas covered by this permit shall be the sole responsibility of the permittee. King County will not be responsible for any damages to the landscaping incurred by County maintenance crews. In addition, King County at its sole discretion may direct staff to trim or remove landscaping at any time
- h. The permittee will be responsible for the removal and disposal of all waste materials and debris generated by the authorization of this permit at an approved disposal site.
- i. The Permittee shall not make any additional use of, or improvements or alterations to the corridor that is not specifically authorized in this permit. Any additional use of the corridor must be approved in writing by King County. Such approval shall be made an amendment to this permit and contain appropriate conditions.
- j. The Permittee will be responsible to secure and provide proof of all necessary permits prior to starting any construction on the corridor of ways for ingress and egress or of utility crossings as authorized by this permit.
- k. Following authorized construction activities on the corridor, the Permittee shall restore park property and trail shoulders altered by the construction to original or better condition, including the restoration of any drainage systems. The Permittee will not dump or dispose of construction debris and surplus material on parkland and any time.



STEVE ROBERTS  
SPECIAL USE PERMIT  
S-134-07

**15. SPECIAL TERMS AND CONDITIONS CONTINUED**

- l. If at anytime the authorized use, improvement, alteration or construction on parkland creates a condition, which could pose a danger to park users, the Permittee will be responsible for posting temporary signage, using Parks approved barricades, or taking other Parks approved measures to facilitate continued safe use of parkland.
- m. The permittee understands that future trail development resulting from the King County Park System Master Plan Process may affect or alter the nature or scope of the permitted use. The permittee further understands that under the Rails-to-Trails Act (Title 16, United States Code, Section 1247 (d) and the Quit Claim Deed from The Land Conservancy to King County (King County Recording Number 9809181252), The Land Conservancy, its designees, licensees, or assigns reserve the right to reactivate rail service over the subject property, which may require the relocation or removal of the Permittee's improvements. In the event of such reactivation, this permit will expire and the permittee will be required to remove or relocate his improvements at his sole cost and/or negotiate continued use of the property with The Land Conservancy, its designees, licensees or assigns.
- n. The Permittee will contact Robert Nunnenkamp, Property Agent at (206) 263-6207 to coordinate on-site inspections, prior to and following any work on parkland.
- o. King County reserves the right to set additional terms as unforeseen conditions may warrant.

STEVE ROBERTS  
SPECIAL USE PERMIT  
S-134-07

15p. **INSURANCE:**

The permittee shall procure and maintain appropriate homeowners insurance or coverage against claims for injuries to persons or damages to property. Furthermore, the permittee shall make sure that any agents, employers, or contractors performing work hereunder on behalf of the permittee must provide evidence of appropriate bonding and insurance.

Verification of Coverage:

The permittee shall furnish the King County Property Services Division with certificate of insurance required by this permit.

## Lindsey Ozbolt

---

**From:** Lindsey Ozbolt  
**Sent:** Friday, February 3, 2017 3:58 PM  
**To:** 'Joerg Hallmann'  
**Subject:** RE: Comment SSDP

Dear Joerg,

Thank you for contacting the City of Sammamish regarding the current Shoreline Substantial Development Permit Application for East Lake Sammamish Trail Segment 2B (SSDP2016-00415).

Your comments have been received and will be included in the project record. At the close of the comment period, all comments will be compiled and provided to King County for review and response. You will be included in future notices the City issues for this proposal.

Regards,

Lindsey Ozbolt

Associate Planner | City of Sammamish | Department of Community Development  
425.295.0527

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**From:** Joerg Hallmann [mailto:j\_hallmann@yahoo.com]  
**Sent:** Friday, January 27, 2017 2:44 PM  
**To:** Lindsey Ozbolt <LOzbolt@sammamish.us>  
**Subject:** Comment SSDP

Hi Lindsey,

attached you find our comments for the SSDP 60% plans.

Thanks,  
Joerg Hallmann



Joerg Hallmann  
241 E Lake Sammamish Shore Lane NE  
Sammamish, WA 98074

01/26/2017

Attn: Lindsey Osbolt ([lozbolt@sammamish.us](mailto:lozbolt@sammamish.us))

Comments for the Shoreline Substantial Development Permit (SSDP) Segment 2A - 60% Plans from King County

We are currently living right next to the trail with our three children. We have been waiting for our segment to be completed. When we got the plan, we were shocked. Despite assurance from King County the plan shows that we are losing the entire usable land.

Background for our property

The Railroad previously only acquired a Right Of Way and the property should have been reverted back to the owner after abandonment. We hold the position that **King County does not own the land**. Currently there is a ruling by the local federal judge Pechman that favors King County, but that decision is appealed.

The City of Sammamish should not issue a permit until the lawsuit is completed or agreement with the neighbors has been reached. The entire lawsuit is already unfair as King County has unlimited funding taken from its own citizens including us. The federal claims court in the past concluded in the final ruling that Railroad only acquired ROW and so King County owns compensation to the owners. Until today, **King County has not paid the compensation due to the plaintiffs**. King County is not a reliable partner as it has shown in the past by ignoring the people in the Neighborhoods it had already built. It also ignores valid court rulings by not paying compensations as mention above.

There is an agreement with King County established back when they applied for the SSDP for the north segment that says, among other things, property owners have the right to replace any improvements on the rail corridor removed during construction as long as they are not within the trail footprint. After construction King County tried to ignore the agreement and neighbors had to go to Court to enforce it.

Our affected land has a drywell and shed and is used for parking as well. These details are omitted on the plan that describes the existing conditions. By omitting the details from the plan it will be harder for us to enforce the previously mentioned agreement.

During the conversation with the representatives of King County on numerous occasions, it was pledged the impact on the neighborhood would be minimized. It was agreed that The trail will be extended around the centerline.

Based on the current 60% plan, King County will push the entire trail into the side we are using. It also specifies the remaining land will be dispersion area and also be planted. The plan is missing the specific details about the dispersion area. How can we give feedback if the details are not known and even might change? Sammamish should **not start the permitting and review process until the plans at least 90% complete** and reflect reality that also includes improvement on our property. We believe that once King County has a concrete and solid plan the review should then start.

**Exhibit 29**  
**SSDP2016-00415**  
**002599**

The 60% percent shows King County has not taken into consideration our opinions and the opinions of our neighbors and community We had hoped to get a nice trail, but instead are now faced with the loss of entire land. Once the plans are approved the only remedies left are costly lawsuits.

Currently the City holds the key to an appropriate, fair and cost effective solution and we hope you will support us to get a better solution.

Yorg Hellmann

Attached:

Final federal claims court ruling regarding compensation or the ROW  
Settlement agreement between Sammamish Homeowners and King County

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THOMAS E. HORNISH AND  
SUZANNE J. HORNISH JOINT LIVING  
TRUST, et al.,

Plaintiffs,

v.

KING COUNTY,

Defendant.

CASE NO. C15-284-MJP

ORDER ON CROSS-MOTIONS FOR  
SUMMARY JUDGMENT

The above-entitled Court, having received and reviewed:

1. Defendant King County’s Motion for Summary Judgment (Dkt. No. 46), Plaintiffs’ Response (Dkt. No. 54), and Defendant’s Reply (Dkt. No. 56);
2. Plaintiffs’ Motion for Summary Judgment (Dkt. No. 55), Defendant’s Response (Dkt. No. 61), and Plaintiffs’ Reply (Dkt. No. 62);

all attached exhibits and declarations, and relevant portions of the record, and having heard oral argument, rules as follows:



1 IT IS ORDERED that Plaintiffs' motion for summary judgment is DENIED.

2 IT IS FURTHER ORDERED that Defendant's motion for summary judgment is  
3 GRANTED; Plaintiff's claims are ordered DISMISSED with prejudice.

4  
5 **Background**

6 At issue in this lawsuit is a strip of land formerly utilized as a railroad corridor in King  
7 County, Washington ("the Corridor"). The Corridor was created in the late 1800s by the Seattle,  
8 Lake Shore & Eastern Railway Company (the "SLS&E") through a combination of federal land  
9 grants, homesteader deeds and adverse possession, resulting in a strip of property comprised of  
10 both easements and fees simple. *See Beres v. United States*, 104 Fed. Cl. 408, 412 (2012).

11 The Hornish property is adjacent to land acquired by SLS&E through a quit claim deed in  
12 1887 ("the Hilchkanum Deed"). (Decl. of Nunnenkamp, Ex. E.) When Hilchkanum sold the  
13 remainder of his property, he excluded the Corridor from the property description. (*Id.*, Ex. F.)  
14 There are no original deeds for the portions of the Corridor adjacent to the remaining Plaintiffs.  
15 The property surrounding the Corridor in these areas was owned by the Northern Pacific  
16 Railroad by means of an 1864 land grant. (*Id.*, Ex. G.) In 1889, Northern Pacific conveyed the  
17 land surrounding the Corridor to Mr. Middleton (without mentioning the Corridor; *id.* at Ex. H);  
18 Defendant claims that tax assessment rolls from 1895, however, exclude the 100 foot Corridor  
19 from Middleton's property. In the 1909 Pierce County probate action following Middleton's  
20 death, the Corridor was expressly excluded. (Decl. of Hackett, Ex. C. at 4, 8.)

21 SLS&E eventually became part of Burlington Northern & Santa Fe ("BNSF"). In 1997,  
22 BNSF conveyed its interest in the Corridor to The Land Conservancy ("TLC") via quit claim  
23 deed. (Decl. of Nunnenkamp, Ex. I.) Later that year, TLC petitioned the Surface Transportation  
24 Board ("STB") to abandon the use of the Corridor for rail service and King County declared its

1 intention to assume financial responsibility for the area as an “interim trail sponsor,” a process  
2 created by the Trails Act known as “railbanking.” *See* 16 U.S.C. § 1247(d).

3 On September 16, 1998, STB issued a Notice of Interim Trail Use (“NITU”). The Land  
4 Conservancy of Seattle and King County – Abandonment Exemption – in King County, WA,  
5 No. AB-6 (SUB 380X), 1998 WL 638432, at \*1 (Sept. 16, 1998). As part of TLC’s arrangement  
6 with the County to take over as trail sponsor, the County was granted all TLC’s ownership  
7 interest in the Corridor, which was memorialized by a Quitclaim Deed recorded in King County.  
8 (Decl. of Nunnenkamp, Ex. J.) The County then constructed a soft surface public trail and is in  
9 the process of constructing a paved trail the length of the Corridor. (Mtn., at 4.)

### 10 Discussion

#### 11 Hornish Plaintiffs’ property

12 The County presents federal and state authority supporting its position that it owns a fee  
13 interest in this part of the Corridor. In King County v. Rasmussen, 299 F.3d 1077, 1087 (9th Cir.  
14 2002), the Ninth Circuit Court of Appeals found that “Hilchkanum intended to convey a fee  
15 simple interest in the strip of land described;” the “strip of land” being a 100-foot corridor  
16 granted to SLS&E (which interest was later conveyed to the County). Two years later, the state  
17 court reached a similar conclusion (citing the reasoning in Rasmussen with approval) in Ray v.  
18 King County, 120 Wn.App. 564, 589 (2004).

19 Plaintiffs cite two cases as well. First, Brown v. State, 130 Wn.2d 430 (1996), which laid  
20 out a series of factors to be considered when determining whether an easement or fee was  
21 intended to be conveyed in a railroad right of way. Second, Kershaw Sunnyside Ranches, Inc. v.  
22 Interurban Lines, 156 Wn.2d 253 (2006) which held that “whether by quitclaim or warranty  
23 deed, language establishing that a conveyance is for right of way or railroad purposes  
24 presumptively conveys an easement...” Id. at 269.

1 The Court remains unpersuaded that Plaintiffs' authority stands for the proposition they  
2 assert (that the Hilchkanum Deed conveyed an easement). First of all, the Washington Supreme  
3 Court in Kershaw qualified their holding as follows: "[W]hen the granting document uses the  
4 term 'right of way' as a limitation or to define the purpose of the grant, it operates to 'clearly and  
5 expressly limit[] or qualify[y] the interest conveyed.'" Id. at 265 (citation omitted). The  
6 Hilchkanum Deed does not use the phrase "right of way" to describe or limit the purpose of the  
7 grant, an impression which is bolstered by the habendum language in the conveyance indicating  
8 that SLS&E is "[t]o have and to hold the said premises with the appurtenances unto the said  
9 party of the second part and its successors and assigns forever." (Decl. of Nunnenkamp, Ex. E at  
10 2.) There are no conditions of use imposed on the grant. Had the Hilchkanums intended to limit  
11 the purpose of the grant, presumably they would not have assigned it unconditionally and forever  
12 to their grantee.

13 Second of all, even if the Court were to follow Kershaw to the point of entertaining the  
14 presumption that an easement was conveyed, the courts in Rasmussen and Ray went through the  
15 same analysis of the Brown factors that the Washington Supreme Court did in Kershaw and  
16 concluded that the grant intended to convey an interest in fee simple; i.e., the presumption was  
17 successfully rebutted. Plaintiffs have given us no reason to overturn that ruling. Indeed, neither  
18 Rasmussen nor Ray were overturned in the wake of Kershaw, and Rasmussen remains  
19 controlling precedent for this district.

20 Mention must be made (as both sides do) of Beres v. United States, 104 Fed. Cl. 408  
21 (Fed.Cl. 2012), in which the Federal Claims Court examined the Hilchkanum Deed in the light of  
22 Kershaw and came to the exact opposite conclusion as the Ninth Circuit in Rasmussen; i.e., that  
23 the Deed conveyed an easement, not a fee interest. Id. at 430-31. The Federal Claims Court  
24



1 conducted an exhaustive analysis of the Deed and the case law concerning the proper  
 2 interpretation of such conveyances. In the final analysis, the most that can be said is that  
 3 reasonable jurists disagreed: the Ninth Circuit arrived at one conclusion and the Federal Claims  
 4 Court arrived at another. This Court is bound by Ninth Circuit ruling, and on that basis finds that  
 5 the County owns the portion of the Corridor abutting the Hornish Plaintiffs' property in fee  
 6 simple. The County's summary judgment motion in that regard is GRANTED.

7  
 8 The remaining Plaintiffs

9 *Nature of the railroad easements and the Trails Act*

10 The County seeks the authority to exercise all the rights in the Corridor that the railroads  
 11 had. Plaintiffs interpose two interrelated arguments that they should not be allowed to do so.

12 Plaintiffs' first argument is that the Trails Act preserves the right of the railroad to  
 13 reactivate its easement *for future purposes only*; another way Plaintiffs phrase this is by arguing  
 14 that railbanking is not a "current railroad purpose" and that railbanking extinguishes the railroad  
 15 easement. This is relevant to the County's argument that it has the power to exercise all the  
 16 rights the railroad had under its railroad easement.

17 The weight of authority favors Defendant's position that railbanking does not extinguish,  
 18 suspend or otherwise operate as an abandonment of the railroad easement. The Supreme Court  
 19 has held that "interim use of a railroad right-of-way for trail use, when the route itself maintains  
 20 intact for future railroad purposes, shall not constitute an abandonment of such rights-of-way for  
 21 railroad purposes." Presault v. Interstate Commerce Commission, 494 U.S. 1, 8-9 (1990)  
 22 (quoting H.R. Rep. No. 98-28 at 8-9 (1983)).

23 Nor does the language of the Trails Act lend itself to Plaintiffs' interpretation.  
 24

1 [I]n furtherance of the national policy to preserve established railroad rights-of-way for  
 2 future reactivation of rail service... in the case of interim use of any established railroad  
 3 rights-of-way pursuant to donation, transfer, lease, sale, or otherwise in a manner  
 4 consistent with this chapter... *such interim use shall not be treated, for the purposes of  
 any law or rule of law, as an abandonment of the use of such rights-of-way for railroad  
 purposes.*

5 16 U.S.C. § 1247(d)(emphasis supplied). As U.S. District Judge Coughenour of this district has  
 6 pointed out in a similar case, (1) “preserve” means “[t]o keep in its original or existing state: ...  
 7 to maintain or keep alive” (Oxford English Dictionary, 3d ed.) and (2) the statute says  
 8 “preserve... *for* future reactivation,” not “preserve *upon* future reactivation.” Kaseburg v. Port  
 9 of Seattle, 2015 WL 4508790 at \*3-4 (W.D. Wash. July 24, 2015).

10 For their second argument on this point, Plaintiffs cite to a 1986 Washington case which  
 11 held that the change in use (from rails to trails) of a railroad right-of-way constituted  
 12 abandonment of the railroad easement. Lawson v. State of Washington, 107 Wn.2d 444, 452  
 13 (1986). But Lawson is not a case involving the federal Trails Act and thus that court was not  
 14 guided (or constrained) by the language in the Trails Act indicating exactly the opposite.  
 15 Plaintiffs also quote the language of the Federal Circuit court in a later Presault case (Presault v.  
 16 United States, 100 F.3d 1525, 1554 (1996); “Presault II”) that railbanking is not a “current  
 17 railroad purpose” and in fact constitutes abandonment of such purpose. What Plaintiffs fail to  
 18 point out is that the language is from a concurring opinion and has no precedential power.  
 19

20 The County takes its “no abandonment, no extinguishment” argument one step further  
 21 and maintains that, by virtue of its quitclaim deeds from BNSF, it acquired all of BNSF’s  
 22 property interests in the Corridor. Decl. of Nunnenkamp, Ex’s I and J. Judge Coughenour’s  
 23 Kaseburg order sides with the County on this issue, finding that “the Trails Act preserves  
 24 railroad easements and [] a trail sponsor may own and exercise the rights inherent to the railroad

1 | easement.” 2015 WL 4508790 at \*4. The Kaseburg court found support for this holding in State  
2 | v. Presault (63 Vt. 38, 42 (1994)) (“The fact that the defendants’ excavation activities do not  
3 | present a threat to the bicycle and pedestrian path is irrelevant because these activities impinge  
4 | on the original railroad easement.”) and a Federal Claims case which held that “a trail sponsor  
5 | must have the same control over the entire right-of-way corridor that would be held by a  
6 | railroad...” Illig v. United States, 56 Fed.Cl. 619, 631 (2003).

7 |         Secondarily, the County cites the “incidental use” doctrine, which “states that a railroad  
8 | may use its easement to conduct not only railroad-related activities, but also any other incidental  
9 | activities that are not inconsistent and do not interfere with the operation of the railroad.”  
10 | Kershaw Sunnyside Ranches, Inc. v. Yakima Interurban Lines Assoc., 121 Wn.App. 714, 731  
11 | (2004), *reversed on other grounds*, 156 Wn.2d 253, 274 (2006)(citation omitted). Railroads are  
12 | public highways under Washington law and, “[i]n Washington, the owners of public highway  
13 | easements retain exclusive control over uses incidental to their easements.” Kaseburg, 2015 WL  
14 | 6449305 at \*8 (W.D. Wash., Oct. 23, 2015)(citation omitted).

15 |         As part of its claimed right to “incidental uses,” the County seeks confirmation of its  
16 | subsurface and aerial rights pursuant to its interest in the Corridor. It claims these as co-  
17 | extensive with the “railroad easement” rights it asserts were acquired in the quitclaim deed from  
18 | TLC. There is evidence in Kaseburg that “BNSF regraded parts of the corridor, built trestles  
19 | over water, dug culverts, and built signaling equipment overhead ([C14-0784JCC] Dkt. No. 126  
20 | at 2-5.)” Id. at \*7. The Court takes judicial notice of those “incidental uses” exercised under the  
21 | railroad’s easement powers prior to conveying the Corridor, and adopts the finding in Kaseburg:  
22 |  
23 |  
24 |



1 Because the scope of trail easements under the Trails Act is coextensive with railroad  
 2 easements, Illig, 58 Fed.Cl. At (*sic*) 63, the Court now holds that the Corridor Easements  
 3 provide exclusive subsurface, surface, and aerial rights in the corridor for railroad and  
 4 trail purposes.”

5 Id.

6 It is the finding of this Court that the railroad easement survives, that the County’s rights  
 7 are coextensive with the railroad’s and that it “is entitled to the exclusive use and possession of  
 8 the area on, above, and below the surface of the Corridor for railroad purposes and incidental  
 9 uses permitted by Washington law, including use as a recreational trail.” (Mtn., at 1.)

10 The Court finds further support for this ruling in the language of the Trails Act itself:  
 11 “[I]n furtherance of the national policy to preserve established railroad rights-of-way for future  
 12 reactivation of rail service...” (16 U.S.C. § 1247(d).) The County would be unable to “preserve  
 13 establish railroad rights-of-way for future reactivation of rail service” if it could not employ and  
 14 protect the full range of rights which the railroad possessed in the Corridor (and which it may yet  
 15 possess again). Summary judgment will be granted in favor of the County on this issue.

16 Width of the Corridor

17 Preliminarily, the Court disposes of the undisputed matters concerning this particular issue:

- 18 1. Although the County seeks a declaration that the Corridor is 100 feet wide, it  
 19 acknowledges that BNSF entered into “prior property transactions” (specifically, with the  
 20 Morels, Menezes and Vanderwendes Plaintiffs) which decrease the size of the Corridor in  
 21 certain parcels (50 feet adjacent to the Morels, 75 feet adjacent to the Menezes and  
 22 Vanderwendes; *see* Decl. of Nunnenkamp, ¶¶ 21, 23-24).

1 2. There are no original deeds delineating the nature of the property interest originally  
 2 acquired by SLS&E/BNSF and conveyed to TLC and the County. This means that the  
 3 property rights which the County seeks to establish must be analyzed as those emerging  
 4 from an easement by prescription (as opposed to an easement arising from claim of title).

5  
 6 There is a marked distinction between the extent of an easement acquired under a  
 7 claim of right and the scope of one acquired under color of title. When one seeks  
 8 to acquire an easement by prescription under a claim of right, user and possession  
 9 govern the extent of the easement acquired. It is established only to the extent  
 10 necessary to accomplish the purpose for which the easement is claimed.  
 11 Northwest Cities Gas Co. v. Western Fuel Co., 17 Wn.2d 482, 135 P.2d 867  
 12 (1943).

13  
 14 On the other hand, however, where one's occupancy or adverse use is under color  
 15 of title that is a matter of public record, possession or user of a portion is regarded  
 16 as coextensive with the entire tract described in the instrument under which  
 17 possession is claimed. Omaha & Republican Valley R. v. Rickards, 38 Neb. 847,  
 18 57 N.W. 739 (1894).

19 Yakima Valley Canal Co. v. Walker, 76 Wn.2d 90, 94 (1969)

20  
 21 In keeping with the finding that the County possesses an interest and property rights  
 22 coextensive with the railroad easement, Defendant's rights pursuant to a prescriptive easement  
 23 would be those necessary for the operation of a railroad, and the boundaries of the Corridor  
 24 would be the amount of property (up to 100 feet) required to accomplish that. The County  
 presents ample evidence that railroad operations require boundaries that extend further than  
 simply the width of the railroad tracks (Def Mtn at 20-22), including declarations from railroad  
 personnel that a 100 foot wide corridor is required

- As a "safety buffer to ensure minimum setbacks between freight trains and residential development, to prevent nearby construction and development activities that could undermine the stability of the steep slopes above and below the tracks, and to provide

1 access for maintenance activities, such as tie replacement, that require significant  
 2 clearance on one or both sides of the track.” (Decl. of Nuorala, ¶ 8, Decl. of Hackett, Ex.  
 3 J.)

- 4 • To provide space between each of the rails, side clearance, drainage of the slope, a  
 5 drainage ditch, and access for maintenance and emergencies (such as derailments).  
 6 (Decl. of Sullivan, ¶¶ 4-5, 8-9.)

7  
 8 The only Plaintiffs who bring forward any evidence that the 100 foot Corridor does not  
 9 represent the extent necessary for railroad operations are the Morels, who present proof that at  
 10 one point the house which originally stood on their property (from 1920-2000) was within the  
 11 right of way now claimed by the County, as well as walkways and trees planted well within the  
 12 Corridor. (Decl. of Morel, Ex. B.)

13 The Morel evidence does not suffice to create a disputed issue of material fact. First, the  
 14 “extent of the right is fixed and determined by the user in which it originated” (NW Cities Gas  
 15 Co. v. Western Fuel Co., 17 Wn.2d 482 486 (1943)(citation omitted)), in this case by the SLS&E  
 16 in the 1890s. The Morels do not hold themselves out to be experts in railroad operations, do not  
 17 rebut what Defendant’s railroad experts say about the extent necessary for operations and do not  
 18 create a disputed issue of material fact. Furthermore, the County has conceded that the Corridor  
 19 narrows to 50 feet abutting the Morels’ property line (a transaction in which the quitclaim deed  
 20 acknowledged that the Morels were purchasing “a portion of BNSF’s 100.0 foot wide  
 21 Snoqualmie Line right of way;” Quitclaim Deed, Decl. of Nunnenkamp, Ex. O) and the Morels’  
 22 current house is outside that 50 foot strip.



1 None of the other Plaintiffs provide similar evidence of encroachments upon the  
2 Corridor, but even had they done so the above analysis would apply. Plaintiffs’ inability to  
3 provide any expert testimony rebutting Defendant’s evidence of the necessity of a 100 foot wide  
4 corridor for railroad operations entitles the County to summary judgment on this issue.

5 RCW 7.28.070

6  
7 BNSF executed a quitclaim deed to TLC in 1997 that included a complete description of  
8 the 100 foot-wide Corridor (with the exceptions noted above). (Decl. of Nunnenkamp, Ex. I.)  
9 The following year, TLC conveyed that same property (with the identical legal description) to  
10 King County. (Id., Ex. J.) Both deeds were recorded. Since assuming title to the property, the  
11 County has paid all fees and taxes on the Corridor, including fees for surface water management,  
12 noxious weed control, and conservation futures. Decl. of Sweany, ¶ 3.<sup>1</sup>

13 RCW 7.28.070 provides:

14 Every person in actual, open and notorious possession of lands or tenements under claim  
15 and color or title, made in good faith, and who shall for seven successive years continue  
16 in possession, and shall also during said time pay all taxes legally assessed on such lands  
17 or tenements, shall be held and adjudged to be the legal owner of said lands or tenements,  
18 to the extent and according to the purport of his or her paper title.

19 In addition to holding the Corridor “under claim or color of title” since the 1998 quitclaim deed  
20 and paying taxes on the property since that time, the County has been in “open and notorious”  
21 possession of the Corridor by recording the deed, appearing as trail sponsor in public

22 <sup>1</sup> The Morels claim to have paid taxes on the Corridor. (*See* Pltf Response, Ex. B., Dkt. No. 54-2 at 4-5,  
23 10.) Their claims about their 1971 taxes (which actually appear to include portions of the Corridor) are irrelevant as  
24 they predate the County’s acquisition of the property in 1998. Their assertions regarding their “Current Property  
Taxes” (p. 10) appear to indicate that, although they did not pay taxes based on a property line that includes the  
Corridor, their property’s assessed value was based in part on improvements which encroach upon the Corridor.  
This is not the same thing as paying taxes on the Corridor and does not refute the County’s claim to have done so  
since the 1998 conveyance.

1 | proceedings before the STB, removing the old railroad tracks, installing a soft-surface trail and  
 2 | requiring adjacent landowners to apply for permits for crossings or other encroachments on the  
 3 | Corridor. (Decl. of Nunnenkamp, ¶¶ 2-11, 18.)

4 |           The Washington Supreme Court has held that color of title exists when a deed  
 5 | “sufficiently describes the property in question and purports to convey it to the [movants].”  
 6 | Scramlin v. Warner, 69 Wn.2d 6, 8 (1966). By recording the deed, the titleholder “dispenses  
 7 | with the need for other proof of a hostile or adverse claim... color of title itself establishes those  
 8 | elements.” Fies v. Storey, 21 Wn.App. 413, 422 (1978). Finally,

9 |           [W]here one’s occupancy or adverse use[] is under color of title that is a matter of public  
 10 | record possession or use[] of a portion is regarded as coextensive with the entire tract  
 11 | described in the instrument under which possession is claimed.

12 | Yakima Valley Canal Co. v. Walker, 76 Wn.2d 90, 94 (1969).

13 |           Plaintiffs make no substantive response to this argument, interposing instead an argument  
 14 | that they had “inadequate notice” (under FRCP 8(a)) that Defendant intended to assert claims  
 15 | that the Corridor was 100 feet wide or that the County claimed title by virtue of adverse  
 16 | possession. It is not a persuasive argument. Defendant’s counterclaims included allegations that  
 17 | “Plaintiffs... have interfered with King County’s property rights in the ELSRC by erecting and  
 18 | maintaining various unauthorized improvements that impede King County’s access to its  
 19 | property, its exclusive control, and prevent public enjoyment” (Answer, Dkt. No. 32,  
 20 | Counterclaim ¶ 3) and that “[u]nder RCW 7.28, title to any disputed portions of the corridor  
 21 | should be quieted in King County.” (Id. at ¶ 4.) The Court finds it difficult to believe that, in a  
 22 | dispute about property lines, a party was not on notice that the actual size of the property was  
 23 | going to be an issue.

1 Plaintiffs also claim that “King County’s request for summary judgment on the width  
 2 issue... attempts to circumvent this Court’s prior order remanding the issue to the Washington  
 3 State court.” (Pltf Response at 12.) Again, this fails to persuade. First, this Court did not  
 4 remand “the width issue” to the Washington State court, but remanded the Neighbors v. King  
 5 County case (C15-1358MJP) on Plaintiffs’ motion. At no time have Plaintiffs moved to have  
 6 this case stayed or remanded on the basis of that decision and they will not be allowed to cherry-  
 7 pick an issue while proceeding forward with the remainder of this case. Either this case (and all  
 8 its issues) is properly before this court or it is not. Additionally, the Hornish Plaintiffs are not a  
 9 party to the Neighbors case, so their claims can only be adjudicated in this proceeding.

10 Standing under the centerline presumption doctrine

11 This is the resumption of an argument the Court addressed in June 2015. (Dkt. No. 19,  
 12 Order re: Motion to Dismiss for Lack of Standing.) Roeder County v. Burlington Northern, 105  
 13 Wn.2d 567 (1986) is the Washington case which established the “centerline presumption”  
 14 doctrine:

15  
 16 Generally then, the conveyance of land which is bounded by a railroad right of way will  
 17 give the grantee title to the center line of the right of way if the grantor owns so far,  
 18 unless the grantor has expressly reserved the fee to the right of way, or the grantor’s  
 19 intention to not convey the fee is clear.

20 Id. at 576. However, the Washington Supreme Court set two restrictions on the presumption.

21 The first restriction states:

22 When, however, a deed refers to the right of way as a boundary but also gives a metes  
 23 and bounds description of the abutting property, the presumption of abutting landowners  
 24 taking to the center of the right of way is rebutted. A metes and bounds description in a  
 deed to property that abuts a right of way is evidence of the grantor’s intent to withhold  
 any interest in the abutting right of way, and such a description rebuts the presumption  
 that the grantee takes title to the center of the right of way.



1 Id. at 577. The Court’s previous ruling (that Plaintiffs’ deeds contained metes and bounds  
2 descriptions that used the railroad right of way as a boundary) is the law of the case.

3 The second restriction concerns chain of title:

4 The presumption that the grantor intended to convey title to the center of the right of way  
5 is inapplicable where the adjoining landowner presents no evidence of having received  
6 his or her property from the owner of the right of way. A property owner receives no  
interest in a railroad right of way simply through ownership of abutting land.

7 Id. at 578. Plaintiffs also claim they have established chain of title back to the original grantor.

8 First, their failure to establish the first prong of the centerline presumption test renders their  
9 proof in this regard moot. Second, they do not succeed in establishing the chain of title --

10 Defendant presents evidence that in the probate of the original grantor (Middleton), the Corridor  
11 was specifically excluded. (Decl. of Hackett, Ex. C at 4, 8.) It is, at the very least, a disputed  
12 issue of material fact but (as mentioned) the Court is not convinced that proof one way or the  
13 other would be determinative of the issue.

14 In rebuttal, Plaintiffs file a declaration from an “expert witness,” a civil engineer with  
15 purported expertise in “identifying source deeds that Railroads used in acquiring specific  
16 property and determining what rights were conveyed to the Railroad.” (Decl. of Rall, Dkt. No.  
17 54-4, ¶ 1.) The expert makes no mention of having examined the Middleton probate document  
18 which excludes the Corridor. More critically, Plaintiffs offer no authority supporting their right  
19 to offer expert testimony on the legal interpretation of a deed. On the contrary, “expert  
20 testimony [regarding] the interpretation of a contract [is] an ultimate question of law upon which  
21 the opinion of an expert may not be given.” PMI Mortgage Ins. Co. v. Amer. Int’l Specialty  
22 Line Ins. Co., 291 Fed.Appx. 40, 41 (9th Cir. 2008). The Court has not considered the expert’s  
23 opinion in reaching its conclusion on this issue.



1 The above rulings necessarily operate to DENY Plaintiffs’ motion for summary  
2 judgment.

3 From the Court’s reading of Plaintiffs’ amended complaint, this ruling resolves the issues  
4 raised by their litigation. If there are issues remaining to be decided, the parties are invited to  
5 bring them to the Court’s attention. If not, Defendant is directed to submit a judgment reflecting  
6 the outcome of these dispositive motions and terminating the lawsuit.  
7

8  
9 The clerk is ordered to provide copies of this order to all counsel.

10 Dated this 20th day of April, 2016.

11  
12 

13 Marsha J. Pechman  
14 United States District Judge



## SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims (“Agreement”) is entered into by and between King County (“County”) and Shorelines Hearings Board Petitioners James T. Stenson, Greg & Karma Chapman, and Sammamish Homeowners (collectively “Petitioners”). The County and Petitioners are collectively referred to herein as the “Parties.” The Parties enter into this Agreement to resolve (1) an appeal filed with the Shorelines Hearings Board on January 17, 2014, namely *Stenson, et al. v. King County, et al.*, SHB No. 14-001, and (2) other disputes associated with the construction of the North Sammamish segment of the East Lake Sammamish Trail, among other issues.

### RECITALS

1. James T. Stenson (“Stenson”) owns residential real property commonly known as 2029 E. Lk. Sammamish Pkwy. NE, Sammamish, WA 98074, also known as King County Parcel No. 7525900080.
2. Greg & Karma Chapman (“Chapman”) own residential real property commonly known as 2831 E. Lk. Sammamish Pkwy. NE, Sammamish, WA 98074, also known as King County Parcel No. 2025069119.
3. Sammamish Homeowners is a Washington non-profit corporation that advocates regarding property issues affecting individuals who own residential real property within the City of Sammamish (“City”), including owners on Lake Sammamish in the vicinity of the East Lake Sammamish Trail (“ELST”).
4. On July 31, 2012, King County Parks applied for a Shoreline Substantial Development Permit to widen and make other improvements to the northern portion of the ELST within the City, also known as the North Sammamish segment. This application was assigned permit no. SSDP 2013-00145 (“Application”). On September 3, 2013, the City conditionally approved the Application. In addition to the North Sammamish segment, the County is currently in the planning process for the South Sammamish segment.
5. On September 26, 2013, Stenson and Chapman filed a timely appeal of the Application to the City’s Hearing Examiner (“Appeal”). Thereafter, King County filed a Motion to Dismiss Appeal of Shoreline Substantial Development Permit (SSDP), seeking dismissal of the Appeal on various grounds. On December 12, 2013, the Hearing Examiner issued a Dispositive Order on Motions, dismissing the Appeal in its entirety. On January 17, 2014, Stenson, Chapman, and Sammamish Homeowners filed a Petition for Review (“Petition”) with the Shorelines Hearings Board.
6. The Parties now desire to fully and finally dismiss the pending appeal of the SSDP and resolve other disputes associated with the construction of the North Sammamish segment of the ELST, among other issues.

## AGREEMENT

In consideration for the mutual covenants set forth below, the sufficiency of which is acknowledged, the Parties hereby agree as follows:

1. Landscaping Improvements and Vegetation: The County agrees that owners of real property burdened by, or adjacent to, the County right of way for the ELST may install landscaping improvements and vegetation within the County's right of way in accordance with the criteria set forth in **Exhibit 1**.
2. Special Use Permits: The Parties agree that those property owners who have already obtained a Special Use Permit ("SUP") for their landscaping improvements and/or vegetation, will not be required to obtain a new one for new landscaping improvements or vegetation necessitated or desired as a result of the County's forthcoming construction of the ELST. Those property owners with an SUP who seek to establish new landscaping improvements or vegetation must amend their SUP. No fee will be charged for such amendments.

The County further agrees to establish a pre-approval/screening process whereby property owners can present planting/landscaping plans to the County and obtain guidance and pre-approval from the County without risking the loss of the fee for a SUP, if applicable. If the SUP application is consistent with the criteria in Exhibit 1, the County shall approve the SUP.

The County acknowledges that it has performed a survey of the right of way for the ELST, and the County agrees that property owners will not be required to submit a survey or perform additional survey work as a condition of applying for a SUP to utilize the right of way for the ELST.

3. Notification re Commencement of Construction: Following dismissal of the Appeal to the SHB as set forth in Paragraph 11 below, the County agrees to mail a letter to all owners of real property burdened by, or adjacent to, the County right of way for the North Sammamish segment of the ELST, informing them of the anticipated schedule for construction and offering a new deadline to remove any improvements that will interfere with construction. To the extent any of these property owners seek individualized direction from the County regarding which improvements or vegetation will need to be removed as a result of construction, the County will provide this consultation by means of the pre-screening/consultation process referred to in Paragraph 2 above. The County shall also mail a similar notification prior to construction of the South Sammamish segment.
4. Liability/Indemnity: In addition to the letters to property owners required by Paragraph 3 above, the County shall also mail those property owners a letter

acknowledging that the ELST is a County facility, designed, developed and maintained by the County.

5. Signage: In addition to the signage included in the ELST design and construction plans, the County agrees to install the following additional signage on the north segment of the ELST:
  - (i) Sign pairs stating “narrow bridge” to warn trail users that the ELST narrows to eight feet in the vicinity of Stenson’s residence.
  - (ii) Sign pairs stating “congested area/reduced speed” in the vicinity of Stenson’s residence.
  - (iii) A total of four additional sign pairs of the existing “multiple driveway” signs currently on the design and development plans will be modified to say “congested area” and “reduce speed” instead of “multiple driveway.” In addition, sign pairs stating “congested area/reduce speed” will be placed at the following locations, Audett property, 2813 E. Lk. Sammamish Pkwy. NE; Woodin property, 2927 E. Lk. Sammamish Pkwy. NE.
  
6. Chapman Wall: The County agrees to construct the proposed County wall in front of the Chapman residence (Wall 13A on plan sheet AL 10) on the same alignment as the wall in the existing construction plans for the adjoining property to the immediate south (Wall 13 on plan sheet AL 10). The County agrees to temporarily remove the driveway retaining wall constructed by Chapman. Chapman shall obtain three competitive bids from licensed and bonded contractors for rebuilding the wall. Chapman shall either accept the lowest bid, or if a higher bid is accepted, Chapman must agree to pay out-of-pocket the different between the higher bid and the lowest bid. The County agrees to pay Chapman a sum equal to the lowest bid, with the County’s obligation capped at a maximum of \$7,500, to compensate Chapman for the costs of rebuilding the wall following construction of the North Sammamish segment of the ELST. Payment shall be received by counsel for Chapman within 45 days of the County’s receipt of the competitive bids. With respect to construction of the County’s proposed retaining wall adjacent to the Chapman residence, the County shall give Chapman the option of choosing one of the styles/designs attached as **Exhibit 2**.
  
7. Mirrors: Stenson has requested a mirror in the vicinity of the driveway serving Stenson’s residence to increase the safety of crossing the ELST. The County agrees to install a mirror at this location to assist with this purpose. The County will not be obligated to maintain the mirror. The County also agrees to consider requests to retain existing mirrors, and/or install new mirrors, by other property owners concerned about the safety of crossings. Approval for the retention or installation of mirrors will be performed on a case-by-case basis, and such approval will not be unreasonably withheld.

8. Pet stations: The County agrees to install up to four additional pet stations along the north segment of the ELST at locations agreed upon the Petitioners and counsel for Petitioners. These pet stations shall include signage setting forth the rules for the ELST. These pet stations shall be in addition to those included in the ELST design and construction plans at pre-determined locations.
9. Copying Costs: Stenson and Chapman received an invoice from the County, dated November 26, 2013, in the amount of \$1,014.85 for copying costs and legal messenger fees allegedly incurred in response to a requested by counsel for Stenson and Chapman. The County agrees to pay these costs and fees.
10. Process: Petitioners have expressed a concern that the County's engineering plans are simply too difficult for laypersons to interpret in order to determine what effect the County's anticipated construction of the ELST will have on their existing improvements. Accordingly, the County agrees to provide additional information to property owners to assist in the interpretation of the plans. Such additional information shall include a "how to" guides explaining how to determine the location of sight lines and grub lines for the anticipated construction. In addition, the County will offer property owners group and individual meetings for those individuals who have questions about the County's plans and their effect on their existing improvements. The County also agrees that, regardless of the existence of formal comment periods required by applicable law, the County will make the 60% and 90% plans available to the public with sufficient time to allow for public review, consideration, and feedback. The County further agrees to provide Sammamish Homeowners with the notifications, letters, and guides set forth in Paragraphs 3 and 10 herein at the same time they are provided to the public.
11. Dismissal and Waiver: Petitioners agree to file a Motion to Dismiss with prejudice the Petition for Review in *Stenson, et al. v. King County, et al.*, SHB No. 14-001. The Motion to Dismiss shall be filed no later than Friday, February 7, 2014. Stenson, Chapman and Sammamish Homeowners agree not to file any additional legal or administrative appeals of SSDP 2013-00145, and shall not otherwise interfere with any permits for construction of the North Sammamish segment of the ELST.
12. Entire Agreement: This Agreement and the exhibits attached hereto contain the entire agreement between the Parties with respect to the subject matter hereof and shall not be modified or amended in any way except in a writing signed by duly authorized representatives of the respective Parties or their successors in interest or assigns.
13. Enforcement: This Agreement may be enforced by filing an action in King County Superior Court. The Parties agree that damages are not an adequate remedy for any breach of this Agreement, and that a party alleging breach may seek specific performance and/or injunctive relief. The prevailing Party in such an action shall be entitled to recover its reasonable costs and attorney's fees, including those



reasonable costs and attorneys' fees incurred in any appeal from the judgment of a lower court.

14. Notice: Any notice or other communication of any sort required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if personally delivered or three days after being mailed by certified mail as follows:

For Petitioners:

Samuel A. Rodabough, Esq.  
Law Office of Samuel A. Rodabough PLLC  
10900 N.E. 4<sup>th</sup> St., Ste. 2300  
Bellevue, WA 98004

For the County:

Barbara A. Flemming, Esq.  
Senior Deputy Prosecuting Attorney  
Civil Division  
King County Prosecuting Attorney  
516 3rd Ave., Rm. W400  
Seattle, WA 98104-2388

15. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.
16. Headings/Interpretation: The headings and subheadings contained in this instrument are solely for the convenience of the Parties and are not to be used in construing this Agreement. Nothing in this Agreement shall be construed as a waiver or otherwise have any affect upon, the ongoing dispute between the Parties regarding the nature of the property interests owned by the Parties, respectively.
17. Authority: The persons executing this Agreement on behalf of the respective Parties hereby represent and warrant that they are authorized to enter into this Agreement on the terms and conditions herein stated.
18. Effective Date: The "Effective Date" of this Agreement shall be that latest date identified below when any party has executed this Agreement.
19. Counterparts: This Settlement Agreement may be executed in counterparts, all of which shall be deemed an original as if signed by all Parties.
20. Binding Effect: This Settlement Agreement shall be binding upon the respective successors and assigns of the Parties hereto, shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.

For King County:




Monica Leers, Program Manager  
King County Parks

2/7/2014

Dated

For James T. Stenson:

  
James T. Stenson

2/6/2014

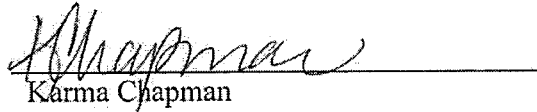
Dated

For Greg & Karma Chapman:

  
Greg Chapman

2/6/2014

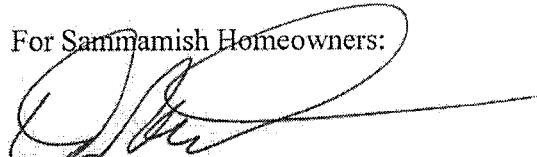
Dated

  
Karma Chapman

2/6/2014

Dated

For Sammamish Homeowners:

  
Dwight Martin, President

2/6/2014

Dated

## EXHIBIT 1

### LANDSCAPING/PLANTINGS ON COUNTY RIGHT OF WAY EAST LAKE SAMMAMISH TRAIL

- 1) Plantings/landscaping in the County's right of way must not impact sight lines along the trail. Plantings/landscaping less than 3 feet in height do not impact sight lines, unless steep topography requires otherwise (slopes may dictate less than 3 feet). Plantings/landscaping outside of the sight lines may exceed 3 feet in height if the other criteria set forth below are met.
- 2) Plantings/landscaping in the County's right of way must not cause damage to the trail or trail infrastructure (including drainage facilities, infiltration, retaining walls, pavement etc).
- 3) Plantings/landscaping in the County's right of way must not result in additional maintenance costs for the County.
- 4) Plantings/landscaping in the County's right of way must not encroach onto the trail footprint.
- 5) Plantings/landscaping in the County's right of way must not adversely impact the health of other plantings on the trail or irrigation/mitigation projects on the trail.
- 6) Plantings/landscaping in the County's right of way must not be placed in critical areas, unless part of an approved restoration project.
- 7) Plantings/landscaping in the County's right of way must be consistent with City code requirements
- 8) Any proposed irrigation systems must be approved in advance to ensure compliance with the landscaping guidelines.
- 9) Plantings/landscaping in the County's right of way may be native or non-native, if consistent with the above criteria.
- 10) Plantings/landscaping removed as a result of the County's forthcoming construction of the ELST may be replaced in-kind if consistent with the above criteria.
- 11) All references to "plantings" in these criteria mean the mature height and width of the plants, shrubs and trees.
- 12) All references to "landscaping" in these criteria mean other manmade features, including, but not limited to, planting beds, fences, retaining walls, etc.
- 13) All references to "trail" in these criteria means the paved portion of the trail and trail infrastructure, including its 2-foot shoulder.

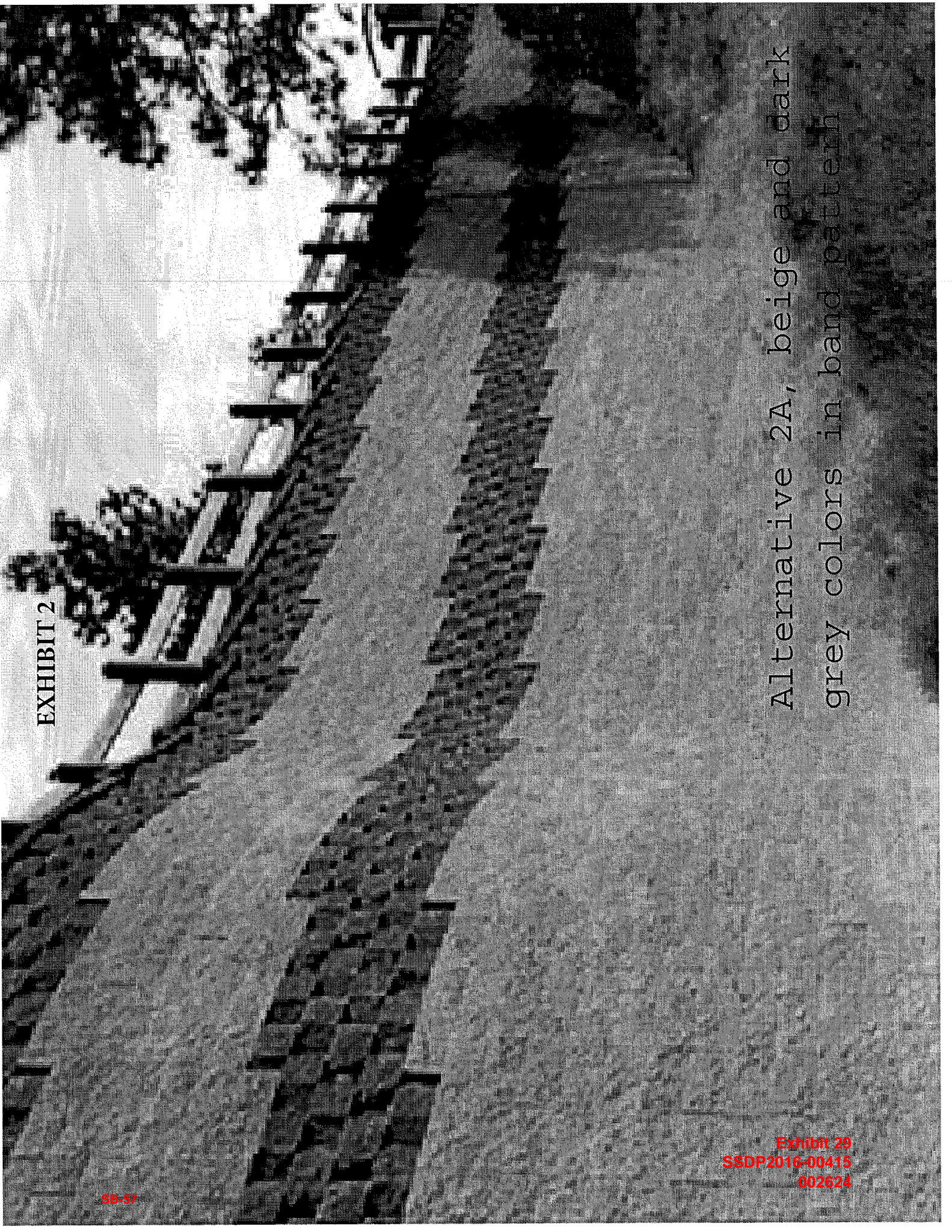


EXHIBIT 2

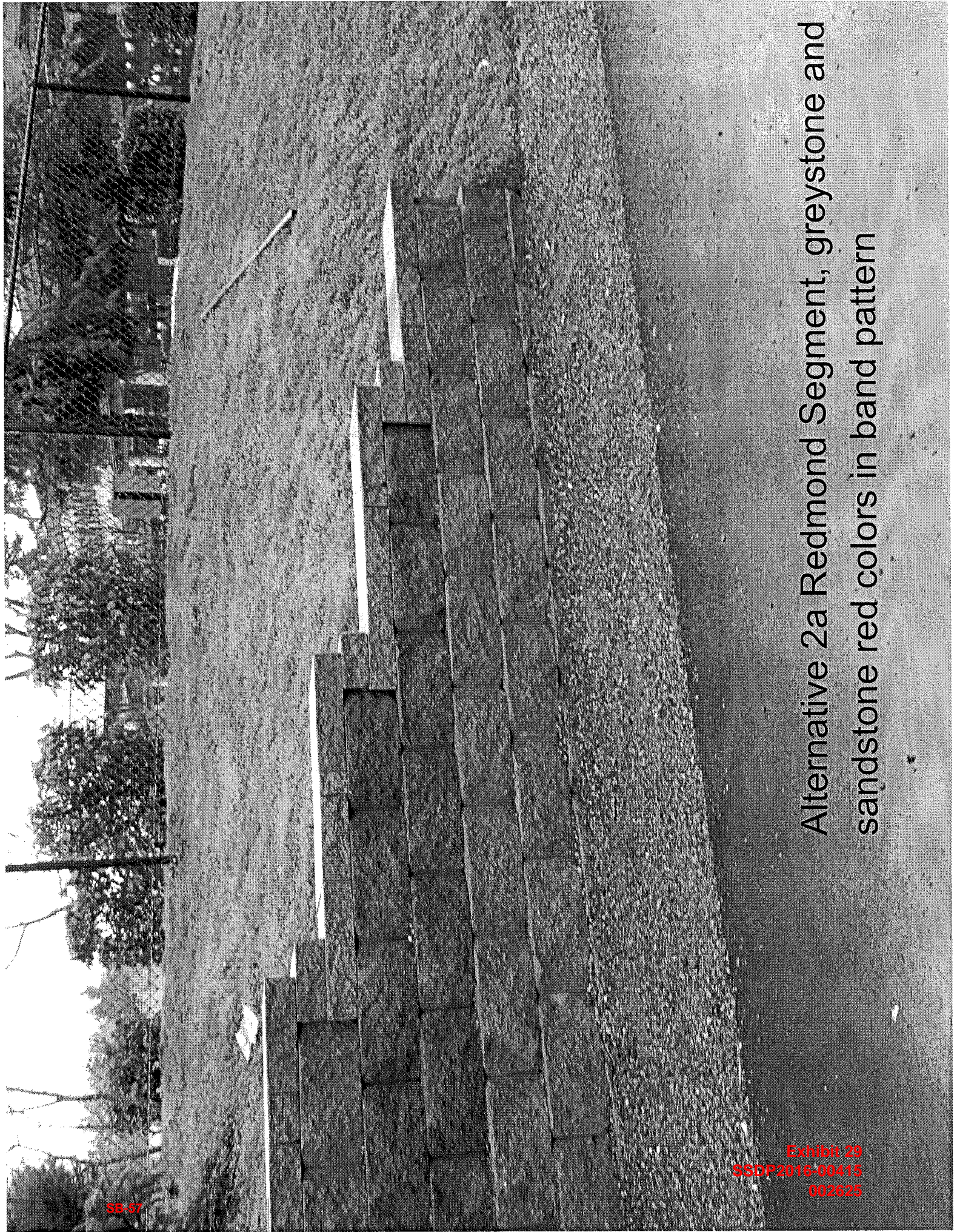
88-37

Exhibit 29  
SSDP2016-00415  
002624

Alternative 2A, beige and dark  
grey colors in band pattern

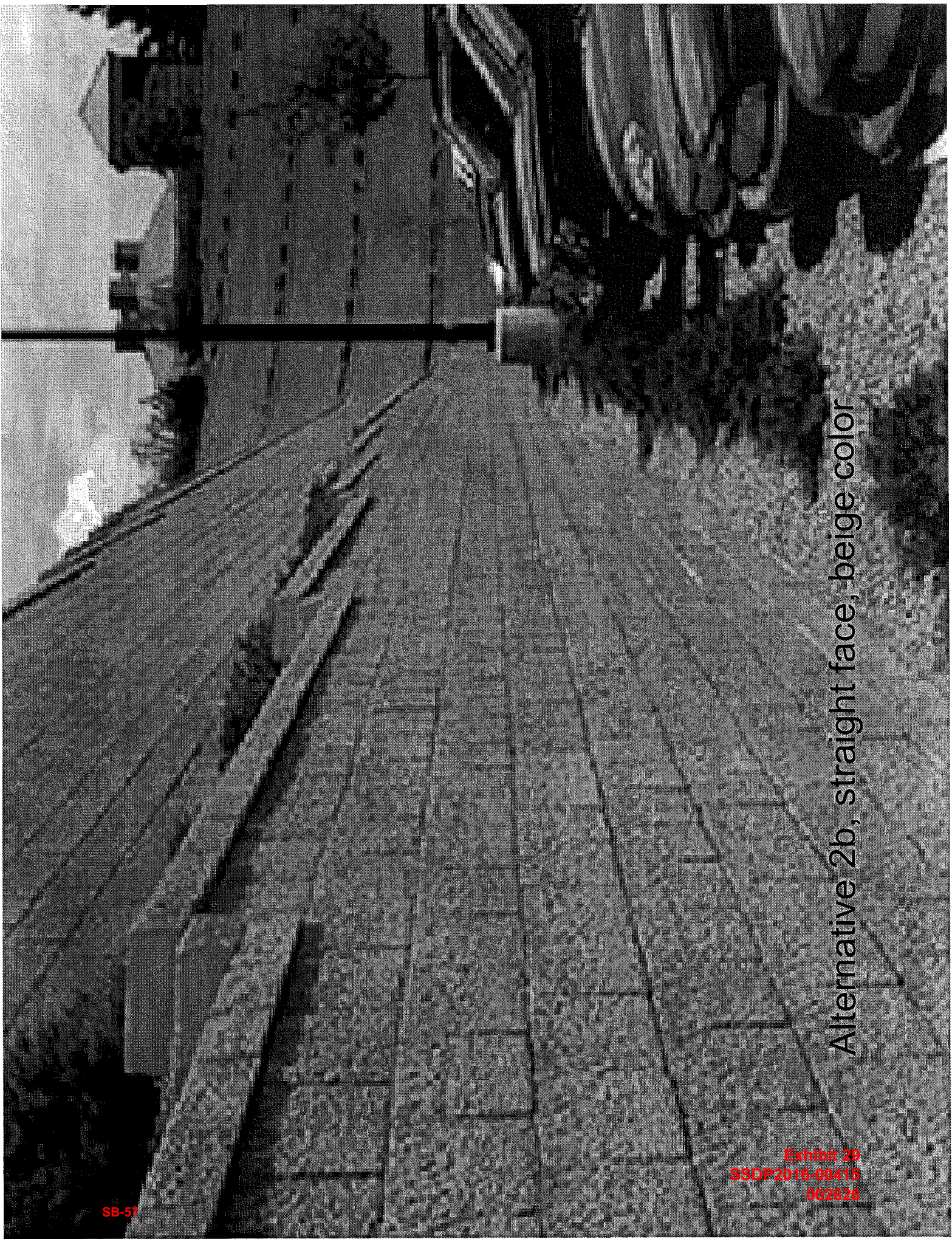






Alternative 2a Redmond Segment, greystone and sandstone red colors in band pattern





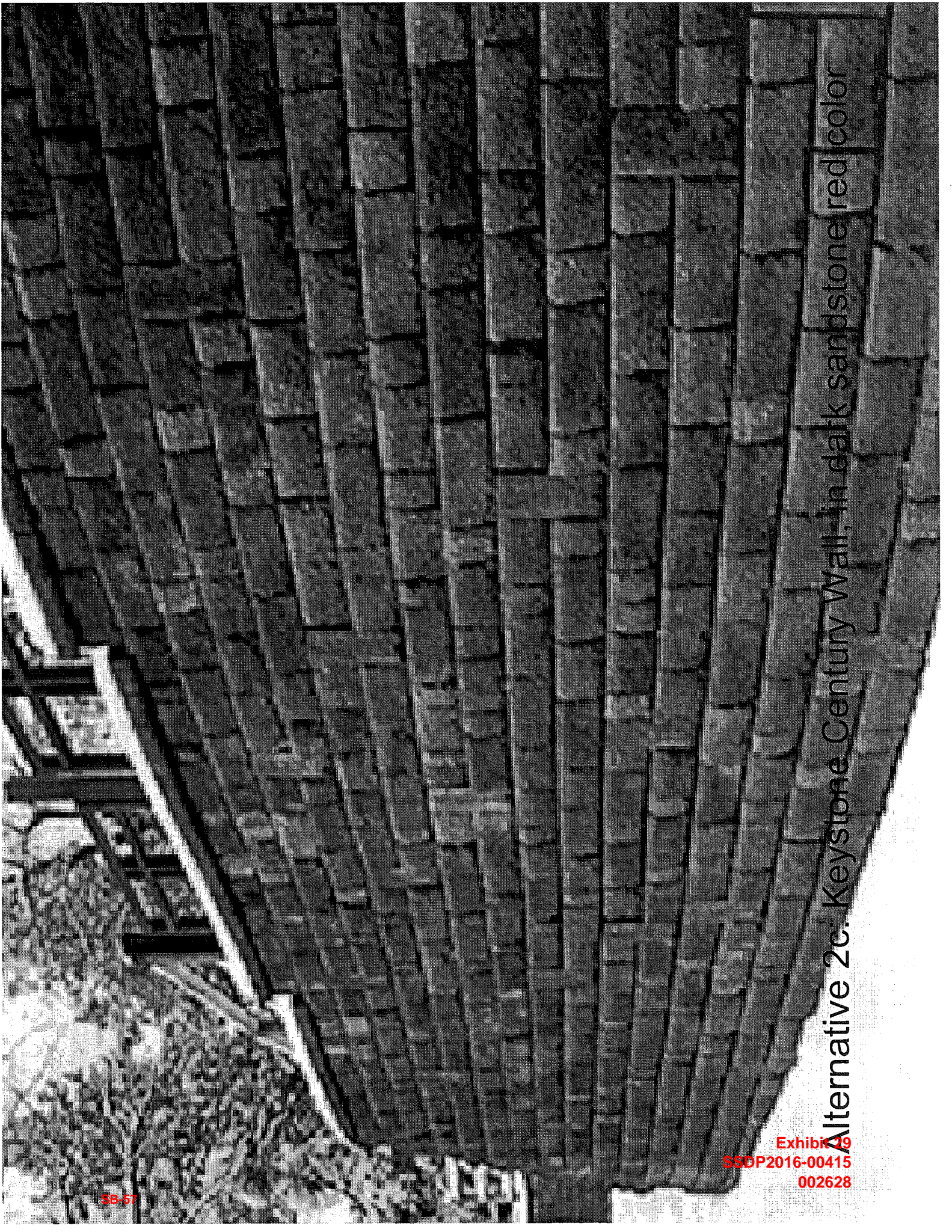
Alternative 2b, straight face, beige color





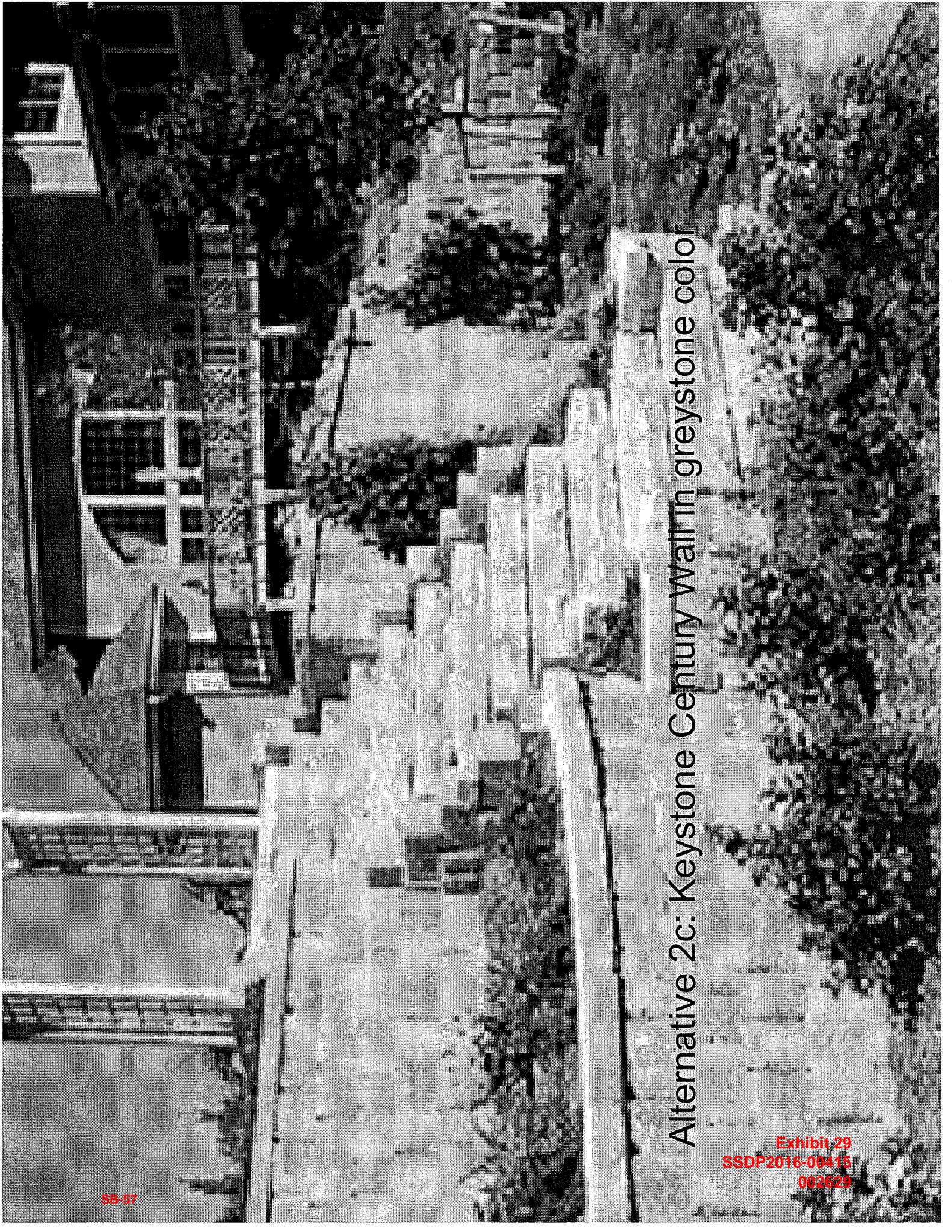
Alternative 2d, Keystone 20th Century wall, natural stone and weathered rock face.





Alternative 2c: Keystone Century Wall, in dark sandstone/red color





Alternative 2c: Keystone Century Wall in greystone color



## Lindsey Ozbolt

---

**From:** Lindsey Ozbolt  
**Sent:** Friday, February 3, 2017 3:58 PM  
**To:** 'Hank waggoner'  
**Subject:** RE: Comments/Questions for ELST 60% Design & SSDP

Dear Mr. Waggoner,

Thank you for contacting the City of Sammamish regarding the current Shoreline Substantial Development Permit Application for East Lake Sammamish Trail Segment 2B (SSDP2016-00415).

Your comments have been received and will be included in the project record. At the close of the comment period, all comments will be compiled and provided to King County for review and response. You will be included in future notices the City issues for this proposal.

Regards,

Lindsey Ozbolt

Associate Planner | City of Sammamish | Department of Community Development  
425.295.0527

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**From:** Hank waggoner [mailto:hankwag@comcast.net]  
**Sent:** Friday, January 27, 2017 2:37 PM  
**To:** Lindsey Ozbolt <LOzbolt@sammamish.us>  
**Cc:** Lyman Howard <lhoward@sammamish.us>; Don Gerend <dgerend@sammamish.us>; Tom Hornish <THornish@sammamish.us>; Kathleen Huckabay <KHuckabay@sammamish.us>; Bob Keller <BKeller@sammamish.us>; Christie Malchow <CMalchow@sammamish.us>; Tom Odell <todell@sammamish.us>; Ramiro Valderrama-Aramayo <RValderrama-Aramayo@sammamish.us>  
**Subject:** Comments/Questions for ELST 60% Design & SSDP

Ms. Ozbolt,

Attached are our comments and questions for the ELST 60% design and SSDP. If you have any questions please do not hesitate to call us.

**COUNCIL MEMBERS & CITY MANAGER:** We are copying you on our comments to Ms. Ozbolt in hopes you take a few minutes to read through our comments and questions. Even if you just scan the document, we think it will provide you a better understanding of how the trail impacts our property and other folks who's property is bisected by the proposed trail.

My wife Eden and I want to personally invite Ms. Ozbolt, Mr. Howard and all the Council members and any other people from the City's leadership group to come to our home and see firsthand the impact the trail has on our everyday lives. You can either email or call me (Hank) using the contact information below.

Thank you and we hope to hear from you to schedule a day and time for a visit to our home.

**Exhibit 29**  
**SSDP2016-00415**  
**002630**

Hank & Eden Waggoner  
1919 E. Lake Sammamish PL SE  
Sammamish, WA 98075  
425-451-1811  
[hankwag@comcast.net](mailto:hankwag@comcast.net)

Hank & Eden Waggoner  
1919 E Lake Sammamish Pl. SE  
Sammamish, WA, 98075

Letter to City of Sammamish

ELST B-Line Comments and Questions

Submitted to Lindsey Ozbolt

Via e-mail: lozbolt@sammamish.us

We would like to begin with some general background comments as to the trail going through the “Bisected Area” where properties are cut in half by the old railroad corridor. Having the trail go through this area is in conflict with two King County studies:

1998 East lake Sammamish Parkway Study (King Co. 1898)

1986 Cottingham Study (King County 1986)

Both of these studies identified the feasibility and benefits of alternative trail alignments off the old rail road bed in some places. The Cottingham study specifically addressed the impact to bisected properties would be too great and the alignment should be located adjacent to the East Lake Sammamish Parkway and/or East Lake Sammamish Place SE. There have been statements by King County that they can’t do this because the Federal Rails-to-Trails Statute under which this trail is being built requires the construction of a trail on the rail bed. This is clearly not true, the statute merely *allows* for an interim use of the rail corridor as a trail, there is no requirement to do so.

Even if the County will not change the alignment, there still are significant impacts that must be mitigated where property owners need to cross the trail to go from their home to their waterfront property (decks, docks, day cabins and beach facilities).

We feel that because of the unique conditions in the entire bisected area, an onsite inspection and discussion between representatives of the City of Sammamish (perhaps including City Council members) along with King County should be conducted with each property owner in this critical area. This is the only way that key decision makers can have a true and complete understanding of the issues. Will the County provide such an on-site visit with City representation and owners?

**Exhibit 29**  
**SSDP2016-00415**  
**002632**



**Width:** From the 60% Design Plan, it appears that there are no adjustments in the bisected areas for reduced width of the trail. When this topic is brought up, King County responds that the Plan is per AASHTO's Guide for the Development of Bicycle Facilities. This *Guide* points out that the RECOMMENDED normal width is 10 feet wide, however 8 feet is acceptable where conditions may indicate. It does also mention that widths of 12 or even 14 feet may be desirable where usage is expected to be high, but it certainly DOES NOT REQUIRE an 18 foot trail as the county tries to imply. Will you please provide the specific cite where the AASHTO Guide requires or mandates this 18 foot trail design?

We believe that the trail width should be a maximum of 10 feet of paving in all of the bisected areas. It should be even narrower in areas such as section #327-336 where the rail bed is elevated on both sides and the Fee Title to this area is NOT in King County's name, in spite of what the county claims to the contrary. Making the trail 8 feet wide would have far less impact on property owners and because no retaining walls would be needed, it would be much less expensive in that area. Could you explain why the County does not appear willing to consider any narrowing of trail under these bisected conditions?

Observations and comments in our specific area, page EX9 and AL13 between stations #341.5 and 344.

### **Culverts and Utilities**

The current 60% plans do show locations of a catch basin at our north lot line (P # 7055 on page EX9), however it is important to know that this catch basin is the collection point for footing and downspouts drains for 3 adjacent houses, and there is an un-indicated 12" culvert running approximately 120 feet south to a manhole riser with a drain grate (also not indicated) connected to an existing 36" culvert that discharges west under the trail (which is indicated as P#81698). There is an additional approximately 100 feet of culvert (also not indicated) that runs north from our southern lot line to this manhole riser, which likely is within the cut line as indicated on AL13. We also have existing utility lines, including electric power, water and phone lines as well as several irrigation lines that run under or parallel to the existing trail. In addition we have an Invisible Fence" that runs entirely around the outer border of our property, including under the trail at the north and south lot line to keep our dog on property. We need assurances that someone representing the County will locate all of these lines and get them on the plans. It is simply not acceptable to say "oh, the contractor will take care of them" as I understand has been stated to several owners in talking to County people. What is the plan to maintain these services to the lake side of the trail during construction?

### **Access stairs to lakeside property**

Although it is not entirely clear on the 60% Plan, it appears that the County plans on installing stairs (#43) to the west of the trail shared between several property owners. In our case the plans show the stairs (#43) entirely within my neighbor's property, about 100 feet to the north of our existing gated access to cross the trail. We have existing landscaping and stairs approaching the trail on both sides of the trail that have been in use in their current location for 27 years, which were constructed with the full knowledge and approval of the rail road. Is the location as drawn on the Plan a final location? Why can't the stairs to the west of the trail be in the location of our current stairs (#41)? This would be much safer for our family and guests crossing the trail and would also be much less expensive as the height of the indicated wall#13 on the west side will not be nearly as high at the point of current crossing as it will be further to the north. The design of these private access stairs per drawing S5 look way overbuilt. There is no need for 5' wide stairs. I would think that 36" to 40" would be ample and cost less. It is not clear from the Plan, we are assuming that there will be a lockable gate at the top of these stairs, is this correct?

### **Trailside fencing and rest stop areas**

It appears by the Plan that the County does not plan to have fencing along some of the west side of the trail and no fencing along the east side of the Trail. We feel that this is both a significant safety issue as well as creating problems for private property protection and privacy. How will the County address these issues?

A little to the south of our property is an indicated Rest Stop at sta. #341 that appears to be about 50 feet long on the west side of the trail. As design details are not yet available, what is the general function of this area? Is it for benches & perhaps tables? Is there any plan for rest rooms or porta-potty type facilities in this area? If so, we have concerns. What would be the access for servicing?

We truly appreciate the opportunity for comments and questions and look forward to specific answers.

Sincerely,

Hank & Eden Waggoner



## Lindsey Ozbolt

---

**From:** Lindsey Ozbolt  
**Sent:** Friday, February 3, 2017 3:55 PM  
**To:** 'Lance Kilgore'  
**Subject:** RE: ELST Segment 2B

Dear Lance and Marilyn,

Thank you for contacting the City of Sammamish regarding the current Shoreline Substantial Development Permit Application for East Lake Sammamish Trail Segment 2B (SSDP2016-00415).

Your comments have been received and will be included in the project record. At the close of the comment period, all comments will be compiled and provided to King County for review and response. You will be included in future notices the City issues for this proposal.

Regards,

Lindsey Ozbolt

Associate Planner | City of Sammamish | Department of Community Development  
425.295.0527

---

**From:** Lance Kilgore [mailto:aiaw@msn.com]  
**Sent:** Friday, January 27, 2017 2:19 PM  
**To:** Lindsey Ozbolt <LOzbolt@sammamish.us>  
**Subject:** ELST Segment 2B

Here are our comments for: The Shoreline Substantial Development Permit Application for East Lake Sammamish Trail Segment 2B (SSDP2016-00415).

Thanks,

Lance and Marilyn Kilgore

# Lance & Marilyn Kilgore

---

1731 E Lake Sammamish PL SE, Sammamish, WA 98075 | 206-372-7324 | aiaw@msn.com

**01/27/2017**

To: Lindsey Ozbolt  
Associate Planner  
City of Sammamish  
801 228th Ave SE,  
Sammamish, WA 98075

RE: East Lake Sammamish Trail Segment 2B (SSDP2016-00415) Parcel #0624069066 - Trail ID 349 - 350

**Dear To: Lindsey Ozbolt:**

We are submitting this public comment in reference to the ELST Segment 2B as described above. We have desire to work collaboratively with King County on the trail construction. Listed below are concerns that we have about the trail design and construction.

- 1) The stairs on the lower lot are not shown on the as-built plans. There was a considerable expense associated with replacing the original, narrow wood stairs, with stairs that allow easier access by wheel chair and a family member with physical disabilities. How does King County plan on accommodating people with restricted mobility? This is not shown in the 60% plans, but we need a ramp or other design for family and friends with physical limitations. The plans also show the stairs being moved 30' further south from the current location, causing even further burden on family with mobility limitations, and wheelchair bound individuals. Is it possible to work with King County to re-use the existing stone work that is already there?
- 2) The current 60% plans do not show a gate being installed on the lower property entrance. There is currently a gate and for security and prevention of vandalism, there should be a lockable gate installed. Our children play down there, it is their back yard, and not having a gate is a risk that should not be taken.
- 3) Is there a plan to allow access to the lower property during construction? There needs to be reasonable accessibility to the property at all times. Maintenance and access must be able to occur throughout the year.
- 4) Why is the trail being shifted towards the lake and several feet from the centerline? Most of the trail is designed to move toward the hill side or follow the centerline, why did the planners choose to move it away from the hillside closer to the wetland instead of away from the wetland? From a design point of view it is not cost efficient to build and fill a 5' retaining wall, when the trail can easily be shifted towards the hill side. By shifting the trail away from the hillside the County will be destroying the investments made by property owners to improve the landscape and property. The concerns listed above make me question if there is a conflict of interest with Parametrix and the property owners on this section. King County needs to be able to assure the property owners and tax payers there is no conflict of interest or preferential treatment by Parametrix regarding the design of the trail.

**Sincerely, Lance & Marilyn Kilgore**

**Exhibit 29  
SSDP2016-00415  
002636**



## Lindsey Ozbolt

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**From:** Lindsey Ozbolt  
**Sent:** Friday, February 3, 2017 3:55 PM  
**To:** 'Vern and Jeannie Lindquist'  
**Subject:** RE: Mint Grove resident comment on East Lake Sammamishy Trail Segment 2B

Dear Vern and Jeannie,

Thank you for contacting the City of Sammamish regarding the current Shoreline Substantial Development Permit Application for East Lake Sammamish Trail Segment 2B (SSDP2016-00415).

Your comments have been received and will be included in the project record. At the close of the comment period, all comments will be compiled and provided to King County for review and response. You will be included in future notices the City issues for this proposal.

Regards,

Lindsey Ozbolt

Associate Planner | City of Sammamish | Department of Community Development  
425.295.0527

---

**From:** Vern and Jeannie Lindquist [mailto:VernLindquist@msn.com]  
**Sent:** Friday, January 27, 2017 2:14 PM  
**To:** Lindsey Ozbolt <LOzbolt@sammamish.us>  
**Subject:** Mint Grove resident comment on East Lake Sammamishy Trail Segment 2B

Attached are comments from Vern & Jeannie Lindquist, 1241 E Lk Sammamish Shore Ln SE

VERN & JEANNIE LINDQUIST  
Mint Grove Community  
1241 E Lk Sammamish Shore Ln SE,  
Sammamish, WA 98075

January 24, 2017

Lindsey Osbolt  
City of Sammamish  
[lozbolt@sammamish.us](mailto:lozbolt@sammamish.us)

RE: MINT GROVE COMMUNITY in East Lake Sammamish Trail Segment B 60% Design Plans

We attended many meetings sponsored by King County in the planning of the original trail. Many times enough people attended to fill the room. It was frustrating as the meeting leaders asked about comments on details of the trail and the people attending would make many suggestions. The moderators would write them on the board, but never with the same wording, purpose, or intended message. It was very disappointing to realize that the input from many was offered, but changed in its intent and then obviously ignored in the plans and construction of the first phase of the trail.

Please understand that we are regular users of the trail, but we have concerns as property owners along the trail and concerned that decisions in the planning will affect, us as homeowners, in the areas of:

- Prevention of emergency vehicles to access homes
- safety of those along the trail and using the trail
- exposure to property damage, theft, and vandalism
- access to our homes for owners and their family and guests
- trust of government and the inconsistency of meeting codes established in the county and city
- protecting our investments
- increased drainage problems and insuing water damage
- preservation of trees for ecological reasons and privacy
- ignoring codes that are enforced for homeowners but not trail planners
- Support from City of Sammamish and King County's statement that they will prove to be "good neighbors"

**EMERGENCY ACCESS** We have a one-lane, dead-end road. The last few years we have had several times residents of our community have needed assistance from emergency vehicles, which have involved fire trucks, aid cars, ambulance, and police. Not only does this include the access on a limited width of our community and lack of a place to turn around so very important for timely exit from our community in an emergency at present. We have two (2) fire hydrants in Mint Grove, not one as noted in the 60% plan. We need full access to both.

**MINT GROVE CROSSING** When our community was developed 90+ years ago, Northern Pacific Railway Company issued a grant was issued to A.J. Peters, numbered 43810 and dated August 2, 1926, which was assigned to Alex Koll on August 1, 1927. Then the grant was revised as 67988, to Mint Grove and the owner of one property to the north (first house in Mint Grove) executed on the 1<sup>st</sup> day of December, 1947, from Northern Pacific Railway Company "**the right to establish a private road crossing over its right of way. . .**" In provision #2, it states "the crossing shall be constructed and maintained at the expense of the grantee in a good and workmanlike manner and made and kept as safe for travel as possible". In provision #6, This permit replaces that certain private road crossing permit from the Railway Company, In 1999, Mint Grove Community replaced and paid for the crossing with reinforced, brushed cement.

Acknowledging that the East Lake Sammamish Trail Segment B 60% Design Plans show our community road is labelled PRIVATE. That is correct. We request that the Crossing also be marked PRIVATE, recognizing the original Grant. We therefore request that the designation as CONSTRUCTION ACCESS be eliminated from Driveway #9. We further request that the Mint Grove Driveway #9, be replaced with the same quality as it is presently (brushed finish of reinforced concrete). The driveway is steep and the brushed finish was installed to aide driving on ice or snow at such an angle.

Currently we have about 55 cars in our neighborhood with at least 95 trips up and down Mint Grove to the parkway, anything that can protect their safety as drivers, from ages 16 to 78, is extremely important. The number of cars using the crossing is many more than we have ever seen using the trail and we ask this is considered in "who stops". What about quick exits off the parkway in an emergency to avoid a rear-end collision? We have had at least two rear-end crashes and several misses.

After the reconstruction of the entrance we understand it is designed for use by a "standard" car. Which cars are NOT considered standard cars. Is our 1991 Honda Civic, a stripped down model, considered a standard car?

**WETLANDS** There are several spots where there is a ditch on the east side of the trail. This ditch was dug for drainage by the railroad and with culverts that went under the tracks. These drainage ditches were politically labeled later as "Wet Lands". These drainage ditches have not been properly maintained for many years. When I, Vern, was a kid growing up in our neighborhood, these ditches on the east side of the railroad tracks, dried up during the summer and there were gardens, finely cared for, in the location of the "wetland" signs today. Any summer day there would be several neighbors out caring for their gardens. While my parents were working in their 30' row of raspberry bushes and various vegetables, I would play in the dry ditch on one side with my metal cars seeing if I could make race tracks and see how far the cars would go up the other side. There were many vegetables and flowers shared between the gardening neighbors. Another contributing factor is recently the ditches have been dug out but in the majority of places, it was deepened and now lower than the pipes for drainage. According to your 60% Plans, the area on the east side of the trail at Mint Grove will be regraded to make an artificial man-made wetland. Will that result in a permanent mosquito habitat? Referring to the latest article of many we've read, entitled "Science vs. Mosquitos" in National Geographics, August 16, 2016, show which mosquitos cause Zika, Chikungunya, Yellow Fever, Dengue Fever, Malaria, Lymphatic Filariasis and West Nile Fever. With climate change scientists expect the tropical zone where these mosquitoes live will widen toward the poles and in our area by 2050. Some mosquitoes bite during the day and some at night assuring someone will be bitten any time during the summer with devastating results. Is that what you want?

**SAFETY, PRIVACY & TREES**

If all the trees Mint Grove residents have purchased themselves and planted as following verbal instructions from King County for buffering noise and privacy, (300 thuja pyramidalis) along the trail are cut down, we will have even less noise buffering and security. All sides of our houses will be visible from the trail and lake. What must we do to protect ourselves? Trying to emotionally and financially recover from invasion is not acceptable.

Scientists have for many years talked about Global Warming. We have noticed the "CLICK TO SUBSCRIBE" on King County Parks web site to join King County to plant 1 million trees by 2020. "Why plant 1 million trees in King County? Healthy forests and trees store carbon and contribute to clean air and water, healthy habitat for salmon and other wildlife, and more livable communities. One Million Trees is part of King Country's ambitious five-year action plan to reduce carbon pollution and prepare for the impacts of a changing climate . . . Join the 1 million tree effort." Sounds really great but how does King County Parks compensate for the carbon absorbing ability of 300 mature trail-shading evergreen trees at our Mint Grove Community if these are removed? A solution is keeping the trail on the original centerline established by the railroad tracks and avoid cutting down



300 trees instead of a minus 300 in the "1 Million Trees" account. Small, immature trees cannot possibly absorb as much carbon as mature trees nor offer shade, especially along a heavily used parkway.

**PEOPLE USING TRAIL** We are frequent users of the trail and usually meet 2 to 10 other people. That's little usage of an expensive trail. Some people we see on a regular basis and greet each other and often have conversations.

The biggest problem is the bicyclists who do not announce their presence, such as "on your left" or using a bell when approaching from behind. We have been almost hit on many occasions even though we walk only on the right half of the trail. One time a biker went between us. The only rule for bikers we have seen is a speed limit of 15 mph sign posted several miles south of Mint Grove.

If someone using the trail has an emergency, medical or assault, will he/she receive quick response? In the past the response was too slow, sometimes 2 – 3 hours later.

A reminder, we regularly use the trail. The comments we have made are those that we have seen or experienced ourselves.

We ask that the SSDP approval be put on hold until there is resolution to our concerns before the 90% plans are released.

Vern and Jeannie Lindquist  
1241 E Lk Sammamish Shorelane SE  
Sammamish, WA 98075  
vernindquist@msn.com

## Lindsey Ozbolt

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**From:** Lindsey Ozbolt  
**Sent:** Friday, February 3, 2017 3:53 PM  
**To:** 'Samuel A. Rodabough'  
**Subject:** RE: Gottschalk/Greve Public Comment - SSDP2016-00415

Dear Mr. Rodabough,

Thank you for contacting the City of Sammamish regarding the current Shoreline Substantial Development Permit Application for East Lake Sammamish Trail Segment 2B (SSDP2016-00415).

Your comments have been received and will be included in the project record. At the close of the comment period, all comments will be compiled and provided to King County for review and response. You will be included in future notices the City issues for this proposal.

Regards,

Lindsey Ozbolt

Associate Planner | City of Sammamish | Department of Community Development  
425.295.0527

---

**From:** Samuel A. Rodabough [mailto:sam@rodaboughlaw.com]  
**Sent:** Friday, January 27, 2017 2:04 PM  
**To:** Lindsey Ozbolt <LOzbolt@sammamish.us>; gina.auld@kingcounty.gov  
**Cc:** Flemming, Barbara <Barbara.Flemming@kingcounty.gov>  
**Subject:** Gottschalk/Greve Public Comment - SSDP2016-00415

Ms. Ozbolt and Ms. Auld,

On behalf of my clients William & Debra Gottschalk and William & Kathryn Greve, please see a comment letter attached in pdf format regarding the above shoreline substantial development permit for the East Lake Sammamish Trail, South Sammamish B Segment. Please let me know if you require anything further. I look forward to working with the City and County to resolve my clients' concerns.

Regards,

Samuel A. Rodabough  
Law Office of Samuel A. Rodabough PLLC  
11820 Northup Way, Ste. E200  
Bellevue, WA 98005  
(425) 440-2593 (phone)  
(425) 284-3051 (fax)  
[sam@rodaboughlaw.com](mailto:sam@rodaboughlaw.com)

**Exhibit 29**  
**SSDP2016-00415**  
**002641**

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.





January 27, 2017

*Via Email & U.S. Mail*

City of Sammamish  
Department of Community Development  
*Attn:* Lindsey Ozbolt, Associate Planner  
801 228th Ave. SE  
Sammamish WA, 98075  
lozbolt@sammamish.us

King County  
Department of Natural Resources and Parks  
*Attn:* Gina Auld, Capital Project Manager IV  
201 S. Jackson St., Ste. 700  
Seattle, WA 98104-3855  
gina.auld@kingcounty.gov

**Re: Shoreline Substantial Development Permit 2016-00415  
East Lake Sammamish Trail, South Sammamish B Segment**

Dear Ms. Ozbolt and Ms. Auld:

This Firm represents William & Debra Gottschalk (collectively “Gottschalk”) and William & Kathryn Greve (collectively “Greve”), the owners of residential properties located within the City of Sammamish (“City”). My clients’ properties will be adversely affected by the proposed modifications to the East Lake Sammamish Trail, South Sammamish B Segment (“Trail”) that have been proposed by King County (“County”) in the above shoreline substantial development permit (“SSDP”). My clients are in receipt of the City’s Notice of Application for the above SSDP and they have reviewed the 60% design plans for the Trail, dated on or about September 2016 (“Preliminary Plans”). Please accept the following as (1) a response on behalf of my clients to the SSDP application, including the Preliminary Plans, and (2) a request for my clients to be included as parties of record for this SSDP and to receive future notifications and status updates regarding the SSDP application.

**A. The Properties**

Gottschalk owns and resides in the residence located at 2419 E. Lk. Sammamish Pl. SE, Sammamish, WA 98075, also known as King County Tax Parcel No. 0724069055 (“Gottschalk Property”). Greve owns and resides in the adjoining residence located at 2417 E. Lk. Sammamish Pl. SE, Sammamish, WA 98075, also known as King County Tax Parcel No. 0724069059 (“Greve Property”). The Greve Property is located immediately north of the Gottschalk Property. As with many waterfront properties in this area, the Gottschalk Property and the Greve Property are physically constrained by Lake Sammamish to the west and the Trail to the east. Although these properties enjoy significant waterfront amenities, they are also characterized by significant access constraints and privacy concerns stemming from their proximity to the Trail.

**Exhibit 29  
SSDP2016-00415  
002643**

By way of background, and for purposes of this letter, with the limited time available for public comment, my clients have been unable to undertake a comprehensive review of the titles to their respective properties to determine the origin of the County's right-of-way for the Trail.

However, per maps available through the County's Department of Natural Resources and Parks, it appears that the origin of the right-of-way in this section of the Trail is the "Tibbetts Deed."<sup>1</sup>

The map does not explain if the County believes it owns a fee simple interest in this section of the Trail, or a mere easement. In this limited time available for public comment, however, my clients have been unable to verify if the property interest conveyed by the Tibbetts Deed has previously been adjudicated by any state or federal court. Nonetheless, until demonstrated otherwise, similar to other sections of the Trail, my clients' necessarily take the position that the County's interest constitutes an easement and that my clients own the underlying fee simple interest.

## **B. Deficiencies in Preliminary Plans**

As indicated, my clients have reviewed the Preliminary Plans for the Trail. In this regard, it is worth noting that Mr. Gottschalk has over 35 years of complex construction experience. He is currently the President of Lydig Construction, Inc., a regional commercial construction company whose project portfolios include federal, state, and local government buildings (*e.g.*, secondary and higher education buildings, courthouses, administration buildings, correction centers, civic halls, etc.) and private commercial buildings (*e.g.*, offices, hospitals, hotels, casinos, etc.). In short, Mr. Gottschalk is well-versed and highly qualified in reviewing construction drawings. Accordingly, my clients offer the following comments regarding the Preliminary Plans:

### **1. Unnecessary Waterward Realignment of Trail Centerline**

Per the Preliminary Plans, it appears that the County is unnecessarily realigning the centerline of the Trail waterward (*i.e.*, closer to my clients' residences).<sup>2</sup> Notably, the County has previously published the criteria that it employs to determine if the existing centerline of the Trail should be realigned, which include the following: (1) "[m]inimizing costs where possible without impacting trail standards," and (2) "[m]inimizing impacts to adjacent homeowners."<sup>3</sup> As explained in greater detail below, it does not appear that the County's proposed realignment complies with either of these criteria.

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<sup>1</sup> See East Lake Sammamish Trail Railroad Right of Way Historical Acquisitions, King County Department of Natural Resources and Parks, Parks Division (July 29, 2014), at pg. 15.

<sup>2</sup> Compare Preliminary Plans, Existing Conditions Plan, at pg. EX6 (attached hereto as Exhibit 2) with Plan and Profile, at pg. AL10 (attached hereto as Exhibit 1).

<sup>3</sup> East Lake Sammamish Trail Project, King County Parks (Spring 2014), at pg. 5.

Specifically, the proposed realignment occurs between stations 327+31.99 and 326+71.62.<sup>4</sup> The realignment results in the following significant, adverse impacts, among others:

- **Reduced Utility of Shared and Separate Driveways** – The realignment shortens the approach to the shared portion of my clients’ driveway and severely limits vehicle maneuverability and ingress and egress from the easternmost portions of their separate driveways. In particular, the turning radius of their driveways are significantly compromised and may require the owners to trespass onto each other’s property for future, rudimentary driveway navigation.
- **Reduced Safety/Visibility** – The proposed Trail realignment creates an increased safety hazard for both vehicles and Trail users at this crossing. Specifically, the rather abrupt realignment near the north property line of the Greve Property appears to reduce sight distance for vehicles exiting the shared portion of my clients’ driveway, which decreases safety for both my clients and Trail users.
- **Proximity, Loss of Privacy and Safety** – The proposed Trail realignment will undoubtedly negatively affect the values of my clients’ residences, both of which are multi-million dollar residences. The proposed Trail realignment and accompanying widening will require the loss of most, if not all, of the existing privacy screening for these residences, including mature arborvitae hedges. In short, Trail users will not only be much closer to these residences, but will be staring through windows into their homes. Additionally, the increased proximity of the Trail to my clients’ residences may encourage Trail users to engage in unauthorized use of the highly visible boat launch located on the Greve Property.

## 2. Inadequate Drainage Infrastructure

The existing elevated Trail corridor currently acts as a berm that collects surface water behind it during extreme weather conditions. This problem is exacerbated by excess hydraulic water pressure from Jurisdictional Ditch #11B and runoff from nearby impervious surfaces, including the existing semi-permeable gravel Trail.<sup>5</sup> Although the Preliminary Plans depict the existence of four, 6-inch culverts located near the north end of Jurisdictional Ditch #11B,<sup>6</sup> these culverts do not currently provide an outlet for the ponding water. Instead, because the ponding water currently has no outlet, it builds hydraulic pressure that adversely affects the foundations and sewer systems of both the Gottschalk and Greve residences. This hydraulic pressure has led to water infiltration through the foundations and into their respective residences.

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<sup>4</sup> See Preliminary Plans, Plan and Profile, at pg. AL10 (attached hereto as Exhibit 1).

<sup>5</sup> See Preliminary Plans, Existing Conditions Plan, at pg. EX6 (attached hereto as Exhibit 2) with Plan and Profile, pg. AL10 (attached hereto as Exhibit 3).

<sup>6</sup> See Preliminary Plans, Existing Conditions Plan, at pg. EX6 (attached hereto as Exhibit 2).



The following photos depicts the water that ponds behind the Trail corridor in front of my clients' residences and the damage to these residences as a result of this ponding and associated hydraulic pressure:



\*Note – The above photo was taken at approximately 3:00 p.m. on January 18, 2017. The ditch collects and retains water during extreme weather conditions. The ditch was water free 18 hours prior to the time that this photo was taken. As explained in greater detail herein, adopting my clients' recommended drainage improvements, will resolve the existing drainage issues and better protect any Trail improvements from unnecessary erosion and damage.



\*Note – The above photo depicts the source of water forced up through the foundation of the residence as a result of hydraulic pressure.



\*Note – The above photo depicts the pathway by which water, forced up through the foundation from hydraulic pressure, runs along the interior walls of the residence.

The proposed drainage improvements in the Preliminary Plans do not appear to adequately address these drainage concerns. In particular, changing the Trail from a semi-permeable gravel surface to an impervious paved surface, while simultaneously widening the Trail, will increase surface water runoff. Moreover, the Preliminary Plans do not depict any underdrain in the vicinity of my clients' properties that will allow for surface water collecting on the east side of the Trail to drain to the west side and ultimately be discharged into the Lake. In other words, it is likely that the existing ponding conditions will continue unless and until the Preliminary Plans are revised with respect to drainage.

### **3. Design**

My clients, including Mr. Gottschalk with his extensive design and construction experience, believe that the Proposed Plans depict a Trail with poor design and a general lack of consideration to architectural exterior design. Specifically, the Preliminary Plans include a masonry retaining wall with a coated chain link for only a portion of affected property, and leaving the remainder with no protection at all. This total lack of architectural perspective by the County fails to follow any reasonable architectural standards for the proposed improvements. The County should have designed something more consistent with the existing improvements that takes into consideration that the two residents share one common entrance and the architectural barrier should be consistent along the affected property.

## **B. Proposed Resolutions for Deficiencies in Preliminary Plans**

My clients believe that there are simple and cost-effective design solutions that would largely alleviate the above concerns that are both (1) consistent with the County's design objectives for the Trail, and (2) avoid negative impacts to adjacent property owners. These solutions are as follows:

### **1. Shift Proposed Realignment of Trail Centerline to the South**

My clients propose that the abrupt transition for the Trail centerline realignment currently depicted as occurring between stations 327+31.99 and 326+71.62 be shifted to the south between stations 324+50 and 324+00.<sup>7</sup> It does not appear that shifting the transition to that location would impact any adjacent properties, as that location does not involve constraints that are similar to those in the immediate vicinity of my clients' property. For example, unlike the County's proposed location, my clients' proposed location is not in the vicinity of a Trail crossing, such as a driveway. Moreover, my client's proposed location for the transition would alleviate concerns regarding impaired sight lines at my clients' Trail crossing, as the Trail alignment could be straightened in the absence of the proposed transition. My clients' proposal would also accommodate the following:

- **Retaining Wall #10** – My clients' preferred alignment would allow for Retaining Wall #10 to be moved east, closer to the alignment of the Trail, which could then be reengineered to be either a smaller retaining wall, or be eliminated altogether as a result of existing elevations. This common sense change would result in considerable savings to taxpayers.<sup>8</sup>
- **Clearing and Grubbing Limits** – My clients also propose that the clearing and grubbing lines be modified to correspond to my clients' preferred Trail realignment. My clients' proposed modifications are depicted on the attached Exhibit 3. Further, the clearing limits should be adjusted to follow the course of the Trail in order to prevent and/or limit, any adverse impacts to my clients' existing stamped concrete driveway, irrigation, drainage, and landscape lighting.
- **Drainage Revisions** – My clients also request that certain changes be made to the Preliminary Design with respect to drainage, as depicted in the attached Exhibit 4. These proposed changes are summarized as follows:

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<sup>7</sup> See Preliminary Plans, Existing Conditions Plan, pg. EX6 (attached hereto as Exhibit 2).

<sup>8</sup> See Preliminary Plans, Existing Conditions Plan, Plan and Profile, pg. AL10 (attached hereto as Exhibit 3).



(1) Continue the underdrain depicted for installation south of station 326+00 on the east side of the Trail through to station 327+31.99. Tie the underdrain to Catch Basin #9 located at station 327+34.

(2) To address the additional ponding that will be expected from increasing the impervious surface from the Trail due to widening, my clients request the installation of a CMP slotted trench drain in the existing driveway, such as the product available from Contech Engineering Solutions depicted in Exhibit 6.

- **Fencing** – My clients also request that they be allowed to maintain the existing level of safety and security that exists for their properties, which will be significantly compromised by the removal of their vegetative privacy screening, existing fence, and electric gate. Maintaining the same level of security will also eliminate the potential for unauthorized use of the highly visible boat launch located on the Greve Property. My clients recommend realigning the chain link fence depicted in the Proposed Plans consistent with their preferred Trail realignment and extending said fence across both properties as depicted in Exhibit 5. Further, they request permission to install an electric rolling security gate similar to existing one serving the properties. Doing so will also maintain a reasonable resemblance of the exterior architecture of these multi-million dollar homes.

### CONCLUSION

The Trail constitutes a regional asset that is beneficial to the greater public. As such, my clients do not oppose improvements to the Trail and sincerely desire that the project will be successful and completed in a timely manner. However, my clients justifiably believe that the proposed Trail improvements should consider the adverse impacts to adjoining properties (as expressly set forth in the County's own criteria), including the Gottschalk Property and Greve Property. My clients respectively request that the County give their proposed improvements serious and thoughtful consideration, as the adoption of those proposals would remedy their concerns.

Sincerely,

LAW OFFICE OF SAMUEL A. RODABOUGH PLLC



Samuel A. Rodabough  
[sam@rodaboughlaw.com](mailto:sam@rodaboughlaw.com)

cc: Barbara Flemming, Senior Deputy Prosecuting Attorney

**Exhibit 29**  
**SSDP2016-00415**  
**002649**





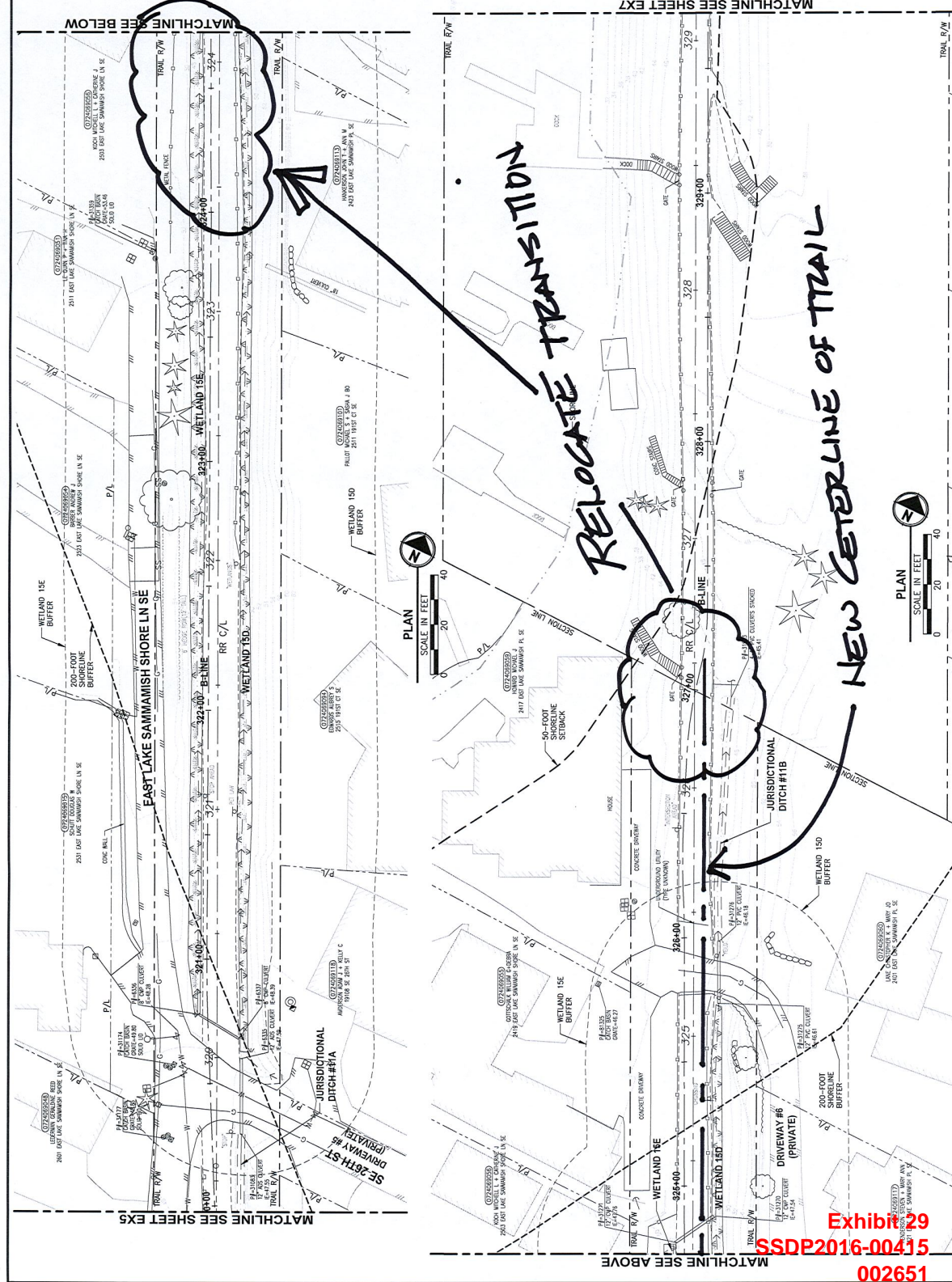
- GENERAL NOTES:**
- SEE SHEET 04 FOR SYMBOL AND LINE LEGEND
  - THE R/W BOUNDARIES FOR THE 15' W/ W LINES SHOWN ARE BASED ON THE 1998 GIS INFORMATION PROVIDED BY KING COUNTY, DATED 1998, UNLESS OTHERWISE NOTED.
  - OUTLINES FOR BUILDING STRUCTURES SHOWN ARE BASED ON GIS AND AERIAL PHOTOS, DATED 2012.
  - NOT ALL ALLEYS AND ABANDONED ARE INCLUDED IN THE SURVEY.
  - UTILITY ASSESSMENT AND POTENTIAL RESEARCH HAVE NOT BEEN INCORPORATED.
  - MODIFICATIONS WERE DONE TO THE RIGHT OF WAY CENTERLINE, RECORD DOCUMENTATION AS PROVIDED BY KC.
  - PARCEL LINES WERE UPDATED PER GIS INFORMATION PROVIDED BY COUNTY, DATED 2016.

**LEGEND:**

FORMER RAILROAD CENTERLINE      220      RR C/L

CONSTRUCTION CENTERLINE      220+00      B-LINE

# EXHIBIT 2



CITY OF SAMMAMISH APPROVAL	
City Engineer	Date
Community Development	Date

**60% REVIEW SUBMITTAL  
NOT FOR CONSTRUCTION**

SHEET NO. 14 OF 135  
**EX6**

**EXISTING CONDITIONS PLAN**

PROJECT NAME  
**EAST LAKE SAMMAMISH  
MASTER PLAN  
SOUTH SAMMAMISH SEGMENT B**

7182 AND PARALLEL STATE 2001, EASTLE, WA 98104  
P. 206-294-1200  
WWW.PARAMETRIX.COM



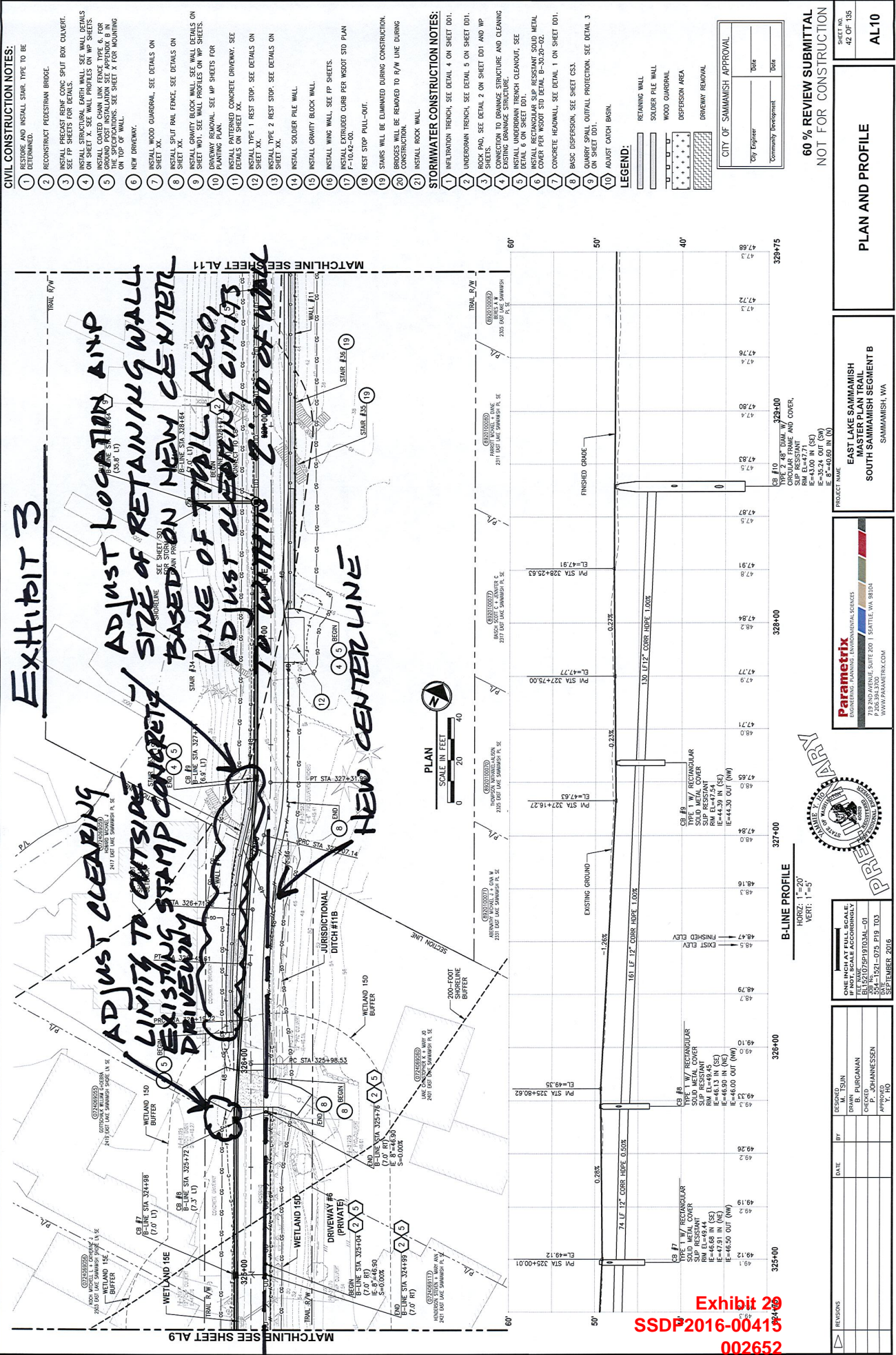
**PRELIMINARY**

ONE INCH AT FULL SCALE  
IF NOT SCALE ACCORDINGLY  
DATE: 08/15/2016  
BY: J. JOHANNESSEN  
CHECKED: P. JOHANNESSEN  
DATE: 08/15/2016  
SCALE: 1/8" = 1'-0"

REVISIONS	DATE	BY	REASON

**Exhibit 29  
SSDP2016-00415  
002651**





- CIVIL CONSTRUCTION NOTES:**
- RESTORE AND INSTALL STAR, TYPE TO BE DETERMINED.
  - RECONSTRUCT PEDESTRIAN BRIDGE.
  - INSTALL PRECAST CONCRETE SPILT BOX CULVERT. SEE FP SHEETS FOR DETAILS.
  - INSTALL STRUCTURAL EARTH WALL. SEE WALL DETAILS ON SHEET X. SEE WALL PROFILES ON WP SHEETS.
  - INSTALL COATED CHAIN LINK FENCE TYPE 6. FOR GROUND POST INSTALLATION SEE APPENDIX B IN THIS SET OF DRAWINGS. SEE SHEET A FOR ADJUSTING ON TOP OF WALL.
  - NEW DRIVEWAY.
  - INSTALL WOOD GUARDRAIL. SEE DETAILS ON SHEET XX.
  - INSTALL SPLIT RAIL FENCE. SEE DETAILS ON SHEET XX.
  - INSTALL GRANITE BLOCK WALL. SEE WALL DETAILS ON SHEET XX. SEE WALL PROFILES ON WP SHEETS.
  - DRIVEWAY REMOVAL. SEE WP SHEETS FOR PLANTING PLAN.
  - INSTALL PATTERNEED CONCRETE DRIVEWAY. SEE DETAILS ON SHEET XX.
  - INSTALL TYPE 1 REST STOP. SEE DETAILS ON SHEET XX.
  - INSTALL TYPE 2 REST STOP. SEE DETAILS ON SHEET XX.
  - INSTALL SOLID PILE WALL.
  - INSTALL GRANITE BLOCK WALL.
  - INSTALL WING WALL. SEE FP SHEETS.
  - INSTALL EXTRUDED CURB PER WSDOT STD PLAN F-10.42-00.
  - REST STOP PULL-OUT.
  - STARS WILL BE ELIMINATED DURING CONSTRUCTION.
  - BROOKS WILL BE REMOVED TO R/W LINE DURING CONSTRUCTION.
  - INSTALL ROCK WALL.

- STORMWATER CONSTRUCTION NOTES:**
- INFILTRATION TRENCH, SEE DETAIL 4 ON SHEET 001.
  - UNDERDRAIN TRENCH, SEE DETAIL 5 ON SHEET 001.
  - ROCK PAD, SEE DETAIL 2 ON SHEET 001 AND WP SHEETS.
  - SHEETS TO BE REMOVED TO DRAINAGE STRUCTURE AND CLEANING EXISTING DRAINAGE STRUCTURE.
  - INSTALL UNDERDRAIN TRENCH CLEANOUT. SEE DETAIL 6 ON SHEET 001.
  - INSTALL RECTANGULAR SUMP RESISTANT SOLID METAL COVER PER WSDOT STD DETAIL B-30.60-02.
  - CONCRETE HEADWALL, SEE DETAIL 1 ON SHEET 001.
  - BASIC DISPERSION, SEE SHEET C53.
  - WAGERS SEAL, OUTFALL PROTECTION. SEE DETAIL 3 ON SHEET 001.
  - ADJUST CATCH BASIN.

- LEGEND:**
- RETAINING WALL
  - SOLID PILE WALL
  - WOOD GUARDRAIL
  - DISPERSION AREA
  - DRIVEWAY REMOVAL

**CITY OF SAMMAMISH APPROVAL**

City Engineer	Date
Community Development	Date

**80% REVIEW SUBMITTAL NOT FOR CONSTRUCTION**

**PLAN AND PROFILE**

**EAST LAKE SAMMAMISH SOUTH SAMMAMISH SEGMENT B**

**PROJECT WORK:**  
 EAST LAKE SAMMAMISH SOUTH SAMMAMISH SEGMENT B  
 SAMMAMISH, WA

**Parametrix**  
 ENGINEERING PLANNING ENVIRONMENTAL SERVICES  
 719 7th Avenue, Suite 200 | Seattle, WA 98104  
 P: 206.384.3300  
 WWW.PARAMETRIX.COM

**PRELIMINARY**

**ONE INCH AT FULL SCALE IF NOT SCALE ACCORDINGLY**  
 ELS2107P103A1-01  
 554-1521-075 P19 T03  
 SEPTEMBER 2016

**DATE** BY  
 DESIGNED BY: M. TSUN  
 CHECKED BY: B. PURGANAN  
 DESIGNED BY: P. JOHANNESSEN  
 DATE: JAN. 11, 2016

**EXHIBIT 3**

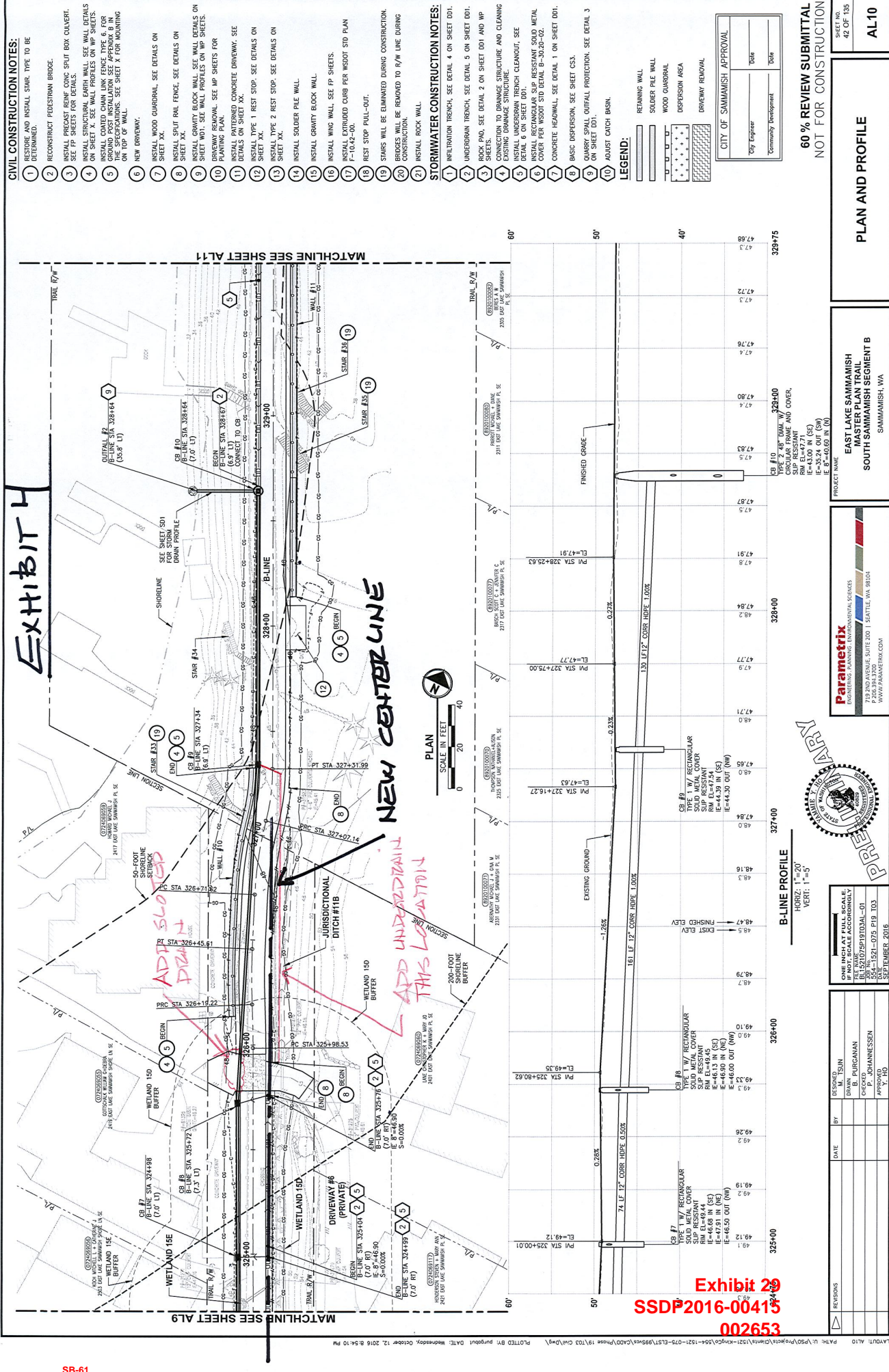
**ADJUST CLEARING LIMITS TO OUTSIDE EXISTING STAMP CONCRETE DRIVEWAY**

**ADJUST LOCATION AND SIZE OF RETAINING WALL BASED ON NEW CENTERLINE OF TRAIL. ALSO, ADJUST CLEARING LIMITS TO WITHIN 2.00' OF WALL**

**NEW CENTERLINE**

**Exhibit 29  
 SSSP2016-00415  
 002652**





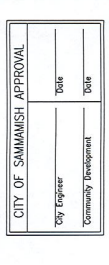
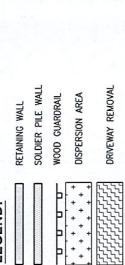
**CIVIL CONSTRUCTION NOTES:**

- RESTORE AND INSTALL STAIR, TYPE TO BE DETERMINED.
- RECONSTRUCT PEDESTRIAN BRIDGE.
- INSTALL PRECAST CONCRETE SPILT BOX OVERFLOW. SEE FP SHEETS FOR DETAILS.
- INSTALL STRUCTURAL BARRICADE WALL. SEE WALL DETAILS ON SHEET X. SEE WALL PROFILES ON WP SHEETS.
- INSTALL COATED CHAIN LINK FENCE TYPE 6. FOR DETAILS OF INSTALLATION SEE APPENDIX B IN THE SUPPLEMENTAL SPECIFICATIONS. SEE SHEET A FOR ADJUSTING ON TOP OF WALL.
- NEW DRIVEWAY.
- INSTALL WOOD GUARDRAIL. SEE DETAILS ON SHEET XX.
- INSTALL SCURT RAIL FENCE. SEE DETAILS ON SHEET XX.
- INSTALL GRANTY BLOCK WALL. SEE WALL DETAILS ON SHEET WDI. SEE WALL PROFILES ON WP SHEETS.
- BRIDGE REMOVAL. SEE WP SHEETS FOR PLANNING PLAN.
- INSTALL PATTERNEED CONCRETE DRIVEWAY. SEE DETAILS ON SHEET XX.
- INSTALL TYPE 1 REST STOP. SEE DETAILS ON SHEET XX.
- INSTALL TYPE 2 REST STOP. SEE DETAILS ON SHEET XX.
- INSTALL SOLDER FILE WALL.
- INSTALL GRANTY BLOCK WALL.
- INSTALL WING WALL. SEE FP SHEETS.
- INSTALL EXTRUDED CURB PER INSISTD STD PLAN F-10.42-00.
- REST STOP PULL-OUT.
- STAIRS WILL BE ELIMINATED DURING CONSTRUCTION. BRIDGES WILL BE REMOVED TO R/W LINE DURING CONSTRUCTION.
- INSTALL ROCK WALL.

**STORMWATER CONSTRUCTION NOTES:**

- INFILTRATION TRENCH, SEE DETAIL 4 ON SHEET DD1.
- UNDERDRAIN TRENCH, SEE DETAIL 5 ON SHEET DD1.
- ROCK PAD, SEE DETAIL 2 ON SHEET DD1 AND WP SHEETS.
- CONNECTION TO DRAINAGE STRUCTURE AND CLEANING EXISTING DRAINAGE STRUCTURE.
- INSTALL UNDERDRAIN TRENCH CLEANOUT. SEE DETAIL 6 ON SHEET DD1.
- INSTALL UNDERDRAIN TRENCH. PREPARED SLOPE METAL COVER PER INSISTD STD DETAIL E-30.02-00.
- CONCRETE HEADWALL, SEE DETAIL 1 ON SHEET DD1.
- BASIC DISPERSION. SEE SHEET CS3.
- BARRETS SMALL, OUTFALL PROTECTION. SEE DETAIL 3 ON SHEET DD1.
- ADJUST CATCH BASIN.

**LEGEND:**



**60% REVIEW SUBMITTAL**  
NOT FOR CONSTRUCTION

PROJECT NO. 42 OF 135  
**AL 10**

**PLAN AND PROFILE**

**EAST LAKE SAMAMISH MASTER PLAN**  
SOUTH SAMAMISH SEGMENT B  
SAMAMISH, WA



DATE: \_\_\_\_\_  
BY: M. TSUN  
CHECKED: B. PURCANNAN  
DESIGNED: JOHANNESSON  
APPVED: Y. HO

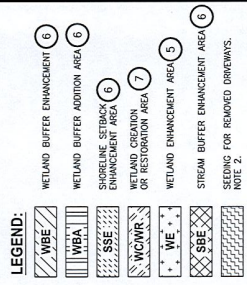
REVISIONS: \_\_\_\_\_  
DATE: \_\_\_\_\_  
BY: \_\_\_\_\_  
CHECKED: \_\_\_\_\_  
DESIGNED: \_\_\_\_\_  
APPVED: \_\_\_\_\_

**Exhibit 29**  
**SSDP2016-00415**  
**002653**



- CONSTRUCTION NOTES:**
- 1 REMOVE LAWN IN THIS AREA.
  - 2 REMOVE CONCRETE PAD.
  - 3 REMOVE GRAVEL PAVING.
  - 4 REMOVE STRUCTURE IN THIS AREA.
  - 5 PROTECT EXISTING NATIVE TREES AND SHRUBS; REMOVE BACKBERRY AND OTHER UNWANTED PLANT WITH NATIVE WETLAND PLANTS AND PLACE WOOD CHIP MULCH OVER ENTIRE AREA.
  - 6 REMOVE BACKBERRY AND OTHER UNWANTED INVASIVE PLANTS; AMEND SOIL WITH COMPOST; PLACE WOOD CHIP MULCH OVER ENTIRE AREA.
  - 7 GRADE AREA TO CREATE WETLAND CONDITIONS AND AMEND SOIL WITH COMPOST. PLANT WITH NATIVE WETLAND PLANTS.

- GENERAL NOTE:**
1. SEE SHEET L433 FOR DETAILS AND PLANT LISTS.
  2. SEEDING FOR REMOVED DRIVEWAYS IS NOT PART OF THE IMPROVEMENT PLAN.



CITY OF SAMMAMISH APPROVAL

City Engineer	Date
Community Development	Date

60% REVIEW SUBMITTAL  
NOT FOR CONSTRUCTION

LANDSCAPE PLAN

EAST LAKE SAMMAMISH  
MASTER PLAN RECAL  
SOUTH SAMMAMISH SEGMENT B  
SAMMAMISH, WA

**Parametrix**  
ENGINEERING, PLANNING, ENVIRONMENTAL SCIENCES  
7303 3RD AVENUE, SUITE 200 | SEATTLE, WA 98104  
P 206.994.7920  
WWW.PARAMETRIX.COM

REGISTERED ARCHITECT  
JAMES SWENSON  
LICENSE NO. 656  
EXPIRES ON SEPTEMBER, 2016

ONE INCH AT FULL SCALE  
IF NOT SCALE ACCORDINGLY  
BL132107SP103A-01  
354-1521-075 P19 T03  
SEPTEMBER, 2016

REVISIONS	DATE	BY	DESIGNED BY
			J. SWENSON
			DRAWN BY P. PURCAMAN
			CHECKED P. JOHANNESSEN
			APP'D BY J. HO

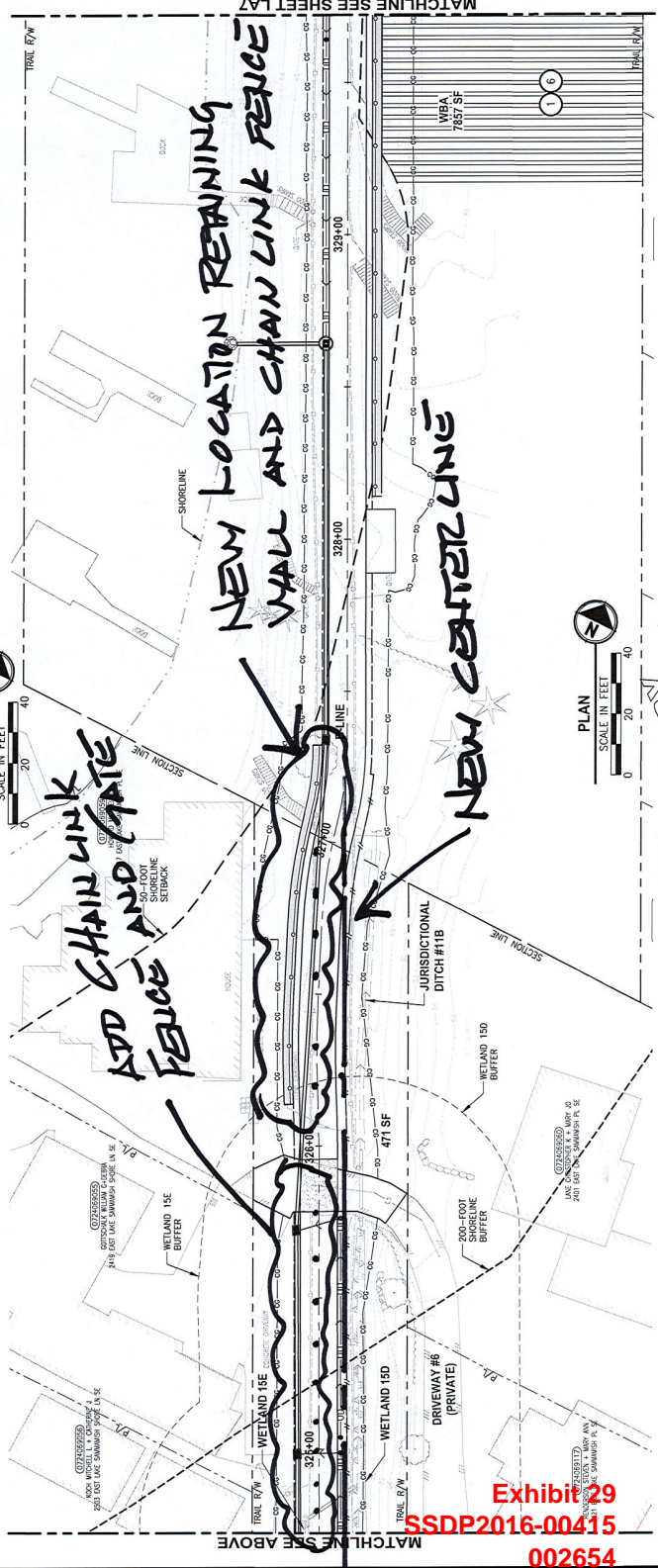
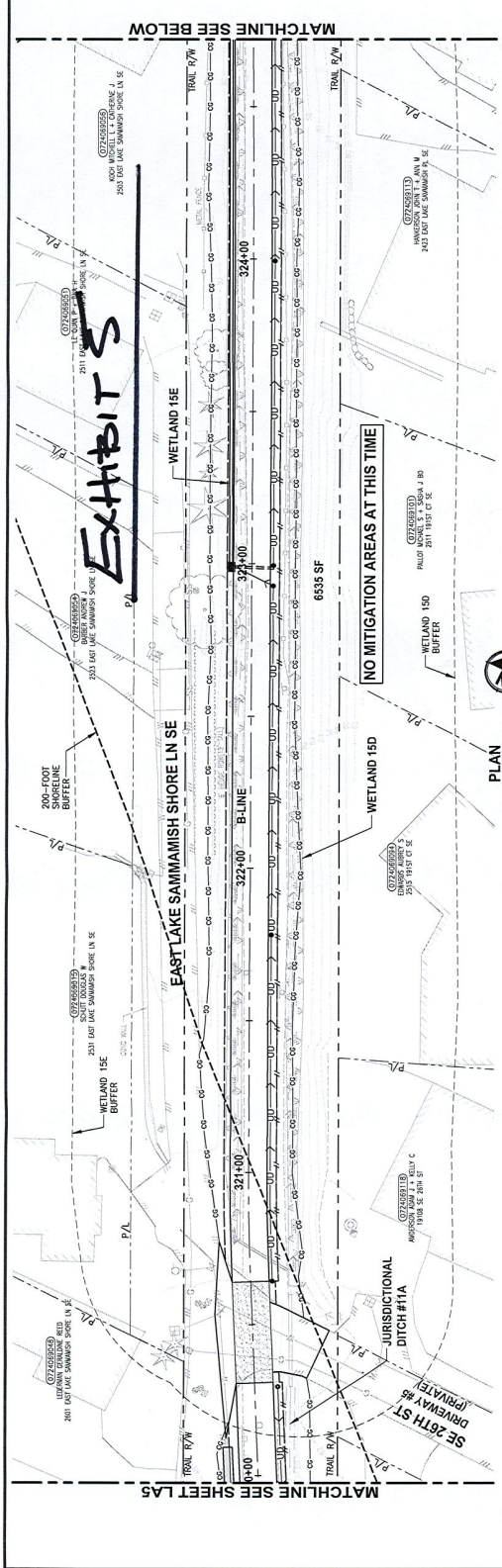


Exhibit 29  
SSDP2016-00415  
002654



# Exhibit 6



PRODUCTS

MARKETS

START A PROJECT

KNOWLEDGE CENTER

COMPANY

Products

Pipe

Corrugated Metal (CMP)

Slotted Drain



## Slotted Drain™

Slotted Drain pipe removes sheet flow from streets, highways, and parking lots without multiple grades or water channeling devices. The result is an aesthetically pleasing inlet that is safer and easier to install and maintain.

## Lindsey Ozbolt

---

**From:** Jenny Devlin <jenadevlin@gmail.com>  
**Sent:** Friday, January 27, 2017 1:45 PM  
**To:** Lindsey Ozbolt  
**Subject:** Re: Please Approve the Permit for Segment 2B of the ELST

Of course my letter includes autocorrect typos from my phone. :/

Bummmmer. Since I've never typed Sammamish on my phone, evidently:  
Adam Amish = Sammamish

Poop de doop.

> On Jan 27, 2017, at 10:12 AM, Lindsey Ozbolt <LOzbolt@sammamish.us> wrote:

>

> Dear Jennifer,

>

> Thank you for contacting the City of Sammamish regarding the current Shoreline Substantial Development Permit Application for East Lake Sammamish Trail Segment 2B (SSDP2016-00415).

>

> Your comments have been received and will be included in the project record. At the close of the comment period, all comments will be compiled and provided to King County for review and response. You will be included in future notices the City issues for this proposal.

>

> Regards,

>

> Lindsey Ozbolt

> Associate Planner | City of Sammamish | Department of Community Development

> 425.295.0527

>

>

> -----Original Message-----

> From: Jennifer Devlin [mailto:jenadevlin@gmail.com]

> Sent: Thursday, January 26, 2017 6:39 AM

> To: Lindsey Ozbolt <LOzbolt@sammamish.us>

> Subject: Please Approve the Permit for Segment 2B of the ELST

>

>

> Dear

>

> Dear city of Sammamish,

>

> I am writing to express my support for completing the ELST and approving permit SSDP2016-00415.

>

> Please approve the permit, as submitted.

>

> Request 1: Approve the permit: Complete this regional trail and local amenity Request 2: Follow AASHTO national standards: Allow for all users (people on bikes, people walking) of all ages and abilities.

**Exhibit 29**  
**SSDP2016-00415**  
**002656**

> Request 3: Give crossing priority to the trail at roads and driveways: Ensure safety and predictability

>

> The Adam Amish property owners do NOT own the railroad ROW and have encroached on it long enough to feel entitled to it. It's not theirs! It belongs to The People.

>

> Please approve the permit, as proposed, with expediency.

>

> Sincerely,

> Jennifer Devlin

>

> Jennifer Devlin

> 4200 NE 105 st

> Seattle, WA 98135

> 3605099536



## Lindsey Ozbolt

---

**From:** Lindsey Ozbolt  
**Sent:** Friday, February 3, 2017 3:50 PM  
**To:** 'dgb18@comcast.net'  
**Subject:** RE: ELST South Segment B Comments - Birrell

Dear Doug and Lori,

Thank you for contacting the City of Sammamish regarding the current Shoreline Substantial Development Permit Application for East Lake Sammamish Trail Segment 2B (SSDP2016-00415).

Your comments have been received and will be included in the project record. At the close of the comment period, all comments will be compiled and provided to King County for review and response. You will be included in future notices the City issues for this proposal.

Regards,

Lindsey Ozbolt

Associate Planner | City of Sammamish | Department of Community Development  
425.295.0527

---

**From:** dgb18@comcast.net [mailto:dgb18@comcast.net]  
**Sent:** Friday, January 27, 2017 1:38 PM  
**To:** Lindsey Ozbolt <LOzbolt@sammamish.us>  
**Subject:** ELST South Segment B Comments - Birrell

Lindsey,

Hi,

We submitted comments back on January 9th and since then had additional conversations with the King County representative at the Sammamish City Hall and met with the Army Corp of Engineers. Therefore, we have updated our comments and they are attached to this email. Please disregard our earlier email. You may delete it from, what we are sure is a very full email box. Thank you for your efforts and wish you the best.

Doug & Lori Birrell  
1317 E. Lake Sammamish Shore Lane SE  
Sammamish, Wa 98075  
425-242-0019

City of Sammamish  
801 228th Ave SE  
Sammamish, Wa 98075

January 26, 2017

Attention: Ms. Lindsey Ozbolt

Subject: East Lake Sammamish Trail Segment 2B - Community of Mint Grove

Dear Ms. Ozbolt,

The following are our comments and concerns regarding the recently released 60% plans for the development of the East Lake Sammamish Trail (ELST) segment 2B specifically as it will affect our property (Construction location 367+00) and the community of Mint Grove (Construction location 360 through 375).

We want to first state we are regular users of the ELST and enjoy the trail very much. We use it almost daily to walk, run, and bike.

The current plans for the section of segment 2B next to Mint Grove indicate the centerline of the ELST will be shifted varying amounts from approximately 4 feet to over 6 feet to the west. The reason given within the plans is to protect the "Wet Lands" to the east of the trail. It is important to point out the property to the east of the existing trail was not a "Wet Land" until several actions which were taken by the City of Sammamish and/or King County which caused this area to retain water during the wet months of the year. First, the approval by both King County and the City of Sammamish to allow significant development upon the hill to the east of Lake Sammamish Parkway, thus allowing increased water runoff from the area. In addition, following the Nisqually earthquake in February, 2001 and the subsequent damage to the East Lake Sammamish Parkway adjacent to Mint Grove, the road was rebuilt and a much larger drainage culvert was placed under the parkway, opposite our property at construction location 367, which increased the flow volume of water from the hill into the section of property just east of the trail. It is important to note that prior to the 2001 earthquake the retention of water from the east hill was located on the east of Lake Sammamish Parkway and the replacement of the original 12"-14" culvert with the much larger 48" culvert increased the flow of water under the Parkway and moved the water retention from the east side of the Parkway to the west side. This resulted in overflow of the trail during times of heavy or constant rain, which in turn caused flooding onto some of the Mint Grove properties and some damage to homes. In response to this situation one of the entities, either King County or the City of Sammamish, excavated the property to the east of the trail to allow for greater water retention and subsequently labeled this area as a wet land.

The excavated property had been maintained by the home owners within Mint Grove for the many years prior to the excavation. The land was dry and no "wet lands" existed as the homeowners had gardens within this area. The actions to excavate the area destroyed these gardens and caused standing water to result. During summer months the retention area does dry up and only underground springs

**Exhibit 29**  
**SSDP2016-00415**  
**002659**

located to the east of Lake Sammamish Parkway cause runoff within the original flow areas of which there are three mostly underground culverts that then continue to drain down to the lake. So to label these areas as wet lands is inappropriate as they are nothing more than water retention areas created by excavation to prevent flooding and allow for controlled release of retained water into Lake Sammamish through these three existing drainage pipes. It is important to note the three drain lines from east of the trail, which run under the trail and eventually to the lake were not replaced at the time the larger culvert was replaced under the parkway so building a large retention area was required to mitigate the trail overflow situation.

What actions is the City of Sammamish and King County taking to assure any run off flowing under the East Lake Sammamish Parkway be mitigated and will prevent any overflow of the trail, thus potentially damaging homes and risks to residents?

It is important to note that this past summer (2016) the county brought in a large track hoe and re-dug the ditches on the east side of the trail over a significant length of the trail common to Mint Grove. By their actions the County must not believe this area is a wet land or they would not be using large earth moving equipment to clear out and disturb this area. Thus why is it the trail cannot maintain the existing foot print by excavating new ditch areas to the east of the existing ditches which would result in the preservation of nearly 300 mature trees?

In reviewing the 60% construction drawing we find that the area to the east of the trail for a majority of the length of Mint Grove will be as noted on the plans, *"grade area to create wetland conditions and amend soil with compost, plant with native wetland plants."* It seems counter to the overall plan of not impacting the environment to shift the trail westerly resulting in the removal in approximately 300 mature trees to protect an area which will be graded, thus destroying the wetlands the shifting of the trail is intended to protect. If the trees are being removed for views of the lake, that too, is not a reasonable action as the homes in this area are built close together, with minimal spacing, and trail users will only have views of the existing homes. Since the area now designated as a wetland will be graded, then at the same time it seems reasonable to shift the ditches, located between the trail and the wetland, to the east, allowing the existing trail footprint to be used and the 300 mature trees are preserved.

Emergency vehicles may encounter a reduction in their ability to turn around and the risk to residents in an emergency situation will be increase accordingly. It is our recommendation the local fire district be included in the evaluation of such a shift in the trail and subsequent impact to ingress and egress within Mint Grove. It is important to note that any new construction or significant remodeling within Mint Grove requires fire sprinkler systems be installed due to the already restrictive access emergency vehicles have to homes within Mint Grove. So, we ask, what is of a greater need? The safety and welfare of Mint Grove residents and their guests or the protection of a government created water runoff retention area subsequently labeled a "wet land" which will be re-graded during construction?



Also, the existing parking area and turn-around space has been used by the homeowners of Mint Grove with the understanding of the railroad and, subsequently King County and the City of Sammamish for approximately 80 years. Houses have been built with the approval of both King County and the City of Sammamish with the understanding this space was used by homeowners for all the reasons noted above. Garages have been approved with minimal set back from the lane which results in very short driveways with no room for parking. Are the City of Sammamish and King County going to comply with their previous actions by assuring residents, delivery vehicles, and emergency vehicles have adequate accessibility to residences, including garages, based on building permits previously granted by both entities?

There is ample space to the east of the trail to make the improvements and width expansion with no or minimal impact to the residence of Mint Grove. This would also dramatically reduce the number of trees impacted by the trail improvement, provide for emergency vehicle access and continued ability to turn around, and maintain the level of privacy currently in place.

Also, the current plans show a design which modifies our neighborhood entrance which changes the grade/slope of the entrance both prior to and after meeting the trail surface. It appears from the plans that the entrance surface to the east of the trail will be re-graded and re-surfaced. At much expense to the residences of Mint Grove this surface area was updated in 2002 with very thick concrete including rebar to support heavy trucks which enter Mint Grove and a heavy brushed surface to improve traction. The current ELST plans do not show the re-grading of area being re-surfaced with same level of materials as will be disturbed by King County. At our meeting with the King County representative for a half hour informational review we were advised the replacement materials will be concrete on the trail surface, but asphalt in all other areas. The use of asphalt on these inclines presents a dangerous situation. The existing slope of the entrance to Mint Grove is at 22.8 degrees and will be increased to 26.18 degrees. The residents of Mint Grove must pull their 96 gallon recycling bins and 96 gallon yard waste bins up to the Lake Sammamish Parkway weekly for these bins to be emptied by Republic. By increasing the slope and laying asphalt this will cause the slope to be slippery and could result in injuries to residents. Likewise, in 1947 the Northern Pacific Railway Company granted the residents of Mint Grove to establish a private road crossing over the right of way at its current location. It should be noted that this grant document replaced the original permit for the rail crossing which was issued August 2, 1926. This grant document also states that the crossing will be constructed and maintained at the expense of the residents of Mint Grove. A copy of this document can be provided upon request. In addition to the safety issue noted above, we feel it is the county's responsibility to repair any damage caused by the trail construction and restore the entrance to its original condition, including materials and workmanship. The entrance to Mint Grove is a private driveway owned by the Mint Grove residents and it is currently labeled on the 60% plans as a construction access. King County has not requested approval from the residents of Mint Grove to use this private lane. The plans should be revised to reflect the entrance to Mint Grove as a private driveway.

The current schedule for the construction of South Segment B is for 2 years. This will result in C&G fencing being in place and disrupting access to residents and placing increase risk to residents in an

**Exhibit 29**  
**SSDP2016-00415**  
**002661**

emergency situation. We request South Segment B be broken into two phases which will significantly reduce the time frame residents are impacted by the construction.

Throughout the trail development process many complaints have been lodged with the City of Sammamish and King County regarding the removal of trees, impacting property owners, disregard with code compliances, and many others. In response the City of Sammamish and King County have committed to being better "good neighbors". The current plan for the development of the trail next to Mint Grove does not reflect this commitment.

We ask the City of Sammamish and King County to modify the trail plans to use the existing trail bed and/or the area to the east of the trail, which will provide for an improved trail, eliminate any impact to the residents of Mint Grove, and most importantly, preserve the existence of nearly 300 trees. We also expect the entrance once modified results in the same level of materials and workmanship as currently exist.

Should any accidents or damage to property result from a lack of adequate parking, ingress/egress, water mitigation, moving recycle/yard waste bins, and/or failure to restore the entrance during the construction of the trail or post construction, we will hold the City of Sammamish and King County liable as they have been adequately notified of our concerns regarding safety, expectations of adequate access, parking, and the ingress/egress of emergency vehicles.

We request your full consideration of these issues. We encourage City of Sammamish Council Members, City of Sammamish City Manager and King County officials to visit Mint Grove and witness for themselves the impact of moving the trail centerline to the west will have on the environment and Mint Grove residents.

We request the City of Sammamish withdraw and withhold any permit approvals requested by King County until all resident comments and/or concerns have been fully addressed and incorporated into the 90% design review.

Sincerely,

Doug and Lori Birrell  
1317 E. Lake Sammamish Shore Lane SE  
Sammamish, WA 98075  
425-242-0019  
dgb18@comcast.net

**Exhibit 29**  
**SSDP2016-00415**  
**002662**