



# City Council, Regular Meeting

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## AGENDA

6:30 pm – 9:30 pm  
Council Chambers

July 02, 2013

### Call to Order

### Roll Call

### Pledge of Allegiance

### Approval of Agenda

### Presentations/Proclamations

#### Departmental Updates

- Police
- Fire
- Administrative Services

### Public Comment

**Note:** *This is an opportunity for the public to address the Council. Three-minutes limit per person or 5 minutes if representing the official position of a recognized community organization.*

### Consent Agenda

- Payroll for the period ending June 15, 2013 for pay date June 20, 2013 in the amount of \$284,070.00
- 1. Approval: Claims for period ending July 2, 2013 in the amount of \$292,126.97 for Check No. 35063 through No. 35153
- 2. Amendment: Tree Services/Swift Tree Care
- 3. Approval: Resolution: Granting Final Plat Approval to the Plat of Elston Ridge (aka Pine Ridge)
- 4. Approval: Minutes May 20, 2013 Regular Meeting
- 5. Approval: Minutes June 4, 2013 Regular Meeting
- 6. Approval: Minutes June 11, 2013 Special Meeting w/Parks & Recreation Commission
- 7. Approval: Minutes June 17, 2013 Regular Meeting

City Council meetings are wheelchair accessible. American Sign Language (ASL) interpretation is available upon request. Please phone (425) 295-0500 at least 48 hours in advance. Assisted Listening Devices are also available upon request.

## **Public Hearings**

8. Ordinance: Second Reading of An Interim Ordinance Extending A Moratorium On The Establishment Of Collective Gardens; Defining “Collective Gardens;” And Establishing An Effective Date.
9. Ordinance: Second Reading of An Interim Ordinance Imposing A Moratorium On The Establishment Of Certain Marijuana-Related Facilities; Defining Said Certain Marijuana-Related Facilities; Entering Legislative Findings; Providing For Severability; And Establishing An Effective Date.

## **Unfinished Business**

10. Ordinance: Fifth Reading of An Ordinance Pertaining To The Protection And Regulation Of Environmentally Critical Areas, Amending Chapters 21A.50, 21A.15 And 21A.70 Of The Sammamish Municipal Code.
11. Resolution: Related To Use Of The Land Conservation And Local Infrastructure Program

## **New Business**

## **Council Reports**

## **City Manager Report**

- Community and Aquatic Center June 11<sup>th</sup> Study Session Recap

## **Executive Session – If necessary**

## **Adjournment**

**AGENDA CALENDAR**

<b>July 2013</b>			
Tues 07/09	6:30 pm	Study Session	Department Update: Finance/IT/Public works Department Update: Department of Community Development <ul style="list-style-type: none"> <li>• Tree Retention</li> <li>• Hours of Construction</li> <li>• Comp Plan Update</li> </ul> Cable TV Franchise Fire Works Regulations Enforcement
Mon 07/15	6:30 pm	Regular Meeting	Presentation: Evergreen Ford (tent) Presentation: Habitat for Humanity CEDC Update Department Update: Parks Bid Award: 244 <sup>th</sup> Avenue SE Non-Motorized (consent) Bid Award: Inglewood Hill Pavement Overlay (consent) Resolution: Final Plat Browerwood (consent) Contract: Concurrency Management #4/DEA (Consent)
<b>Sept 2013</b>			
Tues 09/03	6:30 pm	Regular Meeting	Proclamation: Eastside's Month of Concern for the Hungry Presentaton: Arts Commission 10 Year Anniversary Department Update: City Manager
Tues 09/10	6:30 pm	Joint Meeting PC/CC	Discussion: Community Center (120 mins) Discussion: Comprehensive Plan
Mon. 09/16	6:30 pm	Regular Meeting	Resolution: LWSD Bond/Levy Ballot Measure
<b>Oct 2013</b>			
Tues 10/01	6:30 pm	Regular Meeting	Public Hearing: Ordinance First Reading 2 <sup>nd</sup> Ja Huvinen/Barnett Property Street Vacation
Tues 10/08	6:30 pm	Study Session	
Mon. 10/14	6:30 pm	Regular Meeting	Resolution: Comprehensive Plan
<b>Nov 2013</b>			
Tues 11/05	6:30 pm	Regular Meeting	
Tues 11/12	6:30 pm	Study Session	
Mon. 11/18	6:30 pm	Regular Meeting	
<b>Dec 2013</b>			
Tues 12/03	6:30 pm	Regular Meeting	
Tues 12/10	6:30 pm	Study Session	
Mon. 12/16	6:30 pm	Regular Meeting	
<b>To Be Scheduled</b>		<b>To Be Scheduled</b>	<b>Parked Items</b>
Ordinance: Second Reading Puget Sound Energy Franchise			



If you are looking for facility rentals, please click [here](#).

<< June

## July 2013

August >>

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 10 a.m. Family Volunteer Event 6:30 p.m. City Council Meeting	3 3 p.m. Sammamish Farmers Market	4 Independence Day City offices closed 6 p.m. Fourth on the Plateau	5 9 a.m. Fifth of July Clean Up	6
7	8 8:30 a.m. East meets West through Art, Poetry and Revolution 5:30 p.m. City Council Office Hour	9 12 p.m. Kiwanis KidsFirst! Performance Series 5 p.m. Community and Economic Development Committee Meeting 6:30 p.m. City Council Study Session	10 3 p.m. Sammamish Farmers Market 6:30 p.m. Parks and Recreation Commission Meeting	11 6:30 p.m. Planning Commission Meeting 6:30 p.m. Summer Nights in the Park	12	13
14	15 6:30 p.m. Arts Commission Meeting 6:30 p.m. City Council Meeting	16 10 a.m. Family Volunteer Event	17 3 p.m. Sammamish Farmers Market	18 6:30 p.m. Community Garden Steering Committee 6:30 p.m. Summer Nights in the Park	19	20 10 a.m. Sammamish Walks 7 p.m. Shakespeare in the Park
21	22	23 12 p.m. Kiwanis KidsFirst! Performance Series	24 3 p.m. Sammamish Farmers Market 4 p.m. Finance Committee Meeting	25 6:30 p.m. Summer Nights in the Park 6:30 p.m. Planning Commission Meeting	26 6 p.m. Sammamish Landing Grand Opening	27 7 p.m. Shakespeare in the Park
28	29	30	31 3 p.m. Sammamish Farmers Market 5 p.m. IPAD Art Class			

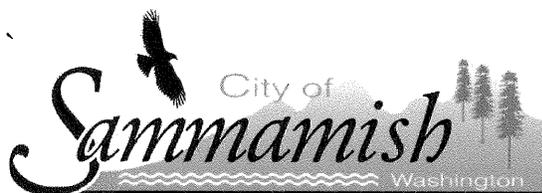
If you are looking for facility rentals, please click [here](#).

<< July

## August 2013

September >>

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 6:30 p.m. Summer Nights in the Park	2	3
4	5	6 10 a.m. Family Volunteer Event 2 p.m. Safe and Sound Sammamish	7 9 a.m. Donate Blood at City Hall 3 p.m. Sammamish Farmers Market	8 6:30 p.m. Summer Nights in the Park	9	10 10 a.m. Sammamish Days 6 p.m. Sammamish Nights
11	12	13	14 3 p.m. Sammamish Farmers Market	15 6:30 p.m. Community Garden Steering Committee 6:30 p.m. Summer Nights in the Park	16	17 10 a.m. Sammamish Walks - Evans Creek Preserve
18	19 6:30 p.m. Arts Commission Meeting	20 10 a.m. Family Volunteer Event 12 p.m. Kiwanis KidsFirst! Performance Series	21 3 p.m. Sammamish Farmers Market	22 6:30 p.m. Summer Nights in the Park	23	24
25	26	27	28 3 p.m. Sammamish Farmers Market	29 6:30 p.m. Summer Nights in the Park	30	31
1	2	3	4	5	6	7



## MEMORANDUM

**TO:** Melonie Anderson/City Clerk  
**FROM:** Marlene/Finance Department  
**DATE:** June 27, 2013  
**RE:** Claims for July 2, 2013

\$ 8,149.23  
 48,224.78  
 13,709.32  
 216,775.38  
 5,268.26

### Top 6 Expense Items in Packet

WH Pacific	\$24,372.89	Intersection Improvements thru 6/9/13
Plantscapes	\$23,557.66	Landscape Maint - Parks & Streets June 2013
Beck & Assoc	\$22,497.00	Building Plan Reviews - May 2013
Windward Environmental	\$16,556.12	Neighborhood Drainage Projects Jan - May 2013
U.S. Bank - Visa Card	\$13,709.32	Visa Card Purchases - All Depts. May 2013
City of Bellevue	\$12,291.75	ARCH Membership 3rd Qtr 2013

**TOTAL \$ 292,126.97**

**Checks # 35063 - 35153**

# Accounts Payable

## Check Register Totals Only

User: mdunham  
 Printed: 6/17/2013 - 3:29 PM



Check	Date	Vendor No	Vendor Name	Amount	Voucher
35063	06/17/2013	AT&TMOBI	AT&T Mobility	184.21	35,063
35064	06/17/2013	CENTLIN2	Century Link	86.19	35,064
35065	06/17/2013	PSE	Puget Sound Energy	7,878.83	35,065
				<hr/> <hr/>	
Check Total:				8,149.23	
				<hr/> <hr/>	

Accounts Payable  
 Check Register Totals Only

User: mdunham  
 Printed: 6/20/2013 - 8:32 AM



Check	Date	Vendor No	Vendor Name	Amount	Voucher
35066	06/20/2013	ANI	ANI Administrators NW Inc	1,696.51	35,066
35067	06/20/2013	CHAP13	Chapter 13 Trustee	280.00	35,067
35068	06/20/2013	ICMA401	ICMA 401	36,923.71	35,068
35069	06/20/2013	ICMA457	ICMA457	9,032.56	35,069
35070	06/20/2013	WASUPPOR	Wa State Support Registry	292.00	35,070
				48,224.78	
Check Total:				48,224.78	

# Accounts Payable

## Check Register Totals Only

User: mdunham  
 Printed: 6/25/2013 - 8:45 AM



Check	Date	Vendor No	Vendor Name	Amount	Voucher
35071	06/25/2013	US BANK	U. S. Bank Corp Payment System	13,709.32	35,071
				Check Total:	
				13,709.32	

## Accounts Payable

## Check Register Totals Only

User: mdunham  
 Printed: 6/26/2013 - 2:34 PM



Check	Date	Vendor No	Vendor Name	Amount	Voucher
35072	07/02/2013	@FIVE	Tony Monte Calvo	800.00	35,072
35073	07/02/2013	ACTIONAP	Action Apparel	375.86	35,073
35074	07/02/2013	ANI	ANI Administrators NW Inc	348.00	35,074
35075	07/02/2013	BACKGROU	Background Source Intl	36.00	35,075
35076	07/02/2013	BEATNIKS	The Beatniks	2,000.00	35,076
35077	07/02/2013	BECKASSO	Beck & Associates PLLC	22,497.00	35,077
35078	07/02/2013	BELLCITY	City Of Bellevue	12,291.75	35,078
35079	07/02/2013	BMC	BMC Select	87.33	35,079
35080	07/02/2013	CALSAK	Calsak Plastics	3,595.12	35,080
35081	07/02/2013	CENTLIN2	Century Link	42.12	35,081
35082	07/02/2013	CODEPUB	Code Publishing Inc	93.95	35,082
35083	07/02/2013	COMCAST2	COMCAST	83.88	35,083
35084	07/02/2013	COMCAST3	Comcast	986.49	35,084
35085	07/02/2013	COMPOFF	The Complete Office	900.62	35,085
35086	07/02/2013	CURRY	Kathy Curry	226.57	35,086
35087	07/02/2013	DELL	Dell Marketing L.P.	4,417.62	35,087
35088	07/02/2013	EASTMOBI	Eastside Mobile Auto Glass Inc	346.11	35,088
35089	07/02/2013	EMC	EMC Research	5,750.00	35,089
35090	07/02/2013	EVERETTS	Everett Steel, Inc	1,206.26	35,090
35091	07/02/2013	EVERFORD	Evergreen Ford	628.06	35,091
35092	07/02/2013	EVERSONS	Everson's Econo Vac, Inc.	2,357.40	35,092
35093	07/02/2013	FRANCO2	CMRS-FP	1,000.00	35,093
35094	07/02/2013	GALT	John E. Galt	250.00	35,094
35095	07/02/2013	GCMULTI	Kevin Tighe	1,708.20	35,095
35096	07/02/2013	GRAINGER	Grainger	696.22	35,096
35097	07/02/2013	GUROL	Kamuron GuroI	641.98	35,097
35098	07/02/2013	HDFOWL	H. D. Fowler Company	1,706.14	35,098
35099	07/02/2013	HERMANER	Eric Herman Endres	850.00	35,099
35100	07/02/2013	HWA	HWA GeoSciences, Inc	7,855.19	35,100
35101	07/02/2013	INTEGRA	Integra Telecom	1,253.85	35,101
35102	07/02/2013	ISSAQ1	Issaquah Press, Inc.	131.98	35,102
35103	07/02/2013	ISSCEDAR	Issaquah Cedar & Lumber	32.61	35,103
35104	07/02/2013	ISSCITY	City Of Issaquah	5,175.00	35,104
35105	07/02/2013	ISSLACRO	Issaquah S D Girl's Lacrosse Club	1,828.50	35,105
35106	07/02/2013	JOHNSONS	Steve Johnson	377.70	35,106
35107	07/02/2013	KINGFI	King County Finance A/R	398.53	35,107
35108	07/02/2013	KINGWAT	King County Finance Water & Land D	5,379.33	35,108
35109	07/02/2013	LAKESIDE	Lakeside Industries	1,033.25	35,109
35110	07/02/2013	LAURELHI	Laurel Hills Partners LLC	7,500.00	35,110
35111	07/02/2013	LIVESOU	Live Sound & Recording Co, LLC	5,803.50	35,111
35112	07/02/2013	MILLERPA	Pam Miller	850.00	35,112
35113	07/02/2013	MINUTE	Mike Immel	165.56	35,113
35114	07/02/2013	MULLIGAN	Ed Mack	1,000.00	35,114
35115	07/02/2013	NELSONTR	Nelson Truck Equip Co Inc	1,920.97	35,115
35116	07/02/2013	NESAM	NE Sammamish Sewer & Water	139.82	35,116
35117	07/02/2013	NETRUCK	North End Truck Equip Inc	1,194.60	35,117
35118	07/02/2013	NWCASC	Northwest Cascade, Inc.	180.50	35,118
35119	07/02/2013	ODELL	Thomas Odell	308.73	35,119
35120	07/02/2013	PLANTSCA	Plantscapes, Inc	23,557.66	35,120
35121	07/02/2013	POA	Pacific Office Automation	175.20	35,121

Bill # 1

Check	Date	Vendor No	Vendor Name	Amount	Voucher
35122	07/02/2013	PORTERFI	Don Porterfield	50.00	35,122
35123	07/02/2013	PROTH	Prothman Company	3,146.14	35,123
35124	07/02/2013	QBS	Quality Business Systems	393.06	35,124
35125	07/02/2013	RAINIER	Rainier Wood Recyclers Inc	357.00	35,125
35126	07/02/2013	ROCKMT	Rock Mountain Products LLC	67.25	35,126
35127	07/02/2013	SAM	Sammamish Plateau Water Sewer	3,587.75	35,127
35128	07/02/2013	SAMCITIZ	Sammamish Citizen Corps Council	5,582.98	35,128
35129	07/02/2013	SAMSYMPH	Sammamish Symphony Orchestra	1,800.00	35,129
35130	07/02/2013	SEATIM	Seattle Times	296.40	35,130
35131	07/02/2013	SERVICE	BUNZL Seattle/Sumner	525.43	35,131
35132	07/02/2013	SONSRAY	Sonsray Machinery LLC	357.32	35,132
35133	07/02/2013	SPORTINS	Sport Install West, Inc.	1,738.86	35,133
35134	07/02/2013	SPRAGUE	SPRAGUE	178.21	35,134
35135	07/02/2013	SULLIVAN	Jessica Sullivan	90.00	35,135
35136	07/02/2013	TAGMASTE	TagMaster North America, Inc	394.91	35,136
35137	07/02/2013	ULINE	ULINE	250.62	35,137
35138	07/02/2013	UNITRENT	United Rentals NA, Inc	1,609.95	35,138
35139	07/02/2013	UPROAR	Uproar, Inc.	5,100.00	35,139
35140	07/02/2013	WAAUDIOL	Washington Audiology Services	736.50	35,140
35141	07/02/2013	WAAUDIT	Wa State Auditor's Office	8,571.09	35,141
35142	07/02/2013	WATERSH	The Watershed Company	7,627.90	35,142
35143	07/02/2013	WATRACTO	Washington Tractor	754.35	35,143
35144	07/02/2013	WAWORK	Washington Workwear Stores Inc	445.49	35,144
35145	07/02/2013	WHPACIFI	WH Pacific, Inc.	24,372.89	35,145
35146	07/02/2013	WINDWARD	Windward Environmental LLC	16,556.12	35,146
				216,775.38	
Check Total:					

Accounts Payable  
 Check Register Totals Only

User: mdunham  
 Printed: 6/27/2013 - 8:12 AM



Check	Date	Vendor No	Vendor Name	Amount	Voucher
35147	07/02/2013	COMPTON	Kevin A. Compton	346.00	35,147
35148	07/02/2013	ISSCITY	City Of Issaquah	980.00	35,148
35149	07/02/2013	LAURELHI	Laurel Hills Partners LLC	500.00	35,149
35150	07/02/2013	LIVESOU	Live Sound & Recording Co, LLC	1,067.63	35,150
35151	07/02/2013	RAINIERQ	Rainier Quality Homes	500.00	35,151
35152	07/02/2013	ROTH	Roth Hill LLC	1,374.63	35,152
35153	07/02/2013	SAHALEEM	Sahalee Maintenance Assoc	500.00	35,153
				5,268.26	
Check Total:				5,268.26	





# City Council Agenda Bill

**Meeting Date:** July 2, 2013

**Date Submitted:** June 26, 2013

**Originating Department:** Public Works

**Clearances:**

<input checked="" type="checkbox"/> City Manager	<input type="checkbox"/> Community Development	<input checked="" type="checkbox"/> Parks & Recreation
<input type="checkbox"/> Attorney	<input type="checkbox"/> Finance & IT	<input type="checkbox"/> Police
<input type="checkbox"/> Admin Services	<input type="checkbox"/> Fire	<input checked="" type="checkbox"/> Public Works

**Subject:** Contract Amendment for On-Call Tree Services

**Action Required:** Authorize the City Manager to amend the Contract with Swift tree Care.

**Exhibits:** Supplement Agreement

**Budget:** \$45,000 is available in the 2013 Streets, Parks, and Surface Water Professional service budgets for this Contract Amendment.

**Summary Statement:**

The Public Works Department desires to amend the contract for on-call contract services with Swift Tree Care for tree removal and maintenance. The current contract amount is for \$45,000 and the amendment will add \$45,000 making the new contract amount not to exceed \$90,000. The duration of the agreement is until December 31, 2014. The contract scope remains unchanged and is for tree removal, chipping, and stump grinding for any city project or purpose. This on-call contract is available for use by all City Departments.

**Background:**

Occasionally, the City needs to remove hazardous or unwanted trees within the public Right of Way or at city facilities such as parks or stormwater management facilities. City crews do not have the ability to safely remove trees of significant size. The City has traditionally contracted these services out. Currently these services are being provided through an on-call contract with Swift Tree Care. The contract was bid and awarded in 2012 and contains provisions to renew up to two additional times.

**Financial Impact:**

\$45,000 is available in the various 2013 Streets, Parks, and Surface Water Professional service budgets for the contract amendment and will only be utilized if necessary.

**Recommended Motion:**

Authorize the City Manager to amend the On Call tree Services Contract with Swift Tree Care for a total not to exceed amount of \$45,000.





## SUPPLEMENTAL AGREEMENT

Amendment Number: One	Date: June 26, 2013
Project: On Call Tree Revoval and Related Services Contract	City Project number
Contractor: Swift Tree Care	Contract Number: C2012-125

The City of Sammamish desires to amend the agreement with Swift Tree Care.

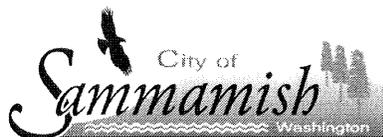
The changes to this agreement are described as follows:

Amend the On Call Tree Removal Serviced for city Parks, ROW, stormwater facilities and other open space. All provisions in the basic agreement remain in effect except as expressly modified by this agreement.

1. Increase contract authorization by \$45,000.
2. Contract expiration date is December 31, 2014.

Original Contract Amount:	Current Contract Amount	Net Change This Amendment	Estimated Contract Total After Change
<u>\$45,000.00</u>	<u>\$45,000.00</u>	<u>\$45,000.00</u>	<u>\$90,000.00</u>
_____ (Contractor name)		Approved: _____ _____ City of Sammamish	
_____ Date		_____ Date	

## Exhibit 1



# City Council Agenda Bill

**Meeting Date:** July 2, 2013

**Date Submitted:** June 25, 2013

**Originating Department:** Community Development

**Clearances:**

<input type="checkbox"/> City Manager	<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Attorney	<input checked="" type="checkbox"/> Finance & IT	<input type="checkbox"/> Police
<input type="checkbox"/> Admin Services	<input type="checkbox"/> Fire	<input checked="" type="checkbox"/> Public Works

**Subject:** Resolution: Final Plat for Elston Ridge (formerly known as Pine Ridge) Subdivision of 30 lots

**Action Required:** Motion to adopt resolution approving the subdivision

**Exhibits:**

1. Draft Resolution
2. Hearing Examiner Decisions
  - a. Original Decision dated April 18, 2008
  - b. Revised Decision dated April 2, 2012
3. Matrix showing plat conditions and responses
4. Map of Final Plat
5. Vicinity Map

**Budget:** N/A Legislative Approval

**Summary Statement:**

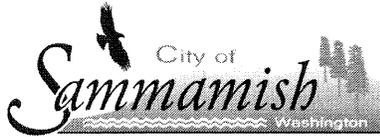
The developer of the Elston Ridge (formerly known as Pine Ridge) subdivision is seeking to record the 30-lot subdivision, which will create 28 additional single family lots.

**Background:**

*Description:*

The subdivision was reviewed and granted preliminary plat approval by the Sammamish Hearing Examiner on April 18, 2008, and a revision to the approved preliminary plat was granted by the Hearing Examiner on April 2, 2012. Access to the development is from Issaquah-Pine Lake Road. The site is zoned Residential, 8 units per acre (R-8). The subject site is constrained by an environmentally critical area wetland and associated buffer. The environmentally critical areas are located within a separate critical areas tract, which encumbers approximately 12% of the subdivision site. The proposed lots are located outside of the critical areas tract.

The City of Sammamish has reviewed, and approved the installation of the required infrastructure (drainage facilities, streets, sidewalks, etc.) improvements under plat construction and clear and grade permit BLD2010-00907. The improvements have been substantially completed and inspected. The final lift of asphalt has been bonded for (see below).



## City Council Agenda Bill

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*Performance Bond:*

The applicant has posted a bond for the installation of the remaining site improvements (including streets improvements) in the amount of \$38,914.90.

*Landscaping Bond:*

The applicant has posted a landscaping, recreation improvement and tree retention maintenance and defect bond in the amount of \$26,589.25.

*Critical Areas Bonding:*

The applicant has posted an environmental critical areas maintenance and defect bond for wetland mitigation work in the amount of \$12,862.46.

*Transportation Mitigation Fees:*

The applicant has paid 100% of the street impact fees. No further street impact fees will be due at building permit. The developer received a credit for the frontage improvement work constructed on Issaquah-Pine Lake Road towards a portion of the street impact fees.

*School Mitigation Fees:*

The applicant has paid fifty percent of the applicable Issaquah School District impact fees in the amount of \$52,332 in addition to the current administration fee. The balance of the school impact fees shall be paid at the time of building permit issuance on a per lot basis.

The applicant has demonstrated to the City of Sammamish that all of the preliminary plat approval conditions have either been met, or have been bonded and will be met in a timely manner.

**Financial Impact:** N/A

Recommended Motion: Approve the 30-lot Elston Ridge subdivision, and authorize the mayor to sign the mylars for the final plat.

**CITY OF SAMMAMISH  
WASHINGTON  
Resolution No. R2013-\_\_\_**

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**A RESOLUTION OF THE CITY OF SAMMAMISH,  
WASHINGTON, GRANTING FINAL PLAT APPROVAL TO  
THE PLAT OF ELSTON RIDGE (aka PINE RIDGE)**

WHEREAS, the City Council has received a recommendation of approval for the final plat of the Elston Ridge Subdivision (formerly known as Pine Ridge); and

WHEREAS, the City Council has reviewed said plat and finds that it conforms to all terms of the preliminary plat approval and applicable land use laws and regulations; and

WHEREAS, the City Council desires to grant final approval to the 30-lot plat of the Elston Ridge;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO RESOLVE AS FOLLOWS:**

Section 1. Adoption of Hearing Examiner's Findings and Conclusions.

The City Council hereby adopts the findings and conclusions included in the City of Sammamish Hearing Examiner's decisions of April 18, 2008 and revised April 2, 2012 for the preliminary plat of Elston Ridge (formerly known as Pine Ridge).

Section 2. Grant of Approval. The City Council hereby grants final approval to the Elston Ridge (30-lot) plat.

**PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON  
THE 2<sup>nd</sup> DAY OF JULY 2013.**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Thomas T. Odell

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Melonie Anderson, City Clerk

Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney

Filed with the City Clerk:  
Passed by the City Council:  
Resolution No.:

**BEFORE THE HEARING EXAMINER FOR THE CITY OF SAMMAMISH**

<b>Application of James Tosti for</b>	)	<b>File No. PLN2006-00088</b>
<b>Approval of the</b>	)	<b>FINDINGS OF FACT</b>
<b>Preliminary Plat of</b>	)	<b>CONCLUSIONS OF LAW</b>
<b>Pine Ridge</b>	)	<b>AND DECISION</b>

**DECISION**

The preliminary plat of Pine Ridge is **APPROVED**, subject to conditions.

**INTRODUCTION**

The application of James Tosti (Applicant) for approval of the Pine Ridge preliminary plat came on for hearing before Gordon F. Crandall, Hearing Examiner, on March 24, 2008 at 7:00 p.m. The hearing was held at City Hall. Mona Davis, Senior Planner presented the Staff Report Recommendation to the Hearing Examiner. John Rubenkonig of Peterson Consulting Engineers (PCE) represented Applicant.

The following persons testified under oath:

Mona Davis	Senior Planner
Tawni Hoang	Senior Development Review Engineer
John Rubenkonig	Peterson Consulting Engineers
Harold Peterson	Peterson Consulting Engineers
Greg Krabbe	Windward Real Estate Services, Inc.
Jean Nyberg-Straub	Representing owner of adjacent property

The following exhibits were offered and admitted:

1. Staff Report Recommendation to the Hearing Examiner with attachments A-Q:
  - A. Base Land Use Application, received November 14, 2008
  - B. Notice of Application
  - C. Public comment letter dated January 2, 2007
  - D. Site Plans (Sheets 1-10) by Peterson Consulting Engineers received December 13, 2007
  - E. Aerial vicinity map of surrounding properties
  - F. Sensitive Area Affidavit signed by Applicant, September 18, 2006
  - G. Sensitive Area Study & Wetland Mitigation Plan by Wetland Resources, Inc., December 11, 2007
  - H. Critical Area Study & Wetland Mitigation Plan by Wetland Resources, Inc., December 11, 2007
  - I. Preliminary Technical Information Report (TIR) by Peterson Consulting Engineers
  - J. Traffic Impact Analysis (TIA) by Gibson Traffic Consultants, Inc, April 2007
  - K. SEPA Determination of Non-Significance (DNS)
  - L. Issaquah School District Comments, January 16, 2007
  - M. Eastside Fire & Rescue comments, October 3, 2007
  - N. Certificate of Concurrency, August 8, 2006
  - O. Department of Public Works recommended conditions of approval, January 15, 2008
  - P. Sammamish Plateau Water and Sewer Certificates of Availability, July 19, 2006
  - Q. Notice of Public Hearing

The hearing adjourned at about 8:00 p.m.

### FINDINGS OF FACT

1. **Proposal.** James Tosti (Applicant) proposes to subdivide a tract of land at 4631 Issaquah-Pine Lake Road (IPLR) into 30 single-family lots, using “Low Impact Development (LID)” techniques. The site is located on the west side of IPLR and rises to the west, with an elevation difference in excess of 100 feet. A site plan is attached as Attachment A.
2. **Existing Conditions.** The site is presently occupied by three houses and associated driveways, sheds and patios. There are two Class III wetlands on the site, near IPLR. The rest of the site is occupied by pasture and some large deciduous and coniferous trees. The Uplands subdivision abuts the site on two sides. The parcel to the north is vacant. Unincorporated King County is located to the east across IPLR.
3. **Public Comment.** Notice of the application and the public hearing was given as required by ordinance. One comment letter was received from Jean Nyberg-Straub whose father owns a 5-acre tract at 4545 IPLR, just north of the proposed plat. Her concern was with possible stormwater run-off, a proposed retaining wall facing the Nyberg property which she perceives as unsightly and traffic revisions that may adversely affect the property. No other letters were received, and no one else from the public commented on the proposal.
4. **Critical Areas.** The site contains two Class III wetlands at the eastern edge of the property which require 50 foot buffers. In order to gain access to the site a road must cross the wetlands. Applicant proposes to fill 3,468 square feet of the wetlands and to create 5,265 square feet of on-site wetland adjacent to the existing wetlands as mitigation. Buffer impacts of the filling will be mitigated through enhancement of the entire on-site buffer. Applicant contends that the overall proposed mitigation will result in an improvement of wetland functions and values for the site.
5. **Stormwater.** Stormwater from the site will be collected and conveyed to a combined detention/wet vault on the east side of the site. The vault will discharge into a storm filter vault in order to meet the sensitive lake water quality requirements for waters flowing into Lake Sammamish. An existing storm drain system in IPLR will accept the stormwater from the site.
6. **Traffic.** The site when fully developed and occupied will generate an average of 287 daily vehicle trips, with 23 in the am peak hour and 30 in the pm peak hour. Most trips (70%) will head south on IPLR, and the rest will go north. Three intersections in the vicinity were analyzed and found to operate within acceptable limits after adding the new traffic. A

certificate of concurrency was issued for the proposal on or about November 14, 2006. Sight distances to and from the entrance to the site were found to be adequate.

7. ***Access and Frontage Improvements.*** The site will be accessed by a new public road from IPLR. All lots will take access from this internal road and none will have direct access to IPLR. The internal road will end in a cul de sac, except that a stub will extend north to the Nyberg property for possible extension to that property if it is ever developed. Normal frontage improvements on IPLR will be completed by Applicant, who will be able to claim a credit towards payment of traffic impact fees. Applicant has secured variations from the public works standards for the internal street and cul de sac as a result of applying low impact development techniques. The plat must also provide new access to the internal road for an adjacent lot so that its current direct driveway access to IPLR can be eliminated.
8. ***SEPA.*** A determination of nonsignificance (DNS) was issued for the proposal on February 7, 2008. There was no appeal.
9. ***Comprehensive Plan-Zoning.*** The Sammamish Comprehensive Plan designates the site for urban residential uses with 8 dwelling units per acre. The site is zoned R-8, consistent with the Comprehensive Plan.
10. ***Recreation Area-Open Space.*** A sport court and tot lot will be located in tract A, west of the wetland buffer and stormwater detention facility. This will satisfy the Sammamish Code requirement for such facilities.
11. ***Trees.*** There are 23 significant trees on site and Applicant will retain 8 of these or 35% of the total.
12. ***School Children.*** All children attending schools in the area will be bused. Applicant will provide safe walking conditions on sidewalks from the homes to a waiting area at the entrance to the plat. The school bus will not enter the subdivision.
13. ***Impact Fees.*** Applicant will pay impact fees for roads, parks, schools and surface water system development.
14. ***Utilities.*** Applicant has obtained certificates of availability for water and sewer service. Other utilities such as telephone and electricity are also available.
15. ***Incorporation by reference.*** The staff report is incorporated herein as though set forth verbatim.

Any conclusion of law deemed to be a finding of fact is adopted as such.

### CONCLUSIONS OF LAW

1. The Hearing Examiner is authorized by the Sammamish Municipal Code (SMC) to hear and decide an application for a preliminary plat, subject to appeal to Superior Court. SMC Ch 20.24; Section 20.20.020.
2. RCW 58.17.110 identifies the factors to be considered in evaluating an application for a preliminary plat.

The proposed subdivision and dedication shall not be approved unless the city, town or legislative body makes written findings that:

- a. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary waste, parks and recreation, playgrounds, schools and school grounds, and all other relevant factors, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
  - b. The public use and interest will be served by platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication makes such appropriate provisions and that the public use and interest will be served then the legislative body shall approve the proposed subdivision and dedication.
3. SMC Chapter 19.20 provides general principles of acceptability for proposed subdivisions. These principles include (paraphrased):

The proposed plat and its ultimate use shall be in the best interest of the public welfare and the neighborhood development of the area. 19.20.040;

Frontage on high volume trafficways shall be provided with parallel service streets or other appropriate medium of access; 19.20.050

The streets of a subdivision must be connected by surfaced roads to an existing dedicated street. 19.20.090

Right of way needed for the City's street pattern shall be dedicated to the City, 19.20.100

Plats of four or more lots shall provide recreational space. 19.20.110 All plats shall conform to the uses, density, dimensional and other standards of the City's development code. 19.20.120 Variances and exceptions may be approved where hardship, topography or other factual deterrent conditions prevail. 19.20.130

Due regard shall be given to topography of the area, the use of streets for utilities, and for rapid traffic purposes. Intersections of streets with high volume traffic routes require special approval. Right angle intersections are preferred. 19.20.140

4. Staff has analyzed the proposal and recommended approval, with conditions to assure compliance with legal requirements and general principles of acceptability. The plat provides for all of the amenities and features required by the Sammamish Municipal Code and state law. Access to the site and the internal road meet public works standards. Recreation space is provided, water and sewer service are available and school children will have safe walking conditions from their homes to the school bus stop. All lots can be developed consistent with the zoning ordinance. The plat should be approved, subject to conditions.
5. Any finding of fact deemed to be a conclusion of law is adopted as such.

#### DECISION

The Pine Ridge preliminary plat is approved, subject to the conditions in Attachment B.

DONE this 18<sup>th</sup> day of April, 2008



Gordon. F. Crandall

Hearing Examiner

Attachment A

Site Plan

Attachment B

Conditions of Approval

## **RECONSIDERATION**

Any final action by the Hearing Examiner may be reconsidered by the Examiner if:

1. The action was based in whole or in part on erroneous facts or information;
2. The action when taken failed to comply with existing laws or regulations applicable thereto;
3. An error of procedure occurred which prevented consideration of the interests of persons directly affected by the action.

The Examiner shall reconsider a final decision pursuant to the rules of the Hearing Examiner. If a request for reconsideration is timely filed, the time limit for taking an appeal of the Examiner's decision to the Superior Court shall be stayed for a period of 14 days after issuance of the decision on the request for reconsideration.

## **NOTICE OF RIGHT OF APPEAL**

This is a type 3 land use decision pursuant to SMC 20.05.020. Any person with standing to do so may appeal the decision of the Hearing Examiner by filing a Land Use Petition in the King County Superior Court. Such a petition will be timely if filed with the Court Clerk and served on all parties within twenty-one days of the issuance of the decision. See: RCW 36.70C



**The Applicant shall comply with the following conditions:*****General Conditions:***

1. Per RCW 58.17.170 the Applicant shall comply with all county, state, and federal rules and regulations in effect on November 14, 2006, the vesting date of the subject application. However, if the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision, future development may be subject to updated construction codes, including but not limited to the International Building Code and the International Fire Code, as amended.
2. Per SMC 19.40.040, preliminary plat approval shall be null and void if any condition is not satisfied and the final plat is not recorded within the approval period of sixty (60) months; provided Applicant may file for an extension only as permitted by code.
3. All construction and site development activities related to the plat are prohibited until the preliminary decision becomes effective, and all applicable permits are received.
4. Approval of a preliminary plat does not imply or guarantee approval of any building permit/s, engineering plans, and/or clearing and grading permits, but not limited thereto. All permit requests will be reviewed for compliance with applicable codes, ordinances, laws, rules, and regulations; compliance may result in the reduction in the number and location of lots as shown on the preliminary plat.
5. The land use development standards, as set forth in SMC Chapter 21A - Development Code, shall be included on building permit application site plans, as lot widths and setbacks are vested at the time of preliminary plat application.
6. The plat configuration shall be developed in substantial conformance with the Preliminary Plat Map prepared by Peterson Consulting Engineers, received December 13, 2007 (Exhibit D), subject to applicable conditions of approval specified by the Hearing Examiner.
7. A Homeowner's Association (HOA) shall be legally established to provide for the ownership and continued maintenance of required stormwater and recreation tracts, etc.



8. Street trees shall be provided per City of Sammamish PWS.15 requirements and landscaping shall be required consistent with SMC 21A.35.055 – Landscaping Drainage Facilities, and SMC 21A.35.040 – Landscaping Street Frontages.
9. For the purpose of ensuring compliance with all conditions of approval and the standard requirements of the SMC, the Applicant shall provide financial guarantees in conformance with SMC Chapter 27A, and PWS Chapter 10.050(K). All improvements required pursuant to the PW standards, SMC, or other applicable regulations, must be installed and approved, or bonded as specified for plats in SMC 19.60, Subdividing Procedure.
10. The applicant or subsequent owner(s) shall comply with the payment of Street Impact Fees in accordance to City of Sammamish Ordinance No 2006-208. Future payments of street impact fees shall be adjusted to the approved 30-lot subdivision with three existing residences.

***Prior to Construction:***

11. The City Engineer has granted a variation to PWS.15.120 for the development to exceed the maximum cul-de-sac length of 600-ft on the condition that a future road connection to the north is constructed. 60-ft right-of-way dedication and road improvements consistent with the Public Works local road standards shall be provided from the plat internal road to Tax Parcel 1524069009. The future road connection shall be consistent with PWS Table 1, PWS Figure 01-05, and City Ordinance 2005-191, with the exception to provide 28-ft of pavement as opposed to the standard 36-ft. Road grading shall be reviewed and approved during final engineering. A temporary barricade shall be provided.
12. The City Engineer has granted a variation to the local road standard as shown in PWS Table 1, Figure 1-05, and City Ordinance 2005-191. The Public Works Standard for a local road is to provide 60 feet of ROW dedication and 36 feet of asphalt. The variation by the City Engineer allows for 50 feet of ROW dedication and 28 feet of asphalt, with a 5-ft planter, and 5-ft sidewalk on each side of road. The variation was approved due to the low impact development (LID) techniques proposed for the plat.
13. The TIA indicated that the LOS at Issaquah-Pine Lake Road (IPLR) and the proposed plat site access road will be at LOS E during the AM peak with project. With the installation of interim improvements of turn lanes on IPLR, the LOS at IPLR/site access will be improved to LOS D during the AM peak. Additionally, per PWS15.160, minimum centerline offset between adjacent intersecting streets on Issaquah-Pine Lake Road, a principal arterial, is 350 feet. The centerline spacing between the proposed plat road and SE 47<sup>th</sup> Way is 325 feet. This project shall install a standard NB left-turn pocket with EB left-turn acceleration lane on IPLR at site access to maintain desired LOS and intersection safety. If left-turn pocket is not feasible on IPLR due

to the SB left-turn pocket at SE 47<sup>th</sup> Way, a continuous two-way left-turn lane (TWLTL) shall be provided on IPLR at site access.

14. Driveway apron onto Road A for tax parcel 1524069023 shall be provided. Issaquah-Pine Lake Road improvements shall include elimination of the existing driveway access onto Issaquah-Pine Lake Road by curbing, vegetation, or other method approved by the City.
15. Low impact development (LID) techniques shall include reforestation, soil amendments, and use of native vegetation consistent with the conceptual LID plan (Exhibit D – Sheet 10) reviewed and approved by the City Engineer during preliminary plat review.
16. Road tapers on Issaquah-Pine Lake Road shall be consistent with current AASHTO standards. Additional pavement and relocation of existing utilities may be required.
17. Appropriate sidewalk transition from all proposed plat roads to all existing roads shall be designed and approved as part of the clear and grade permit.
18. Unless otherwise approved by the City Engineer, all construction and upgrading of public and private roads shall be done in accordance with the City of Sammamish Interim Public Works Standards (PWS).
19. Access for two lots shall meet joint use driveway standards per PWS15.170.
20. All proposed cul-de-sacs shall be designed per Interim PWS.15.120, PWS Figure 02-33, and the 2003 International Fire Code, except as approved by the Fire Marshal.
21. The Fire Marshal shall approve all permanent and temporary turnarounds prior to clear and grade permit issuance. No parking signs may be designated during Final Engineering.
22. Issaquah-Pine Lake Road is classified as a principal arterial. Per PWS.15.110, 11 feet of right-of-way dedication along the frontage of Parcel 1524069040 and 14.5 feet of right-of-way dedication along the frontage of Parcel 1524069038 (as shown on the parcel map depicted as Exhibit E) shall be required prior to final plat to obtain 44.5 feet of half-street right-of-way frontage.
23. The frontage along Issaquah-Pine Lake Road is funded in the City's Transportation Improvement Plan (TIP) and is also a Concurrency Project paid for, in part, by the collection of traffic impact fees. Per PWS.15.110, half street frontage improvements consistent with a principal arterial as described in PWS Table 1 and Figure 01-01 are required on Issaquah-Pine Lake Road. The Applicant shall provide invoices to the City which shall be credited toward payment or refund of traffic impact fees.
24. All new street construction for the plat shall include illumination per Article 5 of the City of Sammamish Interim Public Works Standards or

as approved by the City Engineer. Illumination along Issaquah-Pine Lake Road shall meet the current City decorative standard. Maintenance of illumination along all local and private roads shall be the responsibility of the Homeowners Association or jointly shared by the owners of the development.

25. Following preliminary plat approval, the Applicant shall obtain permit(s) for final engineering. City of Sammamish approval of the applicant's final engineering is required prior to initiation of any onsite construction.
26. At the time of preliminary plat approval (or at intake of any construction permits), the Applicant shall pay the deposit amount equal to twenty percent (20%) of the traffic impact fees in effect at that time, less a credit for any deposits paid. Traffic impact fees shall be paid consistent with the provisions of City of Sammamish Ordinance No. 2006-208.
27. A clear and grade permit is required for grading of the site and construction of street frontage improvements, off-site road improvements, internal plat improvements, joint use driveways, and plat related drainage facilities.
28. A geotechnical report stamped and signed by a professional geotechnical engineer licensed in the state of Washington is required to be submitted with the clear and grade permit. The geotechnical report shall at a minimum address grading of the site and rockery/retaining wall construction.
29. The clear and grade permit shall include a channelization and signage plan for the improvements on Issaquah-Pine Lake Road. The channelization plan shall include a striping plan for left-turn pocket or two-way left turn lane. Fog lines shall be included that would allow for a minimum 5-foot wide shoulder on north bound Issaquah-Pine Lake Road.
30. Drainage plans, Technical Information Reports, and analysis shall comply with the 1998 King County Surface Water Design Manual, the City of Sammamish Stormwater Management Comprehensive Plan, and the East Lake Sammamish Basin Plan. Public Works review and approval during Clear and Grade permit review may result in modification of the plat layout.

31. A right-of-way permit issued by the City of Sammamish is required for any road or storm drainage related work in the City public right-of-way. The right-of-way permit shall include a traffic control plan. At the department's discretion, this permit may be issued as part of the clear and grade permit.
32. A right-of-way permit issued by King County is required for any dry utility (e.g. phone, cable, power, etc.), water, and sewer related work in the City public right-of-way.
33. All new utility installation serving the subdivision within the plat or along the frontage shall be underground.
34. The Fire Marshal shall approve the location of fire hydrant(s) to meet current codes prior to Clear and Grade permit issuance.
35. Survey monuments shall comply with PWS.15.470.
36. The subdivision shall be landscaped pursuant to SMC 21A.35 and PWS.15 Article VII requirements. Landscape plans shall be concurrent with the submittal of construction plans; for review and approval prior to final engineering approval; Grass in the planter strip is not consistent with PWS.15.520 which calls for shrubs.
37. Per SMC21A.35.055, "Ten feet of Type 1 landscaping consisting of 100 percent (100%) evergreen trees and shrubs shall be required for that portion of the perimeter of detention facilities where detention facilities directly abut the public right-of-way, public access or can be seen from a public or private street or does not abut designated open space or environmentally sensitive areas." Final engineering plans shall include landscaping consistent with SMC21A.35.055. Compliance may result in modifications to the plat layout as preliminarily approved.
38. A root barrier shall be required for all trees adjacent to paved areas consistent with PWS Figure 02-29.
39. Tree protection shall be required per SMC 21A.35.230 – Tree Protection Standards. Tree protection shall be clearly identified on the plans submitted for the clearing and grading permit.
40. If replacement trees are required for the subject site, the replacement trees shall comply with the provisions of SMC 21A.35.230 and SMC 21A.35.240.
41. Per SMC 21A.25.190(6)(a.), rockeries, retaining walls, or similar structures may project into or be located in any setback provided these structures shall not exceed a height of more than six (6) feet in height. Compliance may result in modification of the plat layout.
42. Per SMC16.210.195, building permits shall be obtained for all rockeries or retaining walls with heights of 4-ft or greater as measured from the bottom of the footing to the top of the wall, or any size walls supporting any surcharge load.

43. All temporary erosion and sediment control (TESC) plans shall be in accordance to the King County Surface Water Design Manual (KCSWDM 1998) Appendix D for all erosion and sediment control standards. TESC plans should show, as a minimum, clearing limits, cover measures, perimeter protection (silt fence), traffic area stabilization, sediment retention, surface water control, and dust control.
44. Wetland hydrology shall be maintained. A design to route stormwater from non-pollution generating surfaces shall be reviewed and approved during Clear and Grade permit review. The TIR shall include analysis, methodology, and calculations.
45. Current City of Sammamish Standard Plan General Notes, Roadway Notes, Drainage Notes, and Erosion and Sediment Control (ESC) Notes shall be shown on the Engineering Plans submitted for approval.
46. The plat conditions of approval shall be shown on the Clear and Grade construction drawings and technical information report.
47. Prior to Clear and Grade permit issuance, a restoration bond shall be posted to the City for all required improvements in the existing public right-of-way and all temporary erosion and sediment control for the plat construction. A bond quantities worksheet shall be provided by the Applicant for Public Works review and approval of restoration bond amount.

***Prior to recording:***

48. If the plat is subject to a dedication, the certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.
49. The proposed subdivision is subject to school impact fees for Issaquah School District, consistent with SMC 21A.105. Prior to final plat, the applicant shall pay one half of the required school impact fee, together with an administrative fee.
50. Prior to final plat approval, traffic impact fees shall be paid consistent with the provisions of City of Sammamish Ordinance No. 2006-208.
51. The jurisdictional water and sewer district shall certify the adequacy of the fire hydrant(s), water main(s), and fire flow to meet current codes prior to final plat approval.
52. A Homeowners Association (HOA) shall be created to be responsible for maintenance of all common areas. The covenants and restrictions of said HOA shall be filed for record at King County.
53. Prior to final plat, temporary street name signs and no parking signs (if required on final engineering plans) shall be installed. Permanent

street designation and traffic control signs, including poles and hardware, shall be installed following sidewalk installation. These items shall be paid for by the Applicant but shall be designed, furnished, and installed by the City to establish uniformity unless otherwise indicated by the City. Additional signage not shown on final engineering plans may be required based on site conditions as determined by Public Works. A written request must be submitted to the City PW Department when signing is needed and the Applicant will be billed upon completion. Street designation signs shall display street name or number.

54. All utilities within proposed rights of way must be included within a franchise agreement approved by the City Council prior to Final Plat recording.
55. Suitable recreation space shall be provided consistent with the requirements of SMC 21A.30.140 and 21A.30.160. An overall conceptual recreation space plan shall be submitted with the clearing and grading permit or building permit, for review and approval by the City of Sammamish Department of Community Development. The proposal shall include location, area, calculations, dimensions, and a description of general improvements.
56. Recreational improvements shall be installed, or a performance bond for recreational space improvements shall be posted, prior to recording of the final plat.
57. Prior to final plat approval, a performance bond shall be posted to the City for all required improvements that remain at the time of final plat, or 30% of the total improvement costs, whichever is greater. A bond quantities worksheet shall be provided by the Applicant for City review and approval of performance bond amounts. The restoration bond shall be released by the City following final plat approval.
58. Trees retained per SMC 21A.35.210 shall be identified on the face of the final plat for retention. Trees shall be tagged in the field and referenced on the face of the final plat with the applicable tag number. Trees retained as part of the preliminary plat shall be subject to the replacement requirements of SMC 21A.35.240 in the event that a tree must be removed following final plat approval.
59. Prior to final plat approval, a licensed surveyor shall survey and stake all storm drain facilities and conveyance lines with associated easements and dedications not located within the public right-of-way. Public Works Inspector shall inspect and approve locations prior to final plat and easement recording.
60. Prior to final plat approval, all public and private stormwater facilities shall be constructed and in full operation. These facilities shall include the stormwater conveyance system, detention, water quality, and any required monitoring facilities. The conveyance system shall

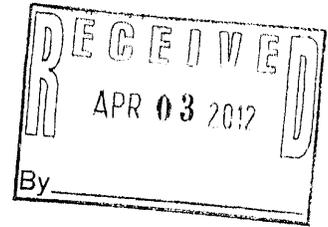
include all drainage structures, piping, ditching, curb, gutter, and road paving with the exception of the final lift of asphalt. Half street improvements and internal plat road shall be constructed up to the initial lift of asphalt prior to final plat. Asphalt final lift may be required on Issaquah-Pine Lake Road prior to final plat in accordance to right-of-way permit or clear and grade permit conditions.

61. Maintenance of existing pre-development on-site and off-site wetland hydrology shall be confirmed in final engineering. No dispersion trenches shall be located within wetland or buffer areas.
62. As referenced in the mitigation plan (Exhibit J), a maximum 4-foot high, split rail or similar fence shall be installed along the outer boundary of the wetland and buffer tract. Critical area signage shall be placed on this fencing.
63. Mitigation performance standards shall include a 1-year 100% survival standard and an 80% survival standard throughout the remaining 5-year monitoring period for all installed vegetation, but not including proposed seed mixes, which shall be held to cover performance standards currently described on the mitigation plan (Exhibit J).
64. Following mitigation installation, the monitoring biologist is to document mitigation installation in a letter to be provided, along with an as-built plan, for City of Sammamish review. City review and acceptance of successful mitigation installation is required prior to commencement of the 5-year monitoring period.
65. A bond quantity worksheet must be supposed for City review in support of the performance bonding estimate described on the referenced mitigation plan. Following City approval, the applicant shall file an installation and maintenance bond prior to building permit issuance.
66. A critical areas Notice on Title shall be recorded for the wetland and buffer areas and added 15-foot building setback in accordance with SMC21A.50.180.

**Language to appear on the face of the final plat:**

67. *"Metal products such as galvanized steel, copper, or zinc shall not be used in all building roofs, flashing, gutters, or downspouts unless they are treated to prevent metal leaching and sealed such that contact with storm water is prevented."*
68. Unless otherwise directed by Public Works, the following note shall be shown on the final recorded plat: *"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain system as shown on the approved plat Clear and Grade permit on file with the City of Sammamish. Connection of the storm system shall be through a perforated stub-out per the 1998 King County Surface Water Design Manual."* The approved clear and grade permit shall be submitted with the application for any building permit. All connections of the drains shall be constructed and approved prior to final building inspection approval.
69. *"For all lots containing or adjacent to infiltration or dispersion trenches/facilities, lots shall be graded such that top of trench or facility is below bottom of foundation."*
70. *"No lot or portion of a lot shall be subdivided and sold, or resold, or its ownership changed or transferred in violation of applicable city, county, state, or federal standards, rules, regulations or laws".*
71. The Applicant shall comply with RCW 58.17.280, providing the appropriate "addressing note" with address ranges being on the final plat.
72. Ownership and maintenance responsibilities of all tracts shall be designated. A Homeowners Association shall be responsible for maintenance of the recreation and open space tracts.
73. Language shall be included to adequately indicate ownership and maintenance of stormwater facilities. All stormwater tracts associated with this plat shall be dedicated to the City of Sammamish.
74. Right-of-way dedication shall be shown on the final plat.
75. *"Plans for future road improvements on Issaquah-Pine Lake Road may include a median that would require the development right-in and right-out access only."*
76. *Future homeowners of all lots in the subdivision shall not object to the future road connection with development of property on the northern boundary of this plat."*

77. *"Trees identified on the face of this plat have been retained pursuant to the provisions of SMC 21A.35.210. Retained trees are subject to the tree protection standards of SMC 21A.35.230. Removal of these trees is prohibited unless the tree is removed to prevent imminent danger or hazard to persons or property, subject to a clearing and grading permit approved by the City of Sammamish. Trees removed subject to this provision shall be replaced in compliance with SMC 21A.35.240".*
78. The applicant shall include a note regarding the payment of all traffic impact fees on the subject site in accordance to City of Sammamish Ordinance 2006-208. Specific language related to the payment of the traffic impact fees shall be reviewed and approved by the City prior to final plat approval.
79. *"The proposed subdivision is subject to school impact fees for Issaquah School District, consistent with SMC 21A.105. At the time of building permit, the applicant shall pay one half of the required school impact fee, together with an administrative fee".*
80. *"The proposed subdivision is subject to parks impact fees, consistent with SMC 14A.20, which shall be paid at the time of building permit issuance together with an administrative fee".*
81. *"Per City of Sammamish Ordinance No. 02002-112, a surface water system development charge shall be paid at the time of building permit issuance for each new residential dwelling unit".*
82. *"Maintenance of landscape strips along Issaquah-Pine Lake Road and the internal plat road separating the sidewalk from the roadway shall be the responsibility of the Homeowners Association. Under no circumstances shall the City bear any maintenance responsibilities for landscaping strips, planter islands, or planted medians created by the plat".*



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

**DECISION <sup>1</sup>**

FILE NUMBER: PLN2011-00042

APPLICANT: Windward Development, Inc.  
335 Park Place Center  
Kirkland, WA 98033

TYPE OF CASE: Revision of an approved preliminary subdivision (*Pine Ridge*)

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: GRANT subject to conditions

DATE OF DECISION: April 2, 2012

**INTRODUCTION <sup>2</sup>**

Windward Development, Inc. (Windward) seeks revision of two conditions on *Pine Ridge*, an approved preliminary 30 lot single-family residential subdivision of a 5.8 acre site zoned R-8.

Windward filed a Base Land Use Application on October 27, 2011. (Exhibit 1C <sup>3</sup>) The Sammamish Department of Community Development (the Department) deemed the application to be complete on December 30, 2011. (Exhibit 1D)

The subject property is located at 4631 Issaquah-Pine Lake Road.

<sup>1</sup> This Decision memorializes and expands upon an oral Decision given on the record at the close of the open record hearing.

<sup>2</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

<sup>3</sup> Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner's Decision is based upon all documents in the record.

## Exhibit 2b

### HEARING EXAMINER DECISION

RE: PLN2011-00042

April 2, 2012

Page 2 of 7

The Sammamish Hearing Examiner (Examiner) viewed the subject property on March 28, 2012.

The Examiner held an open record hearing on March 28, 2012. The Department gave notice of the hearing as required by the Sammamish Municipal Code (SMC). (Exhibit 1H)

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

Exhibit 1: Departmental Staff Report  
Exhibits 1A – 1H: As enumerated in Exhibit 1

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

### ISSUES

Should the requested revisions to the approved preliminary subdivision be approved?

The requested revisions raise no significant issues. No testimony or evidence was entered into the record by the general public either in support of or in opposition to the application.

### FINDINGS OF FACT

1. *Pine Ridge* was granted preliminary subdivision approval (by the City's previous Hearing Examiner) subject to 82 conditions on April 18, 2008, under Sammamish file number PLN2006-00088. (Exhibit 1B) Windward, the successor in interest to the original applicant, seeks revisions to Conditions 12 and 14: (Requested additions are underlined; requested deletions are marked by ~~strikethrough~~.)
12. The City Engineer has granted a variation to the local road standard as shown in PWS Table 1, Figure 1-05, and City Ordinance 2005-191. The Public Works Standard for a local road is to provide 60 feet of ROW dedication and 36 feet of asphalt. The variation by the City Engineer allows for 50 feet of ROW dedication and 28 feet of asphalt, with a ~~5-ft planter~~ modified planter 3-ft to 5-ft in width, and 5-ft sidewalk on each side of road. The variation was approved due to the low impact development (LID) techniques proposed for the plat.
14. Driveway apron onto Road A for tax parcel 1524069023 shall be provided. ~~Issaquah-Pine Lake Road improvements shall include elimination of the existing driveway access onto Issaquah-Pine Lake Road by curbing, vegetation, or other method approved by the City.~~

(Exhibit 1 and testimony)

## Exhibit 2b

### HEARING EXAMINER DECISION

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2. *Pine Ridge* Condition 14 was imposed because Issaquah-Pine Lake Road is an arterial and the current driveway to Tax Parcel 1524069023 is closer than allowed by Public Works Standards to the new intersection that will be created with development of *Pine Ridge*. (Exhibits 1, 1A, and 1G and testimony)
3. The owner of Tax Parcel 1524069023 has refused to change the driveway location to that property and has refused to grant any access to that property for construction of the *Pine Ridge* improvements. (Testimony)

The typical arrangement of planter strips and sidewalks results in the back edge of the sidewalk being essentially on the right-of-way line. (Testimony)

4. Windward seeks the changes to Conditions 12 and 14 so that it may complete development of *Pine Ridge*. Windward cannot comply with Condition 12 because the owner of Tax Parcel 1524069023 will not allow it to work on that property, so grades at the property line/edge of right-of-way cannot be properly handled; Windward cannot comply with the second sentence in Condition 14 because the owner of Tax Parcel 1524069023 refuses to abandon the current driveway access. (Testimony)
5. The City will still be able to condition future development of Tax Parcel 1524069023 such that no direct access would be allowed to Issaquah-Pine Lake Road, thus fulfilling the Public Works Standards for any new development. (Exhibit 1 and testimony)
6. The requested revisions do not change the design of the subdivision in any way. (Exhibit 1G)
7. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

### LEGAL FRAMEWORK <sup>4</sup>

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

#### Authority

Revisions to an approved preliminary subdivision which would result in “substantial changes, as determined by the [D]epartment,” are processed as would be an initial preliminary subdivision application. Any requested changes to preliminary subdivision conditions of approval are “substantial changes” by definition. [SMC 19A.12.040(1)]

A preliminary subdivision is a Type 3 land use application. [SMC 20.05.020, Exhibit A] A Type 3 land use application requires an open record hearing before the Examiner. The Examiner makes a final decision on

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<sup>4</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

## Exhibit 2b

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the application which is subject to the right of reconsideration and appeal to Superior Court. [SMC 20.05.020, 20.10.240, 20.10.250, and 20.10.260]

The Examiner's decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications, and restrictions as the Examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including Chapter 43.21C RCW and the regulations, policies, objectives, and goals of the interim comprehensive plan or neighborhood plans, the development code, the subdivision code, and other official laws, policies and objectives of the City of Sammamish.

[SMC 20.10.070(2)]

### Review Criteria

Section 20.10.200 SMC sets forth requirements applicable to all Examiner Decisions:

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

Additional review criteria for preliminary subdivisions are set forth at SMC 20.10.220:

When the examiner makes a decision regarding an application for a proposed preliminary plat, the decision shall include additional findings as to whether:

- (1) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
- (2) The public use and interest will be served by the platting of such subdivision and dedication.

### Vested Rights

Sammamish has enacted a vested rights provision.

HEARING EXAMINER DECISION

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

[SMC 20.05.070(1)] Applications to revise an approved preliminary subdivision are treated as new applications for vesting purposes. [SMC 19A.12.040(1)] Therefore, this application is vested to the development regulations as they existed on December 30, 2011.

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof.

Scope of Consideration

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

**CONCLUSIONS OF LAW**

1. Condition 14 requires the developer of *Pine Ridge* to force an abutting property owner, whose property (Tax Parcel 1524069023) is not part of *Pine Ridge*, to take an action: Abandon the current driveway and accept a new access onto the internal *Pine Ridge* street. Frankly, it is doubtful that the undersigned would have imposed that portion of Condition 14 in the first place as it is arguably impermissible to force an adjacent property owner to take an action associated with an adjacent development.

Further, the Public Works Standard relied upon for the condition (PWS 15.170) restricts the creation of a "driveway access" onto an arterial street within a certain distance of the nearest right-of-way line of an intersecting street. (See Exhibit 1, p. 3) Strictly speaking, PWS 15.170 does not restrict the creation of a new street intersection, it restricts the creation of a new driveway within a certain distance of a street intersection. Lastly, the standard is prospective, not retroactive.

2. The change requested to Condition 12 will provide Windward two feet of "shy space" between the back edge of the sidewalk and the edge of Tax Parcel 1524069023. That "shy space" is needed because the owner of Tax Parcel 1524069023 will not allow Windward's workers access to Tax Parcel 1524069023 to construct the sidewalk. The request is the minimum needed to allow development to continue. An abutting owner should not be able to block a permitted development (perhaps except in extremely unusual circumstances, not present here).

## Exhibit 2b

### HEARING EXAMINER DECISION

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3. The requested changes are reasonable under the circumstances and comprise the minimum relief necessary. The changes will not affect any other aspect of the development. (The items of concern to the authors of the letters in Exhibit 1E are not at all affected by the requested changes to Conditions 12 and 14.)
4. The normal review criteria for preliminary subdivisions do not logically apply due to the very limited nature of the requested revisions. The previous Hearing Examiner applied the normal review criteria before granting preliminary subdivision approval in 2008.
5. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

### DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner **GRANTS** the following revisions to the preliminary subdivision of *Pine Ridge*:

- A. Condition 12 is revised to read as follows:

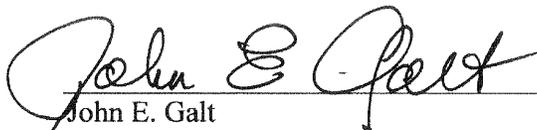
The City Engineer has granted a variation to the local road standard as shown in PWS Table 1, Figure 1-05, and City Ordinance 2005-191. The Public Works Standard for a local road is to provide 60 feet of ROW dedication and 36 feet of asphalt. The variation by the City Engineer allows for 50 feet of ROW dedication and 28 feet of asphalt, with a modified planter 3-ft to 5-ft in width, and 5-ft sidewalk on each side of road. The variation was approved due to the low impact development (LID) techniques proposed for the plat.

- B. Condition 14 is revised to read as follows:

Driveway apron onto Road A for tax parcel 1524069023 shall be provided.

- C. In all other respects the preliminary subdivision and its conditions of approval remain unchanged and in full force and effect.

Decision issued April 2, 2012.

  
\_\_\_\_\_  
John E. Galt  
Hearing Examiner

HEARING EXAMINER DECISION  
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**HEARING PARTICIPANTS<sup>5</sup>**

Greg Krabbe (by telephone)  
Mona Davis

Tawni Dalziel

**NOTICE of RIGHT of RECONSIDERATION**

This Decision is final subject to the right of any party of record to file with the Examiner (in care of the City of Sammamish, ATTN: Lita Hachey, 801 228<sup>th</sup> Avenue SE, Sammamish, WA 98075) a written request for reconsideration within 21 calendar days following the issuance of this Decision in accordance with the procedures of SMC 20.10.260. Any request for reconsideration shall specify the error which forms the basis of the request. See SMC 20.10.260 for additional information and requirements regarding reconsideration.

A request for reconsideration is not a prerequisite to judicial review of this Decision, nor does filing a request for reconsideration stay the time limit for commencing judicial review. [SMC 20.10.260(3)]

**NOTICE of RIGHT of JUDICIAL REVIEW**

This Decision is final and conclusive subject to the right of review in Superior Court in accordance with the procedures of Chapter 36.70C RCW, the Land Use Petition Act. See Chapter 36.70C RCW and SMC 20.10.250 for additional information and requirements regarding judicial review.

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

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<sup>5</sup> The official Parties of Record register is maintained by the City's Hearing Clerk.



# GFK Consulting

Land Development Services

## Plat Conditions Compliance Matrix for Elston Ridge (aka Pine Ridge) PLN2006-00088

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
1. Per RCW 58.17.170 the Applicant shall comply with all county, state, and federal rules and regulations in effect on November 14, 2006, the vesting date of the subject application. However, if the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision, future development may be subject to updated construction codes, including but not limited to the International Building Code and the International Fire Code, as amended.	This has been done in all aspects of the project. As of this writing no code provisions that were part of the original approval have been significantly altered and no new requirements posed by any agency.	A revision to prelim plat was approved to remove two conditions of approval (PLN2011-00042) and site development was processed under BLD2010-00907.
2. Per SMC 19.40.040, preliminary plat approval shall be null and void if any condition is not satisfied and the final plat is not recorded within the approval period of sixty (60) months; provided Applicant may file for an extension only as permitted by code.	At this time this condition has been met. Expiration per this condition would have been April 18, 2013; however, State law extended the expiration by two additional years to allow for 84 months from preliminary decision to recording.	SMC 19A.12.020 allows 84 months to record plat. Preliminary plat approval was issued on 4/18/08; plat expires 4/18/15. All conditions met prior to expiration.
3. All construction and site development activities related to the plat are prohibited until the preliminary decision becomes effective, and all applicable permits are received.	The preliminary decision is effective and all plans have been submitted and approved and the appropriate permits issued.	The construction and site development was approved under the plat Clear & Grade file BLD2010-00907.

Exhibit 3

**GFK Consulting**

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
<p>4. Approval of a preliminary plat does not imply or guarantee approval of any building permit/s, engineering plans, and/or clearing and grading permits, but not limited thereto. All permit requests will be reviewed for compliance with applicable codes, ordinances, laws, rules, and regulations; compliance may result in the reduction in the number and location of lots as shown on the preliminary plat.</p>	<p>All necessary permits have been issued and the plans and construction reflect this.</p>	<p>Site Development approved under BLD2010-00907.</p>
<p>5. The land use development standards, as set forth in SMC Chapter 21A - Development Code, shall be included on building permit application site plans, as lot widths and setbacks are vested at the time of preliminary plat application.</p>	<p>This shall be done at building permit.</p>	<p>Setbacks and property dimensions will be reviewed at building permit.</p>
<p>6. The plat configuration shall be developed in substantial conformance with the Preliminary Plat Map prepared by Peterson Consulting Engineers, received December 13, 2007 (Exhibit D), subject to applicable conditions of approval specified by the Hearing Examiner.</p>	<p>This has been done.</p>	<p>The site development and final plat are consistent with the preliminary plat.</p>
<p>7. A Homeowner’s Association (HOA) shall be legally established to provide for the ownership and continued maintenance of required stormwater and recreation tracts, etc.</p>	<p>This has been done.</p>	<p>CC&amp;Rs and notes on final plat provide for this.</p>
<p>8. Street trees shall be provided per City of Sammamish PWS.15 requirements and landscaping shall be required consistent with SMC 21A.35.055 – Landscaping Drainage Facilities, and SMC 21A.35.040 – Landscaping Street Frontages.</p>	<p>A landscaping plan reflecting this requirement was submitted, approved and installed per plan.</p>	<p>Landscaping has been installed; as-built plans have been inspected and approved under BLD2010-00907.</p>
<p>9. For the purpose of ensuring compliance with all conditions of approval and the standard requirements of the SMC, the Applicant shall provide financial guarantees in conformance with SMC Chapter 27A, and PWS Chapter 10.050(K). All improvements required pursuant to the PW standards, SMC, or other applicable regulations, must be installed and approved, or bonded as specified for plats in SMC 19.60, Subdividing Procedure.</p>	<p>Performance bonds for work in the public ROW and restoration of grading and erosion control were posted prior to construction and still in force.</p>	<p>M&amp;D bonds were submitted under BLD2010-00907 for all required improvements.</p>

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
10. The applicant or subsequent owner(s) shall comply with the payment of Street Impact Fees in accordance to City of Sammamish Ordinance No 2006-208. Future payments of street impact fees shall be adjusted to the approved 30-lot subdivision with three existing residences.	A portion of the traffic fees have been paid. The applicant is now working with PW to establish a reimbursement value for work in IPL road.	There are no remaining road impact fees due. The applicant was reimbursed \$42,825.91 for frontage improvements constructed that exceeded traffic impact fees.
11. The City Engineer has granted a variation to PWS.15.120 for the development to exceed the maximum cul-de-sac length of 600-ft on the condition that a future road connection to the north is constructed. 60-ft right-of-way dedication and road improvements consistent with the Public Works local road standards shall be provided from the plat internal road to Tax Parcel 1524069009. The future road connection shall be consistent with PWS Table 1, PWS Figure 01-05, and City Ordinance 2005-191, with the exception to provide 28-ft of pavement as opposed to the standard 36-ft. Road grading shall be reviewed and approved during final engineering. A temporary barricade shall be provided.	This has been done and is reflected in the approved construction plans and the improvements constructed in the field.	Completed as part of site development permit BLD2010-00907.
12. The City Engineer has granted a variation to the local road standard as shown in PWS Table 1, Figure 1-05, and City Ordinance 2005-191. The Public Works Standard for a local road is to provide 60 feet of ROW dedication and 36 feet of asphalt. The variation by the City Engineer allows for 50 feet of ROW dedication and 28 feet of asphalt, with a modified planter 3-ft to 5-ft in width, and 5-ft sidewalk on each side of road. The variation was approved due to the low impact development (LID) techniques proposed for the plat.	These variations are reflected in the approved construction plans and in the improvements constructed in the field.	Completed as part of site development permit BLD2010-00907.

Exhibit 3

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<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
<p>13. The TIA indicated that the LOS at Issaquah-Pine Lake Road (IPLR) and the proposed plat site access road will be at LOS E during the AM peak with project. With the installation of interim improvements of turn lanes on IPLR, the LOS at IPLR/site access will be improved to LOS D during the AM peak. Additionally, per PWS15.160, minimum centerline offset between adjacent intersecting streets on Issaquah- Pine Lake Road, a principal arterial, is 350 feet. The centerline spacing between the proposed plat road and SE 47th Way is 325 feet. This project shall install a standard NB left-turn pocket with EB left- turn acceleration lane on IPLR at site access to maintain desired LOS and intersection safety. If left-turn pocket is not feasible on IPLR due to the SB left-turn pocket at SE 47th Way, a continuous two-way left- turn lane (TWLTL) shall be provided on IPLR at site access.</p>	<p>Provisions of this condition were addressed in the approved construction plan set and constructed in the field; both the left turn pocket and the acceleration lanes were provided for in the design and constructed in the field.</p>	<p>Completed as part of the site development permit BLD2010-00907.</p>
<p>14. Driveway apron onto Road A for tax parcel 1524069023 shall be provided.</p>	<p>This driveway apron has been constructed.</p>	<p>Completed under BLD2010-00907.</p>
<p>15. Low impact development (LID) techniques shall include reforestation, soil amendments, and use of native vegetation consistent with the conceptual LID plan (Exhibit D – Sheet 10) reviewed and approved by the City Engineer during preliminary plat review.</p>	<p>Reforestation and soil amendment is a part of the design for this plat and will be implemented as part of the building permit administration.</p>	<p>LID techniques are included in final plat and a separate LID plan is being recorded for implementation. Building permits will be conditioned accordingly.</p>
<p>16. Road tapers on Issaquah-Pine Lake Road shall be consistent with current AASHTO standards. Additional pavement and relocation of existing utilities may be required.</p>	<p>Road tapers were designed as required and constructed in the field.</p>	<p>Completed under BLD2010-00907.</p>
<p>17. Appropriate sidewalk transition from all proposed plat roads to all existing roads shall be designed and approved as part of the clear and grade permit.</p>	<p>This condition was reflected in the approved construction plans and in the improvements constructed in the field.</p>	<p>Completed under BLD2010-00907.</p>

Exhibit 3

**GFK Consulting**

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
18. Unless otherwise approved by the City Engineer, all construction and upgrading of public and private roads shall be done in accordance with the City of Sammamish Interim Public Works Standards (PWS).	This condition has been met in all designs and construction.	Completed under BLD2010-00907.
19. Access for two lots shall meet joint use driveway standards per PWS 15.170.	This condition has been met in all designs and construction.	Completed under BLD2010-00907.
20. All proposed cul-de-sacs shall be designed per Interim PWS.15.120, PWS Figure 02-33, and the 2003 International Fire Code, except as approved by the Fire Marshal.	This condition has been met in all designs and construction.	Completed under BLD2010-00907.
21. The Fire Marshal shall approve all permanent and temporary turnarounds prior to clear and grade permit issuance. No parking signs may be designated during Final Engineering.	The Fire Marshall has reviewed and approved all elements of the final engineered design and construction reflects this.	Completed under BLD2010-00907.
22. Issaquah-Pine Lake Road is classified as a principal arterial. Per PWS.15.110, 11 feet of right-of-way dedication along the frontage of Parcel 1524069040 and 14.5 feet of right-of-way dedication along the frontage of Parcel 1524069038 (as shown on the parcel map depicted as Exhibit E) shall be required prior to final plat to obtain 44.5 feet of half-street right-of-way frontage.	The final plat shows the dedication of the necessary ROW described in this condition. It will become City ROW when the map is recorded.	Completed as part of final plat recording.
23. The frontage along Issaquah-Pine Lake Road is funded in the City's Transportation Improvement Plan (TIP) and is also a Concurrency Project paid for, in part, by the collection of traffic impact fees. Per PWS. 15.110, half street frontage improvements consistent with a principal arterial as described in PWS Table 1 and Figure 01-01 are required on Issaquah-Pine Lake Road. The Applicant shall provide invoices to the City which shall be credited toward payment or refund of traffic impact fees.	All elements of the design and construction meet this condition. In addition, all costs have been submitted to Jeff Brauns for review and we are waiting for an agreed upon reimbursement amount.	Jeff Brauns, PW City Engineer, processed refund to reimburse developer for \$42,825.91 in January 2013.

Exhibit 3

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<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
<p>24. All new street construction for the plat shall include illumination per Article 5 of the City of Sammamish Interim Public Works Standards or as approved by the City Engineer. Illumination along Issaquah-Pine Lake Road shall meet the current City decorative standard. Maintenance of illumination along all local and private roads shall be the responsibility of the Homeowners Association or jointly shared by the owners of the development.</p>	<p>This condition has been met and is reflected in the approved construction plans and the improvements constructed in the field.</p>	<p>Completed under BLD2010-00907.</p>
<p>25. Following preliminary plat approval, the Applicant shall obtain permit(s) for final engineering. City of Sammamish approval of the applicant’s final engineering is required prior to initiation of any onsite construction.</p>	<p>All appropriate permits have been applied for and issued consistent with this condition.</p>	<p>Approved clear and grade plans were processed under BLD2010-00907.</p>
<p>26. At the time of preliminary plat approval (or at intake of any construction permits), the Applicant shall pay the deposit amount equal to twenty percent (20%) of the traffic impact fees in effect at that time, less a credit for any deposits paid. Traffic impact fees shall be paid consistent with the provisions of City of Sammamish Ordinance No. 2006-208.</p>	<p>20% of the required traffic fee has been paid.</p>	<p>Paid at submittal of site development permit under BLD2010-00907.</p>
<p>27. A clear and grade permit is required for grading of the site and construction of street frontage improvements, off-site road improvements, internal plat improvements, joint use driveways, and plat related drainage facilities.</p>	<p>A clear and grade permit was issued consistent with this condition.</p>	<p>Completed under BLD2010-00907.</p>
<p>28. A geotechnical report stamped and signed by a professional geotechnical engineer licensed in the state of Washington is required to be submitted with the clear and grade permit. The geotechnical report shall at a minimum address grading of the site and rockery/retaining wall construction.</p>	<p>A geotechnical report has been submitted and is part of the permit documents.</p>	<p>Completed and reviewed as part of the site development under BLD2010-00907.</p>
<p>29. The clear and grade permit shall include a channelization and signage plan for the improvements on Issaquah-Pine Lake Road. The channelization plan shall include a striping plan for left-turn pocket or two-way left turn lane. Fog lines shall be included that would allow for a minimum 5-foot wide shoulder on north bound Issaquah-Pine Lake Road.</p>	<p>A channelization plan has been submitted and approved and constructed in the field consistent with this condition.</p>	<p>Completed and reviewed as part of the site development under BLD2010-00907.</p>

Exhibit 3

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<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
30. Drainage plans, Technical Information Reports, and analysis shall comply with the 1998 King County Surface Water Design Manual, the City of Sammamish Stormwater Management Comprehensive Plan, and the East Lake Sammamish Basin Plan. Public Works review and approval during Clear and Grade permit review may result in modification of the plat layout.	This condition has been met.	Completed under BLD2010-00907.
31. A right-of-way permit issued by the City of Sammamish is required for any road or storm drainage related work in the City public right-of-way. The right-of-way permit shall include a traffic control plan. At the department's discretion, this permit may be issued as part of the clear and grade permit.	A right of way permit has been issued.	Work in ROW was approved under permits: ROW2011-00124 ROW2011-00145 ROW2011-00146 ROW2011-00206
32. A right-of-way permit issued by King County is required for any dry utility (e.g. phone, cable, power, etc.), water, and sewer related work in the City public right-of-way.	No work within King County ROW was ever proposed.	Water and sewer improvements were processed under ROW2011-00124 and gas extension was processed under ROW2011-00146
33. All new utility installation serving the subdivision within the plat or along the frontage shall be underground.	This condition was met with the exception of the power transmission line which cannot be undergrounded, and is reflected in the constructed improvements.	Completed under BLD2010-00907.
34. The Fire Marshal shall approve the location of fire hydrant(s) to meet current codes prior to Clear and Grade permit issuance.	The Fire Marshall reviewed all elements of the design prior to approval.	Completed under BLD2010-00907.
35. Survey monuments shall comply with PWS.15.470.	Survey monuments will be installed after the final lift of asphalt is laid.	Bonded for under BLD2010-00907.

Exhibit 3

**GFK Consulting**

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
<p>36. The subdivision shall be landscaped pursuant to SMC 21A.35 and PWS.15 Article VII requirements. Landscape plans shall be concurrent with the submittal of construction plans; for review and approval prior to final engineering approval; Grass in the planter strip is not consistent with PWS.15.520 which calls for shrubs.</p>	<p>Landscape plans were designed and installed consistent with this condition.</p>	<p>Landscape as-built plan was submitted 3/13/13 and inspected for compliance.</p>
<p>37. Per SMC21A.35.055, "Ten feet of Type 1 landscaping consisting of 100 percent (100%) evergreen trees and shrubs shall be required for that portion of the perimeter of detention facilities where detention facilities directly abut the public right-of-way, public access or can be seen from a public or private street or does not abut designated open space or environmentally sensitive areas." Final engineering plans shall include landscaping consistent with SMC21A.35.055. Compliance may result in modifications to the plat layout as preliminarily approved.</p>	<p>Landscape plans were designed and installed consistent with this condition.</p>	<p>A vault was installed on the site, which didn't require the Type 1 landscaping. Reviewed and approved under BLD2011-00144.</p>
<p>38. A root barrier shall be required for all trees adjacent to paved areas consistent with PWS Figure 02-29.</p>	<p>Landscape plans were designed and installed consistent with this condition.</p>	<p>Completed under BLD2010-00907.</p>
<p>39. Tree protection shall be required per SMC 21A.35.230 – Tree Protection Standards. Tree protection shall be clearly identified on the plans submitted for the clearing and grading permit.</p>	<p>Tree protection was installed during construction consistent with this condition.</p>	<p>City reviewed updated arborist report after construction (dated 2/11/13) to verify trees did not sustain damage during construction.</p>
<p>40. If replacement trees are required for the subject site, the replacement trees shall comply with the provisions of SMC 21A.35.230 and SMC 21A.35.240.</p>	<p>No replacement trees are needed as of this writing.</p>	<p>Replacement trees are not required.</p>

Exhibit 3

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<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
41. Per SMC 21A.25.190(6)(a.), rockeries, retaining walls, or similar structures may project into or be located in any setback provided these structures shall not exceed a height of more than six (6) feet in height. Compliance may result in modification of the plat layout.	This condition has been met.	Retaining walls were reviewed as part of the site development construction and approved under BLD2011-00621.
42. Per SMC16.210.195, building permits shall be obtained for all rockeries or retaining walls with heights of 4-ft or greater as measured from the bottom of the footing to the top of the wall, or any size walls supporting any surcharge load.	This condition has been met.	Any additional retaining walls will be reviewed with building permit.
43. All temporary erosion and sediment control (TESC) plans shall be in accordance to the King County Surface Water Design Manual (KCSWDM 1998) Appendix D for all erosion and sediment control standards. TESC plans should show, as a minimum, clearing limits, cover measures, perimeter protection (silt fence), traffic area stabilization, sediment retention, surface water control, and dust control.	This condition has been met.	Completed under BLD2010-00907.
44. Wetland hydrology shall be maintained. A design to route stormwater from non-pollution generating surfaces shall be reviewed and approved during Clear and Grade permit review. The TIR shall include analysis, methodology, and calculations.	This condition has been met and is reflected in the TIR and design.	Reviewed and approved under BLD2010-00907.
45. Current City of Sammamish Standard Plan General Notes, Roadway Notes, Drainage Notes, and Erosion and Sediment Control (ESC) Notes shall be shown on the Engineering Plans submitted for approval.	This condition has been met.	Completed on site development plan approved under BLD2010-00907.
46. The plat conditions of approval shall be shown on the Clear and Grade construction drawings and technical information report.	This condition has been met.	Completed on site development plan approved under BLD2010-00907.

Exhibit 3

**GFK Consulting**

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
<p>47. Prior to Clear and Grade permit issuance, a restoration bond shall be posted to the City for all required improvements in the existing public right-of-way and all temporary erosion and sediment control for the plat construction. A bond quantities worksheet shall be provided by the Applicant for Public Works review and approval of restoration bond amount.</p>	<p>This condition has been met. The bond was issued and continues to be in force as of this writing. Bond worksheets have been approved and are on file.</p>	<p>Approved and bonded for under BLD2010-00907.</p>
<p>48. If the plat is subject to a dedication, the certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.</p>	<p>The only dedication necessary is for public ROW. This will be handled on the final plat map with all necessary signatures.</p>	<p>Dedication will be completed with recording of final plat.</p>
<p>49. The proposed subdivision is subject to school impact fees for Issaquah School District, consistent with SMC 21A.105. Prior to final plat, the applicant shall pay one half of the required school impact fee, together with an administrative fee.</p>	<p>This has not been done as of this writing.</p>	<p>50% of Issaquah School District impact fees were paid in the amount of \$52,332.00 on June 14, 2013.</p>
<p>50. Prior to final plat approval, traffic impact fees shall be paid consistent with the provisions of City of Sammamish Ordinance No. 2006-208.</p>	<p>A portion of the traffic fees have been paid consistent with City policy. However, a significant reimbursement is owed due to improvements to IPL road.</p>	<p>All traffic impact fees have been paid.</p>
<p>51. The jurisdictional water and sewer district shall certify the adequacy of the fire hydrant(s), water main(s), and fire flow to meet current codes prior to final plat approval.</p>	<p>The appropriate will serve letters are on file.</p>	<p>Approved during site development under BLD2010-00907.</p>
<p>52. A Homeowners Association (HOA) shall be created to be responsible for maintenance of all common areas. The covenants and restrictions of said HOA shall be filed for record at King County.</p>	<p>This condition has been met.</p>	<p>CC&amp;Rs will be recorded with final plat.</p>

Exhibit 3

**GFK Consulting**

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
<p>53. Prior to final plat, temporary street name signs and no parking signs (if required on final engineering plans) shall be installed. Permanent street designation and traffic control signs, including poles and hardware, shall be installed following sidewalk installation. These items shall be paid for by the Applicant but shall be designed, furnished, and installed by the City to establish uniformity unless otherwise indicated by the City. Additional signage not shown on final engineering plans may be required based on site conditions as determined by Public Works. A written request must be submitted to the City PW Department when signing is needed and the Applicant will be billed upon completion. Street designation signs shall display street name or number.</p>	<p>This condition has not been met as of this writing; street signs are on order.</p>	<p>Street signs have been installed and inspected by the City's construction inspector.</p>
<p>54. All utilities within proposed rights of way must be included within a franchise agreement approved by the City Council prior to Final Plat recording.</p>	<p>This condition is reflected on the attached final plat map, which has not been approved by the City Council as of this writing.</p>	<p>Franchise agreements are in place with the City.</p>
<p>55. Suitable recreation space shall be provided consistent with the requirements of SMC 21A.30.140 and 21A.30.160. An overall conceptual recreation space plan shall be submitted with the clearing and grading permit or building permit, for review and approval by the City of Sammamish Department of Community Development. The proposal shall include location, area, calculations, dimensions, and a description of general improvements.</p>	<p>The recreation space was dimensioned and designed on the approved landscape plans and constructed in the field.</p>	<p>Completed and reviewed under BLD2010-00907.</p>
<p>56. Recreational improvements shall be installed, or a performance bond for recreational space improvements shall be posted, prior to recording of the final plat.</p>	<p>The improvements are installed; the bond will follow once an amount has been set by the City.</p>	<p>Recreational improvements are installed per as-built and bonded for under a M&amp;D bond posted on 5/7/13 under BLD2010-00907.</p>

Exhibit 3

**GFK Consulting**

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
<p>57. Prior to final plat approval, a performance bond shall be posted to the City for all required improvements that remain at the time of final plat, or 30% of the total improvement costs, whichever is greater. A bond quantities worksheet shall be provided by the Applicant for City review and approval of performance bond amounts. The restoration bond shall be released by the City following final plat approval.</p>	<p>The public works bond has been posted. We are waiting for the City to set valued on the landscape and critical areas bonds.</p>	<p>All required bonds have been posted under BLD2010-00907.</p>
<p>58. Trees retained per SMC 21A.35.210 shall be identified on the face of the final plat for retention. Trees shall be tagged in the field and referenced on the face of the final plat with the applicable tag number. Trees retained as part of the preliminary plat shall be subject to the replacement requirements of SMC 21A.35.240 in the event that a tree must be removed following final plat approval.</p>	<p>The trees have been saved and shown on the final plat map but not tagged as noted in this condition. Additional guidance is required.</p>	<p>All retained trees have been tagged and verified to be in sound condition and not impacted by improvements.</p>
<p>59. Prior to final plat approval, a licensed surveyor shall survey and stake all storm drain facilities and conveyance lines with associated easements and dedications not located within the public right-of-way. Public Works Inspector shall inspect and approve locations prior to final plat and easement recording.</p>	<p>Preliminary as-builts have been submitted to the City. Final as builts will be submitted shortly, but are bonded over in the meantime.</p>	<p>Final roadway improvements have been bonded for under BLD2010-00907.</p>
<p>60. Prior to final plat approval, all public and private stormwater facilities shall be constructed and in full operation. These facilities shall include the stormwater conveyance system, detention, water quality, and any required monitoring facilities. The conveyance system shall include all drainage structures, piping, ditching, curb, gutter, and road paving with the exception of the final lift of asphalt. Half street improvements and internal plat road shall be constructed up to the initial lift of asphalt prior to final plat. Asphalt final lift may be required on Issaquah-Pine Lake Road prior to final plat in accordance to right- of-way permit or clear and grade permit conditions.</p>	<p>All improvements have been installed per the approved plans and have been inspected and OK'd by the inspector.</p>	<p>Approved under site development permit BLD2010-00907.</p>
<p>61. Maintenance of existing pre-development on-site and off-site wetland hydrology shall be confirmed in final engineering. No dispersion trenches shall be located within wetland or buffer areas.</p>	<p>This condition has been met.</p>	<p>Approved and confirmed under site clear and grade permit BLD2010-00907.</p>

Exhibit 3

**GFK Consulting**

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
62. As referenced in the mitigation plan (Exhibit J), a maximum 4-foot high, split rail or similar fence shall be installed along the outer boundary of the wetland and buffer tract. Critical area signage shall be placed on this fencing.	The fencing has been installed.	The fencing and critical area signage has been installed.
63. Mitigation performance standards shall include a 1-year 100% survival standard and an 80% survival standard throughout the remaining 5-year monitoring period for all installed vegetation, but not including proposed seed mixes, which shall be held to cover performance standards currently described on the mitigation plan (Exhibit J).	This bond has not been posted- we are waiting for the amount to be set by the City.	The critical area mitigation was installed and bonded for under M&D bond BLD2010-00907.
64. Following mitigation installation, the monitoring biologist is to document mitigation installation in a letter to be provided, along with an as-built plan, for City of Sammamish review. City review and acceptance of successful mitigation installation is required prior to commencement of the 5-year monitoring period.	These materials are part of this submittal.	The City biologist reviewed and approved the wetland mitigation installation 5/1/13.
65. A bond quantity worksheet must be supposed for City review in support of the performance bonding estimate described on the referenced mitigation plan. Following City approval, the applicant shall file an installation and maintenance bond prior to building permit issuance.	A bond quantity worksheet for this work is attached.	The critical area mitigation bond was supplied to the City on 5/7/13.
66. A critical areas Notice on Title shall be recorded for the wetland and buffer areas and added 15-foot building setback in accordance with SMC21A.50. 180.	?	A Notice on Title is NOT required as the critical areas were set aside in a separate tract as recorded on the final plat.
67. "Metal products such as galvanized steel, copper, or zinc shall not be used in all building roofs, flashing, gutters, or downspouts unless they are treated to prevent metal leaching and sealed such that contact with storm water is prevented."	This note appears on the plat submitted.	Provided as Note #1 on final plat. Will be a condition of building permit approval.

Exhibit 3

**GFK Consulting**

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
<p>68. Unless otherwise directed by Public Works, the following note shall be shown on the final recorded plat: "All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain system as shown on the approved plat Clear and Grade permit on file with the City of Sammamish. Connection of the storm system shall be through a perforated stub-out per the 1998 King County Surface Water Design Manual." The approved clear and grade permit shall be submitted with the application for any building permit. All connections of the drains shall be constructed and approved prior to final building inspection approval.</p>	<p>This note appears on the plat submitted.</p>	<p>PW has reviewed and approved this note, which is provided as Note #2 on final plat. The condition will also be implemented at building permit approval.</p>
<p>69. "For all lots containing or adjacent to infiltration or dispersion trenches/facilities, lots shall be graded such that top of trench or facility is below bottom of foundation."</p>	<p>This note appears on the plat submitted.</p>	<p>Provided as Note #3 on final plat. Condition of building permit.</p>
<p>70. "No lot or portion of a lot shall be subdivided and sold, or resold, or its ownership changed or transferred in violation of applicable city, county, state, or federal standards, rules, regulations or laws".</p>	<p>This note appears on the plat submitted.</p>	<p>Provided as Note #4 on final plat.</p>
<p>71. The Applicant shall comply with RCW 58.17.280, providing the appropriate "addressing note" with address ranges being on the final plat.</p>	<p>The note has been added to the final plat.</p>	<p>Provided as Note #5 on final plat.</p>
<p>72. Ownership and maintenance responsibilities of all tracts shall be designated. A Homeowners Association shall be responsible for maintenance of the recreation and open space tracts.</p>	<p>The HOA documents reflect this requirement.</p>	<p>Notes on the final plat reflect the HOA maintenance and ownership responsibilities.</p>
<p>73. Language shall be included to adequately indicate ownership and maintenance of stormwater facilities. All stormwater tracts associated with this plat shall be dedicated to the City of Sammamish.</p>	<p>The final plat reflects this.</p>	<p>Notes on the final plat reflect ownership and maintenance responsibilities.</p>
<p>74. Right-of-way dedication shall be shown on the final plat.</p>	<p>The final plat map reflects this.</p>	<p>This has been confirmed to be shown correctly by PW.</p>

Exhibit 3

**GFK Consulting**

<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
75. "Plans for future road improvements on Issaquah-Pine Lake Road may include a median that would require the development right-in and right-out access only."	This note has been added to the final plat map.	Provided as Note #8 on final plat.
76. Future homeowners of all lots in the subdivision shall not object to the future road connection with development of property on the northern boundary of this plat."	A note to this affect has been added to the final plat map.	Provided as Note #9 on final plat.
77. "Trees identified on the face of this plat have been retained pursuant to the provisions of SMC 21A.35.210. Retained trees are subject to the tree protection standards of SMC 21A.35.230. Removal of these trees is prohibited unless the tree is removed to prevent imminent danger or hazard to persons or property, subject to a clearing and grading permit approved by the City of Sammamish. Trees removed subject to this provision shall be replaced in compliance with SMC 21A.35.240".	This note has been added to the final plat map.	Provided as Note #10 on final plat.
78. The applicant shall include a note regarding the payment of all traffic impact fees on the subject site in accordance to City of Sammamish Ordinance 2006-208. Specific language related to the payment of the traffic impact fees shall be reviewed and approved by the City prior to final plat approval.		No further traffic impact fees are due. A note to this effect has been provided as Note #12 on final plat.
79. "The proposed subdivision is subject to school impact fees for Issaquah School District, consistent with SMC 21A. 105. At the time of building permit, the applicant shall pay one half of the required school impact fee, together with an administrative fee".	This note has been added to the final plat map.	Provided as Note #13 on final plat and will be paid at building permit issuance.
80. "The proposed subdivision is subject to parks impact fees, consistent with SMC 14A.20, which shall be paid at the time of building permit issuance together with an administrative fee".	This note has been added to the final plat map.	Provided as Note #14 on final plat and will be paid at building permit issuance.
81. "Per City of Sammamish Ordinance No. 02002-112, a surface water system development charge shall be paid at the time of building permit issuance for each new residential dwelling unit".	This note has been added to the final plat map.	Provided as Note #15 on final plat and will be paid at building permit issuance.

**GFK Consulting**

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<i>City Condition and number</i>	<i>Compliance</i>	<i>City review / approval</i>
82. "Maintenance of landscape strips along Issaquah-Pine Lake Road and the internal plat road separating the sidewalk from the roadway shall be the responsibility of the Homeowners Association. Under no circumstances shall the City bear any maintenance responsibilities for landscaping strips, planter islands, or planted medians created by the plat".	This note has been added to the final plat map.	Provided as Note #16 on final plat.

Please contact me if you have any questions, 425 347 2898.  
Sincerely



Greg Krabbe, PE  
President

# ELSTON RIDGE

NE1/4 & SE1/4 OF THE SW1/4 & SW 1/4 OF SE 1/4 SEC. 15, TWP. 24 N., RGE. 6 E., W.M.

PLN 2006-00088 "PINE RIDGE"  
CITY OF SAMMAMISH, KING COUNTY, WASHINGTON

### EASEMENT NOTES

PRIVATE DRAINAGE EASEMENTS (P.D.E.) DESIGNATED ON THE PLAT ARE HEREBY GRANTED AND GRANTED TO THE OWNERS OF THE LOTS BENEFITED. HEREOF, OWNERS OF THE LOTS BENEFITED, HEREBY AGREE TO BE RESPONSIBLE FOR THE MAINTENANCE OF THEIR RESPECTIVE FACILITIES WITHIN SAID EASEMENTS AND SHALL SHARE EQUALLY IN THE COST OF MAINTENANCE OF THE PRIVATE STORM DRAIN FACILITIES USED IN COMMON WITHIN SAID EASEMENT. REFER TO THE APPROVED AS-CONSTRUCTED DRAINAGE PLANS FOR LOCATIONS. SEE BELOW FOR BENEFITED LOTS:

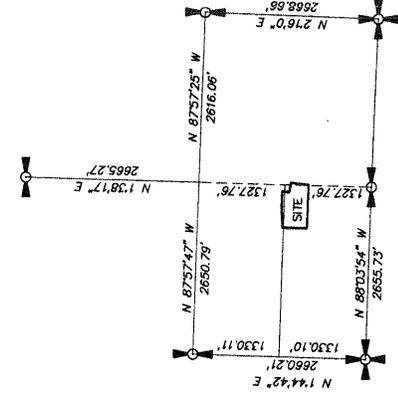
- A. 5'- FOOT P.D.E., SHOWN ON LOTS 2 -4, BENETT LOTS 2-5
- B. 5'- FOOT P.D.E., SHOWN ON LOTS 6, 14-17, BENETT LOTS 6, 14-18
- C. 5'- FOOT P.D.E., SHOWN ON LOT 8, BENETT LOTS 8 AND 12
- D. 5'- FOOT P.D.E., SHOWN ON LOT 7, BENETT LOTS 7 AND 13
- E. 15' & 9'- FOOT P.D.E., SHOWN ON LOTS 18-22, BENETT LOTS 18-23
- F. 5'- FOOT P.D.E., SHOWN ON LOT 23, BENETT LOTS 23 AND 24

1. THE 5'-FOOT PRIVATE DRAINAGE EASEMENT (P.D.E.) SHOWN ACROSS LOTS 2-4, LOTS 6, 7, 8, 14-17, 23 IS RESERVED FOR AND GRANTED TO UPON RECORDING OF THIS PLAT. THE SETBACK LINES FOR THE PROTECTION OF THEIR DESIGNATED APPOINTEES, SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE PRIVATE DRAINAGE FACILITIES WITHIN SAID EASEMENT.

2. NO STRUCTURES MAY BE CONSTRUCTED WITH ANY EASEMENT AREA, REGARDLESS OF ITS LOCATION WITH RESPECT TO BUILDING SETBACK LINES PER SMC 21A.25.030 AND CITY OF SAMMAMISH ORDINANCE ORD2009-00249. MINIMUM 5' BSBL FROM THE STORM EASEMENTS IN ACCORDANCE TO THE 1998 KCSWDM.



SCALE: 1" = 200'



### SECTION SUBDIVISION

BASES OF BEARINGS: NAD 83/81

NORTH 84°30'13" EAST FROM THE FOUND ISSAQUAH-PINE LAKE ROAD AND 238TH PLACE, THE FOUND PC MON IN THE CENTER OF THE 238TH PLACE, SHOWN FOR THE ANGED PLAT OF BROOKSHIRE ESTATES RECORDED IN VOL. 139 OF PLATS, PGS 14-16

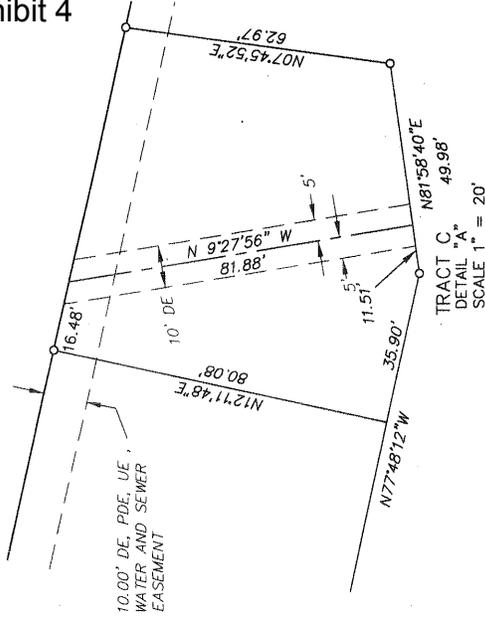


SHEET INDEX

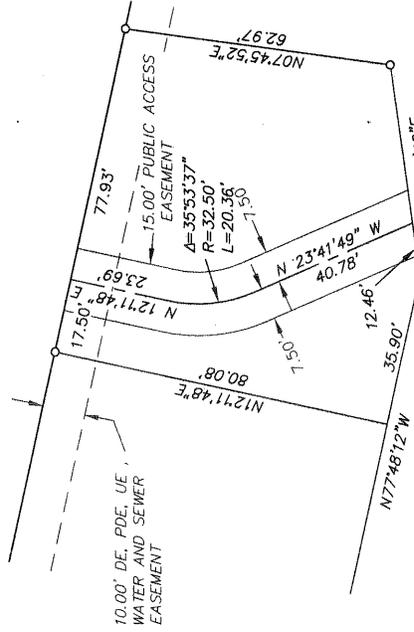


N.T.S.

Exhibit 4



TRACT C  
DETAIL "A"  
SCALE 1" = 20'



TRACT C  
DETAIL "B"  
SCALE 1" = 20'



**GI GROUP FOUR, Inc.**  
SURVEYING · ENGINEERING · PLANNING · MANAGEMENT  
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LAKE STEVENS WA 98258  
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VOLUME/PAGE

JOB NO.: 09-8001 DATE: 4-30-13 SHEET: 3 OF 5

RECORDING NO.

VOLUME/PAGE



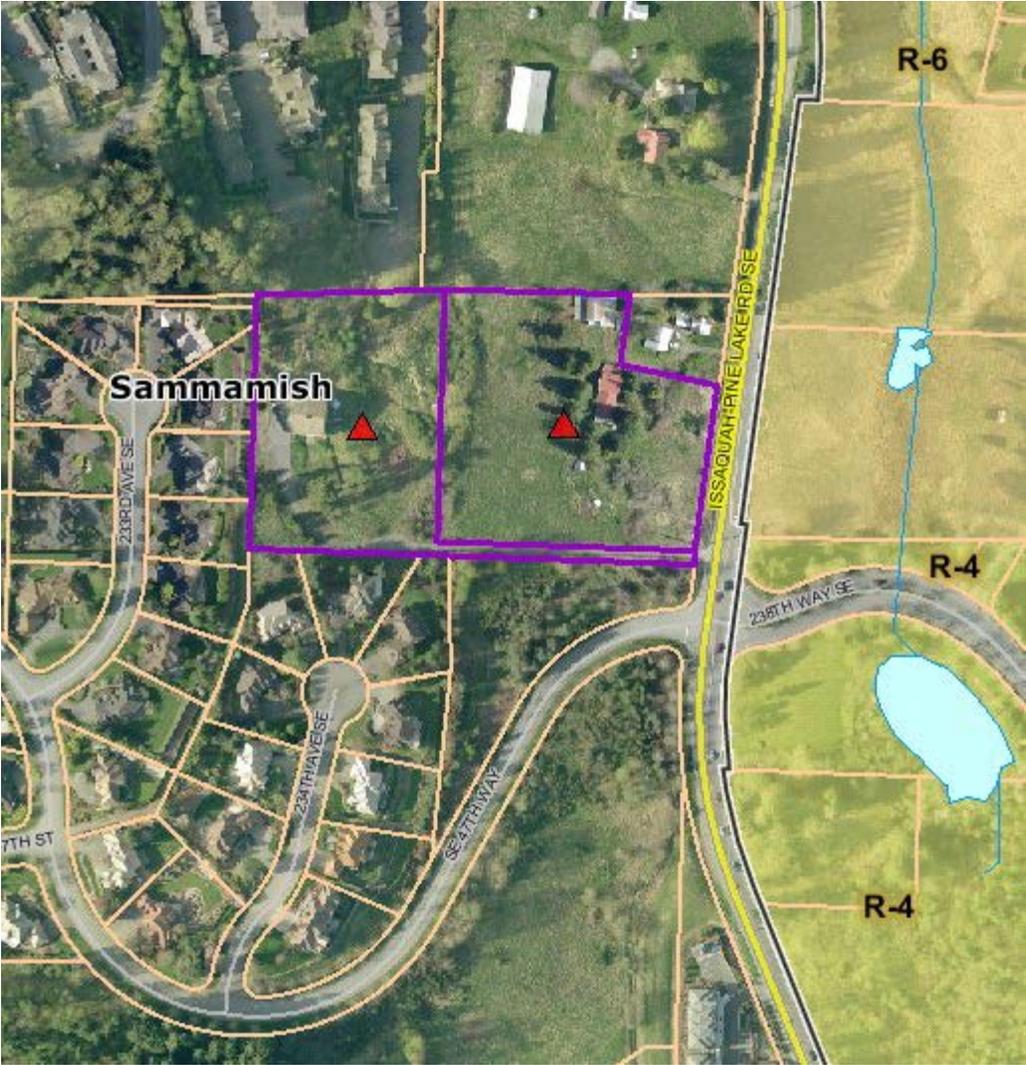


## Exhibit 4

Exhibit 5

Exhibit 5

Elston Ridge (aka Pine Ridge) Subdivision - Vicinity Map





**COUNCIL**  **MINUTES**

**Regular Meeting**  
**May 20, 2013**

Mayor Tom Odell called the regular meeting of the Sammamish City Council to order at 6:30 pm.

**Councilmembers present:** Mayor Tom Odell, Deputy Mayor Ramiro Valderrama, Councilmembers Don Gerend, John James Tom Vance and Nancy Whitten.

Absent: Councilmember John Curley

MOTION: Councilmember Gerend moved to excuse Councilmember Curley. Councilmember Whitten seconded. Motion carried unanimously 6-0.

**Staff present:** City Manager Ben Yazici, Public Works Director Laura Philpot, Assistant City Manager/Community Development Director Kamuron Gurol, Parks & Recreation Director Jessi Richardson, Administrative Services Director Mike Sauerwein, Senior Stormwater Program Manager Eric LaFrance, City Attorney Bruce Disend, and Administrative Assistant to the City Clerk Lita Hachey.

Mayor Odell requested that everyone remember the people of Moore, Oklahoma, devastated by a tornado today.

**Roll Call**

Roll was called

**Pledge of Allegiance**

Deputy Mayor Valderrama led the pledge.

**Approval of Agenda**

MOTION: Deputy Mayor Valderrama moved to approve the agenda. Councilmember Gerend seconded. Motion carried unanimously 6-0.

**Student Liaison Reports**

- Eastlake High School Student Liaison – Felipe Concha – The school year has almost ended, along with the completion of Advanced Placement testing. Senior Prom will be June 8, 2013. The Plateau Pink Day fundraiser, hosted by Eastside Catholic, was very successful. Everyone is now excited for summer, college and/or work. Last day of school is June 17.
- Eastside Catholic High School Student Liaison – Chad Brown - Eastside Catholic has also completed their AP testing. They participated in Plateau Pink Day for breast cancer awareness

with Eastlake and Skyline high schools. Senior prom was last weekend at the Space Needle and the senior graduation is on June 9, 2013.

### **Presentations/Proclamations**

Dan Ervin, City of Issaquah, spoke regarding the City of Issaquah Stormwater Injection Permit Application. He discussed the Lower Reid Infiltration Gallery and how it works, historical and recent events leading to tonight's discussions and the results of their monitoring program. Mr. Ervin also introduced Charlie Bush, Assistant City Administrator (*presentation is available upon request from the City Clerk, Melonie Anderson at [manderson@ci.sammamish.wa.us](mailto:manderson@ci.sammamish.wa.us)*)

### **Public Comment**

Julie Pai, 23829 SE 33<sup>rd</sup> Street, Issaquah, spoke regarding the Klahanie Annexation study by Issaquah. She feels that her neighborhood identifies more with the City of Sammamish. She is hoping that Sammamish is interested in annexation of their community.

Scott Hamilton, 19727 SE 19<sup>th</sup> Street, spoke regarding the Sammamish Plateau Water and Sewer District. He suggests making Sammamish a party of interest with the Department of Ecology and so they will be up to date on all issues.

Reid Brockway, 167 E. Lk. Sammamish Sh. Lane NE, spoke regarding the City of Issaquah's well monitoring. He requested more information on how this monitoring process will take place.

Kathy Lambert, King County Councilmember, spoke about what a great City, Sammamish is. She appreciates everyone and are a pleasure to work with.

### **Consent Agenda**

Payroll for the period ending May 15, 2013 for pay date May 20, 2013 in the amount of \$276,240.17

Approval: Claims for period ending May 20, 2013 in the amount of \$943,148.41 for Check No. 34739 through No. 34856

Ordinance: Second Reading Amending Ordinance No. 02012-337, The 2013-2014 City Budget, For The Purpose Of Revising The 2013-2014 Biennial Budget. (O2013-343)

Contract: City Hall Drainage Repair/Dan Crocker Construction

Authorization: Sammamish Contribution for Improvements of Issaquah Hatchery for the Kokanee Supplementation Program

Bid Award: 2013 Pavement Program/Overlays

**MOTION: Deputy Mayor Valderrama moved to approve consent agenda. Councilmember James seconded. Motion carried unanimously 6-0.**

**Unfinished Business****Ordinance: Second Reading Amending Section 22.15.020 of The Sammamish Municipal Code Related To The Impoundment Of Vehicles - O2013-334**

Sammamish Police Chief Nate Elledge gave a staff report and update.

**MOTION:** Councilmember James moved to approve Option A as written. Councilmember Vance seconded. Motion failed 3- 3 with Deputy Mayor Valderrama, Councilmembers Whitten and Gerend dissenting.

Deputy Mayor Valderrama, Councilmembers Whitten and Gerend preferred Option B.

**MOTION:** Councilmember Whitten moved to approve Option B as written. Councilmember Gerend seconded.

**MOTION:** Councilmember Gerend moved to Table the Ordinance: Amending Section 22.15.020 of The Sammamish Municipal Code Related To The Impoundment Of Vehicles to the end of today's meeting. Councilmember Whitten seconded. Motion carried unanimously 6- 0

**MOTION:** Councilmember James moved to Table the Ordinance: Amending Section 22.15.020 of The Sammamish Municipal Code Related To The Impoundment Of Vehicles until the June 4, 2013 meeting. Councilmember Gerend seconded. Motion carried unanimously 6- 0

**New Business****Resolution: Related To Use Of The Land Conservation And Local Infrastructure Program**

Assistant City Manager/Community Development Director Kamuron Gurol gave a staff report and introduced Mark Goodman, Consultant with Community Attributes of Seattle, gave a presentation. *(Presentation available on the Sammamish City website at [www.ci.sammamish.wa.us](http://www.ci.sammamish.wa.us))*

Mayor Odell suggested postponing this resolution to a future date. Council agreed to wait to have more time to review the issue in advance.

**Public Hearing****Ordinance: Second Reading: Pertaining To The Protection And Regulation Of Environmentally Critical Areas, Amending Chapters 21a.50, 21a.15 And 21a.70 Of The Sammamish Municipal Code.**

Assistant City Manager/Community Development Director Kamuron Gurol introduced Senior Planner Evan Maxim who gave a staff report and presentation. *(Presentation available on the Sammamish City website at [www.ci.sammamish.wa.us](http://www.ci.sammamish.wa.us))*

Public Hearing, continued from May 8, 2013 Council Meeting was reopened at 8:05 pm.

Attempted to connect with Councilmember Curley via Tele-conferencing. Attempt failed.

Eli Gee, 22201 NE 28<sup>th</sup> Place, spoke regarding his family's dealings with the ECA and their property on Beaver Lake.

Barbara Raabe, 21521 NE 5th, spoke regarding the limitations of the ECA. She has problems with moss growing on her property because she cannot cut down trees.

Reid Brockway, 167 E Lake Sammamish Shore Lane NE, spoke regarding the changes that will take place with the ECA update. He asked that Council not cut off public input/comments before the final version becomes a basis for deliberations.

Greg Krabbe, 1726 Holbrooke Ave, Everett, spoke regarding the erosion hazard overlay and the no disturbance designation.

Mark McGill, 25513 SE 28<sup>th</sup> Lane, spoke regarding critical areas special overlay and the long exhaustive process. LID, close roof drain systems and other proposed measures are simply not going to work.

Vali Eberhardt, 543 208<sup>th</sup> Ave NE, showed a You-tube video regarding the Lake Sammamish Overflow.

Joanna Buehler, 1420 N.W. Gilman Blvd, Issaquah, Saving Lake Sammamish Group, spoke about the damage to the lake from the large subdivision developments. It is important for the Kokanee and other wildlife to have protection and clean, oxygenated water.

Nicky Beadle, 20807 NE 8<sup>th</sup> St, spoke regarding her concerns about the number of developments going up in Sammamish. Concerned about the Code leniencies and the impacts that are irreversible.

Comments CC65 are available on the City website at:

<http://www.sammamish.us/departments/communitydevelopment/CriticalAreas.aspx#>

Ilene Stahl, 21553 SE 28<sup>th</sup> Lane, spoke regarding the ECA and about the damages that will happen to our land. Comments CC66 are available on the City website at:

<http://www.sammamish.us/departments/communitydevelopment/CriticalAreas.aspx#>

Erica Tiliacos, 1130 Lancaster Way SE, Friends of Pine Lake, comments can be found on the City of Sammamish website. Comments CC67 are available on the City website at:

<http://www.sammamish.us/departments/communitydevelopment/CriticalAreas.aspx#>

Jim Osgood, 19661 SE 24<sup>th</sup> Way, spoke regarding the Pilot program and steep slope. Submitted comment CC68 are available on the City website at:

<http://www.sammamish.us/departments/communitydevelopment/CriticalAreas.aspx#>

Wally Pereyra, 148 E Lake Sammamish Pkwy SE, submitted comments CC69, available on the City website at: <http://www.sammamish.us/departments/communitydevelopment/CriticalAreas.aspx#>

Rick Aramburu, 720 3<sup>rd</sup> Ave #2000, Seattle, WA, spoke regarding his client Mr. Pereyra and the Pilot program. Comments CC70 are available on the City website at:

<http://www.sammamish.us/departments/communitydevelopment/CriticalAreas.aspx#>

Rory Crispin, P.O. Box 40443, Bellevue, WA, spoke regarding the (the intent of the WAC) steep slopes in Sammamish and landside slopes.

Robert Quimbey, 1219 207<sup>th</sup> Place NE, spoke regarding not being able to have a garage on his property and the regulations that are prohibiting him from doing so.

Frank Blau, 24742 SE 28<sup>th</sup> Place, spoke regarding the regulations in the ECA process and the environmental impact.

Larry Martin, 777 108<sup>th</sup> Ave NE, Bellevue (representing the Proapt's estate), spoke regarding steep slopes and eliminating the deep stream regulations. He suggested following the best available science.

Linda Eastlick, PO Box 2574, Issaquah, commented on the ECA process and the Overlay based on science. She suggested paying attention to the best available science.

Deputy Mayor Valderrama suggested limiting testimony to new amendments at the next meeting.

Mayor Odell would appreciate only new comments and suggested cut-off date of Tuesday, May 28, 2013.

Mayor Odell declared the Public Hearing be continued until the June 4, 2013 meeting, at 9:18 pm

### **Council Reports**

Councilmember Gerend: He and the Mayor were at Wally Pereyra's house today for a meeting of the Kokanee workgroup and toured the Zaccuse Creeks potential spawning grounds. Representatives were present from the U.S Fish and Wildlife from State and County and consultant firm. Discussed grant opportunities and estimates for culvert replacement.

Mayor Odell: Thanked Planning Commission Chair, Michael Luxenberg and Vice Chair, Mahbulul Islam for being present for the ECA discussion tonight.

### **City Manager Report**

Acknowledged our incoming Councilmember, Bob Keller

**Executive Session** – Potential litigation pursuant to RCW 42.30.110(1)(i)

Council retired to Executive Session at 9:29 pm and returned at 9:53 pm. No action taken.

Meeting adjourned at 9:55 pm

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Lita Hachey, Administrative Assistant  
to the City Clerk

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Thomas T. Odell, Mayor



**COUNCIL**  **MINUTES**

**Regular Meeting**

**June 4, 2013**

Mayor Tom Odell called the regular meeting of the Sammamish City Council to order at 6:30 pm.

**Councilmembers present:** Mayor Tom Odell, Deputy Mayor Ramiro Valderrama, Councilmembers John Curley (arrived 6:50 pm), Don Gerend, John James Tom Vance and Nancy Whitten.

**Staff present:** City Manager Ben Yazici, Public Works Director Laura Philpot, Assistant City Manager/Community Development Director Kamuron Gurol, Parks & Recreation Director Jessi Richardson, Administrative Services Director Mike Sauerwein, City Attorney Bob Sterbank, and City Clerk Melonie Anderson.

**Roll Call/Pledge of Allegiance**

Roll was called. Fire Chief Backer led the pledge.

Mayor Odell announced that the June 11, 2013 meeting will be a Special Meeting starting at 4:30 pm

**Approval of Agenda**

**MOTION:** Deputy Mayor Valderrama moved to approve the agenda. Councilmember James seconded. Motion carried unanimously 6-0.

**Presentations/Proclamations**

- *Eastside Fire and Rescue Board of Directors* – Eastside Fire & Rescue Chief Backer recognized Mayor Odell for his time and commitment to serving on the Board and presented him with a plaque.
- *King County Metro Transit* – K.C. Metro Transit Manager Kevin Desmond showed a PowerPoint presentation regarding the upcoming changes to metro transit due to funding shortages.
- *Sammamish Plateau Water and Sewer District* – Jay Krause, General Manager gave a presentation on the City of Issaquah’s Industrial Waste discharge permit and their intent to take over their section of the Water District. Scott Coffey explained the technical aspects of the Water District’s concerns over allowing the infiltration of stormwater from the Issaquah Highlands development.

**Public Comment** - None

**Consent Agenda**

Approval: Claims for period ending June 4, 2013 in the amount of \$530,421.03 for Check No. 34857 through No. 34962

Resolution: Appointing members to the 2013-2014 Sammamish Youth Board (R2013-535)

Resolution: Appointing One Member to the Beaver Lake Management Advisory Board (%2013-536)

Interlocal: Sammamish Intelligent Transportation System (ITS) Phase 1-228<sup>th</sup> Avenue/WSDOT

Interlocal: Inglewood Hill Rd Pavement Project/WSDOT

Interlocal: 2013 Pavement Overlay Project/NE Sammamish Sewer & Water District

Contract: Fourth of July Fireworks Display/Wolverine West Fireworks

Contract: Summer Events/Live Sound and Recording

Contract: 2013 On-Call Geotechnical Services/HWA

Approval: Contract Extension Audio/Video Recording Services/GC Multimedia

Approval: Microsoft Licensing Agreement

Approval: May 7, 2013 Regular Meeting Minutes

Councilmember James requested removal of the new item, Resolution in support of the 2013 transit package.

**MOTION: Deputy Mayor Valderrama moved to approve the consent calendar as amended. Councilmember James seconded. Motion carried unanimously 7-0.**

**Unfinished Business**

Ordinance: Second Reading: Amending Section 22.15.020 Of The Sammamish Municipal Code Related To The Impoundment Of Vehicles (10 minutes)

Police Chief Nate Elledge gave a short staff report. The council is being offered two options for the ordinance tonight and council should choose either Option A or Option B. Staff is recommending approval of Option A.

**MOTION: Councilmember James moved to approve the ordinance amending SMC 22.15.020 with Option A. Councilmember Vance seconded. Motion carried 4-3 with Councilmember Gerend, Whitten and Deputy Mayor Valderrama dissenting.**

Councilmembers Gerend, Whitten and Deputy Mayor Valderrama feel that to leave out “officer’s discretion” is not being clear and transparent with the public.

**New Business**

Ordinance: First Reading: Amending Title 16, Buildings And Construction, Of The Sammamish Municipal Code By Amending Chapter 16.05, Construction Codes; 16.20, Construction Administrative Code; And 16.25, Sammamish Building And Property Maintenance Code (10 minutes)

Building Official Kurt Aldworth gave the staff report and a Power Point Presentation (*available on the city's website at [www.sammamish.us](http://www.sammamish.us)*). This is the first reading of the ordinance. No action is required.

Ordinance: First Reading: Vacating A Portion Of Unopened Right Of Way Titled J. A. Huvinen Road Extension Near SE 28<sup>th</sup> Street (30 minutes)

Public Works Director Laura Philpot gave the staff report and showed a PowerPoint presentation (*available on the city's website at [www.sammamish.us](http://www.sammamish.us)*). This is the first reading, no action is being requested. If appropriate, the neighboring property will also be included in this street vacation.

Public Hearing opened at 8:43 pm.

**Public Comment**

Judy Nickel, on behalf of the Halvorson Family, Spoke regarding the street vacation. She gave a PowerPoint presentation. The applicant is hoping that the city would vacate the street without compensation on the part of the property owners since this this is something the county should have taken care of long ago.

Gretchen Halverson, 21928 SE 28<sup>th</sup> Street, She spoke on behalf of her family to request the city vacate the right of way at no cost.

Public Hearing closed at 8:51 pm.

Council recessed from 9:04 pm to 9:13 pm

*New Item: Resolution Urging The State Legislature To Pass A 2013 Transportation Investment Package (R2013-534)*

MOTION: Councilmember Vance moved to approve the resolution. Councilmember Gerend seconded. Motion carried unanimously 6-1 with Councilmember Valderrama dissenting.

**Public Hearing**

Ordinance: Third Reading: Pertaining To The Protection And Regulation Of Environmentally Critical Areas, Amending Chapters 21a.50, 21a.15 And 21a.70 Of The Sammamish Municipal Code (120 minutes)

Assistant City Manager/Director of Community Development Kamuron Gurol gave the staff report and showed a PowerPoint presentation (*available on the city's website at [www.sammamish.us](http://www.sammamish.us)*). He reported that there have been 22 meetings with the Planning Commission and 8 meetings with the City Council, taking public testimony on this issue.

Public hearing opened at 9:16 pm.

Public Comment

Ken Taylor, 250 208 Avenue NE, He spoke regarding a landslide that occurred on the easement behind his residence.

Johan Witiker, 408 208<sup>th</sup> Avenue NE, Spoke regarding the same landslide.

Mark Cross, 247 208 Avenue NE, He spoke regarding the same landslide. He feels this demonstrates the need for the increased regulations and enough staff to enforce them.

George Toskey, 2727 East Lake Sammamish Parkway NE, He urged council to develop ECA regulations that meet the goals of the growth management act.

Reid Brockway, 167 E Lake Sammamish Shore Lane NE, He spoke regarding the Decision Table included in tonight's packet material.

Susan Brockway, (same as above), She feels that the current changes in the ECA do not go far enough.

Erica Tiliacos, 1130 Lancaster Way SE (representing Friends of Pine Lake), Spoke in support of the current regulations.

Greg Krabbe, 1726 Holbrook Avenue, Spoke regarding the Decision Table.

Rich Aramburu, 720 3<sup>rd</sup> Avenue #2000, Seattle, Spoke regarding the Decision Table and against the proposed pilot programs.

Rory Crispin, PO Box 334, Bellevue, Spoke regarding amendments he has previously submitted.

Susan Richardson, 19661 SE 24<sup>th</sup> Way, Spoke in support of the pilot program.

Public Hearing closed at 9:49 pm.

Mike Luxenberg, Chair of the Planning Commission and Commissioner Mabubul Islam answered questions from Council regarding the Planning Commission's review of the ECA and their recommendations.

MOTION: Councilmember Vance moved to adopt the Council Review Draft amendments to the Environmentally Critical Areas regulations. Councilmember Gerend seconded.

MOTION: Councilmember Gerend moved to extend the meeting to 11:00 pm. Deputy Mayor Valderrama seconded. Motion carried unanimously 7-0.

AMENDMENT: Councilmember Gerend moved to identify Category 1 Bog wetlands that are still bog –functional as “Wetlands of Local Significance” and provide for additional protection. Deputy Mayor Valderrama seconded.

After discussion, Council felt more work needs to be done on this item and it will be tabled for further consideration.

AMENDMENT: Councilmember Whitten moved to amend the ECA Critical Aquifer Recharge Areas to prohibit the use of “vertical” geothermal wells within Class 1 and 2 Critical Aquifer Recharge Areas. This would include Open loop geothermal wells that could be used to recirculate water or groundwater prohibited in all CARA areas. Closed loop horizontal and vertical geothermal wells used to recirculate a chemical heat transfer fluid other than potable water prohibited in all CARA areas. Closed loop vertical geothermal wells used to recirculate potable water for heat exchange prohibited in all Class 1 & 2 CARA areas. Closed loop (vertical geothermal wells allowed in Class 3 CARA areas, if they comply with WAC 173-160. City tracking of closed loop geothermal wells in Class 3 zones Allow horizontal heat exchange systems in all CARA areas. Councilmember Gerend seconded. Motion carried unanimously 7-0.

AMENDMENT: Councilmember Gerend moved to amend the ECA regarding site specific stream buffer location. Stream buffers would be based upon the actual width of viable habitat, drainage patterns relative to the stream channel and slope stability (if applicable). Exclude from stream buffers areas that have been improved (e.g. house, driveway, etc.) and are perceived to provide little if any functions that contribute to the stream health. Deputy Mayor Valderrama seconded. Motion failed 1-6 with Mayor Odell, Deputy Mayor Valderrama and Councilmembers Curley, James, Vance and Whitten dissenting.

**Council Reports - None**

**City Manager Report - None**

**Executive Session** – Potential Litigation pursuant to RCW 42.30.110(1)(i)

Council retired to Executive Session at 10:39 and returned at 11:00 pm. No action was taken.

Meeting adjourned at 11:00 pm

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Melonie Anderson, City Clerk

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Thomas T. Odell, Mayor





**COUNCIL** **Sammamish** **MINUTES**  
City of Sammamish Washington

**Special Meeting/Joint Study Session with  
Parks & Recreation Commission  
June 11, 2013**

Mayor Tom Odell called the special meeting of the Sammamish City Council to order at 4:30 pm.

**Councilmembers present:** Mayor Tom Odell, Deputy Mayor Ramiro Valderrama, Councilmembers John Curley (arrived 5:35 pm), Don Gerend, John James, Tom Vance and Nancy Whitten.

**Staff present:** City Manager Ben Yazici, Public Works Director Laura Philpot, Assistant City Manager/Community Development Director Kamuron Gurol, Parks & Recreation Director Jessi Richardson, Administrative Services Director Mike Sauerwein, and City Clerk Melonie Anderson.

**Roll Call/Pledge of Allegiance**

Roll was called. Councilmember Vance led the pledge.

**Approval of Agenda**

**MOTION:** Councilmember Valderrama moved to approve the agenda. Councilmember Gerend seconded. Motion carried unanimously 7-0.

**Public Comment**

Myrl Vantor, 3510 254<sup>th</sup> SE, Issaquah, Spoke requesting the city consider incorporating Klahanie into the city of Sammamish rather than Issaquah.

Sheila Fiske 19622 SE 16<sup>th</sup> Street, Spoke regarding the proposed pilot program recommended in the ECA.

**MOTION:** Deputy Mayor Valderrama moved to inform the citizens of Klahanie that, if the current annexation of the greater Klahanie area into the City of Issaquah were to fail, the City of Sammamish is committed to moving forward to annex the area. Councilmember Gerend seconded. Motion carried unanimously 6-0.

**Unfinished Business**

Ordinance: Fourth Reading: Pertaining To The Protection And Regulation Of Environmentally Critical Areas, Amending Chapters 21a.50, 21a.15 And 21a.70 Of The Sammamish Municipal Code (120 minutes)

Assistant City Manager/Director of Community Development Kamuron Gurol gave the staff report and showed a PowerPoint presentation (*available on the city's website at [www.sammamish.us](http://www.sammamish.us)*). The Council then continued to amend the ordinance.

AMENDMENT: Councilmember Whitten moved to amend the fee-in-lieu mitigation program to limit the use of fee-in-lieu mitigation for streams and wetlands to city capital projects and single family homes. Fee-in-lieu mitigation would be prohibited for subdivisions and non-residential development. Councilmember Vance seconded (Item 4A from the Decision Table).

Deputy Mayor Valderrama moved to amend the previous amendment to exclude the Town Center. Councilmember Vance seconded. Motion carried unanimously 6-0.

MAIN AMENDMENT: motion carried as amended 5-1 with Councilmember James dissenting.

Councilmember James feels the city should retain more flexibility regarding implementing these regulations.

Councilmember Whitten withdrew her amendment list as 4b in the Decision Table.

AMENDMENT: Councilmember Gerend moved to set up a Sammamish fee-in-lieu program. Deputy Mayor Valderrama seconded. Councilmember Gerend withdrew this motion because staff indicated that this program could be set up in conjunction with King County (Item 4C in Decision Table).

AMENDMENT: Councilmember Gerend moved to prioritize fee-in-lieu mitigation sites to expand the habitat for Lake Sammamish Kokanee and/or provide for expanded educational opportunities. Deputy Mayor Valderrama seconded.

AMENDMENT: Deputy Mayor Valderrama moved to amend the motion by adding the language “when not practical or feasible in the same sub basin”. Councilmember Whitten seconded. Motion carried unanimously 6-0.

AMENDMENT: Councilmember James moved to change the language to “and/or” expanded educational opportunities. Councilmember Gerend seconded. Motion carried unanimously 6-0.

MAIN AMENDMENT: Carried as amended unanimously 6-0 (Item 4D in Decision Table).

AMENDMENT: Councilmember Vance moved to modify the Council Review Draft to replace the term “building” with “single family dwelling units (which would include accessory dwelling units)”. Councilmember Whitten seconded.

AMENDMENT: Deputy Mayor Valderrama moved to add the words “except buildings in the commercial zones up to 1,000 square feet”. Councilmember Gerend seconded. Motion carried 4-3 Councilmembers James, Vance and Whitten dissenting

MAIN AMENDMENT: Motion carried 5-2 with Councilmembers Gerend and Curley dissenting (item 5A in the Decision Table).

Item 5B in the Decision Table is now considered moot.

AMENDMENT: Deputy Mayor Valderrama move to adopt a pilot program allowing for the alteration of up to 3 isolated wetlands associated with single family home construction. Applies to Category III or Category IV isolated wetlands with an area of less than or = 4,000 square feet, and a low habitat score (less than or = 15 habitat score). Councilmember Gerend seconded.

AMENDMENT: Councilmember Whitten moved to amend the amendment to include a low water quality/hydrology score as well as a low habitat score (for example combined less than 35). Councilmember Vance seconded. Motion failed 3-4 with Councilmembers Gerend, Curley, Valderrama, and James dissenting.

AMENDMENT: Councilmember Vance moved to lower the limit to 2,000. Councilmember Whitten seconded. Motion failed 3-4 with Gerend, Curley, Valderrama, James dissenting

AMENDMENT: Whitten moved to prohibit any pilot program within the Pine and Beaver Lake shoreline areas. Councilmember Vance seconded. Motion failed 3-4 with Deputy Mayor Valderrama, Councilmembers James, Curley and Gerend dissenting.

MAIN AMENDMENT: Main motion carried 5-2 with Mayor Odell and Councilmember Vance dissenting (Item #6B –Decision Table).

MOTION: Councilmember Whitten moved to allow single family homes to increase their impervious surface/footprint by up to 400 square feet. Councilmember Gerend seconded. Motion carried 7-0 (Item #8 Decision Table).

AMENDMENT: Councilmember Vance moved to not adopt the pilot program for subdivision/development in the no-disturbance area. Councilmember Whitten seconded. Motion failed 3-4 with Councilmembers Curley, Gerend Valderrama and James dissenting (Item #9A – Decision Table).

MOTION: Councilmember Vance moved to direct staff to bring an emergency ordinance extending the ECA Sunset Clause to July 31, 2013 for consideration at the June 17 meeting. Councilmember Gerend seconded.

Mayor Odell clarified that the ECA discussion was being tabled to the July 2, 2013 Regular Meeting.

**New Business** - None

**Council Reports** - None

**City Manager Report** - None

## **OPEN STUDY SESSION**

- **Presentation: Sammamish Heritage Society** – Parks & Recreation Director Jessi Richardson reported on all of the Work the Society has performed in an effort to relocate and restore the

Freed House. She showed a PowerPoint presentation (available on the city's website at [www.sammamish.us](http://www.sammamish.us)). Last month the Society won the John D Spellman Award for groups demonstrating an outstanding dedication to historic preservation.

- Discussion: Community Center
- Discussion: Collective Garden Moratorium and Recreational Marijuana

**Executive Session** – Potential Litigation pursuant to RCW 42.30.110(1)(i) and Personnel pursuant to RCW 42.30.110(g).

Council retired to executive session 8:30 pm and returned at 9:00 pm. No action was taken

Meeting adjourned at 9:00 pm

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Melonie Anderson, City Clerk

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Thomas T. Odell, Mayor

# COUNCIL MINUTES

## Regular Meeting June 17, 2013

Deputy Mayor Ramiro Valderrama called the regular meeting of the Sammamish City Council to order at 6:30 pm.

**Councilmembers present:** Deputy Mayor Ramiro Valderrama, Councilmembers John Curley, Don Gerend, Tom Vance and Nancy Whitten.

**Absent:** Mayor Tom Odell and Councilmember John James

**MOTION:** Councilmember Gerend moved to excuse Mayor Tom Odell and Councilmember John James. Councilmember Vance seconded. Motion carried unanimously 5-0.

**Staff present:** City Manager Ben Yazici, Deputy City Manager Lyman Howard, Public Works Director Laura Philpot, Assistant City Manager/Community Development Director Kamuron Gurol, Parks & Recreation Director Jessi Richardson, Communications Manager Tim Larson, City Attorney Kari Sand, and Assistant to the City Clerk Lita Hachey.

### Roll Call/Pledge of Allegiance

Roll was called. Councilmember Curley led the pledge.

### Approval of Agenda

**MOTION:** Councilmember Vance moved to approve the agenda. Councilmember Gerend seconded. Motion carried unanimously 5-0.

### Presentations/Proclamations

- *King County Parks Levy* – King County Parks Director Kevin Brown spoke regarding the upcoming levy on August 4, 2013 and showed a PowerPoint presentation (*available upon request to Melonie Anderson @ [manderson@sammamish.us](mailto:manderson@sammamish.us)*)

### Public Comment

Jim Stanton, 1 Microsoft Way, Redmond, WA – gave a general update on behalf of the Microsoft Corporation:

- On June 5, 2013, was the rollout celebration for One Redmond. This is an economic development umbrella for both private and public parties. Approximately 170 people attended and they have raised over 4 million dollars to date, with a goal of 5 million.

- Working on refinements to the Connector service in Sammamish. Bus service moved to the Mars Hill Church from the Safeway plaza.
- King County Metro bus # 269 service extended for one additional year
- Microsoft is a primary sponsor for the Sammamish July 4<sup>th</sup> Celebration

Deputy Mayor Valderrama asked Council for any community comments received for the ECA process.

Councilmember Whitten received a call for information about the last ECA public meeting and referred them to City Staff.

Deputy Mayor Valderrama received statements from citizens thinking the Pilot program, had been approved. That is not the case and Council will be reviewing each amendments as they move forward. Another citizen inquired about bond issues and indemnification and these issues will be looked at a further time.

### **Consent Agenda**

- Payroll for the period ending May 31, 2013 for pay date June 5, 2013 in the amount of \$285,765.74
- Approval: Claims for period ending June 17, 2013 in the amount of \$3,728,154.02 for Check No. 34963 through No. 35062
- Ordinance: Second Reading Amending Title 16, Buildings And Construction, Of The Sammamish Municipal Code By Amending Chapter 16.05, Construction Codes; 16.20, Construction Administrative Code; And 16.25, Sammamish Building And Property Maintenance Code **(O2013-345)**
- Ordinance: Vacating A Portion Of Unopened Right Of Way Titled Ja Huvinen Road Extension Near SE 28<sup>th</sup> Street **(O2013-346)**
- Resolution: Accepting The NE 8<sup>th</sup> ST/233<sup>RD</sup> Ave NE Intersection Improvement Project As Complete **(R2013-537)**
- Contract: Comprehensive Plan Update/Studio 3MW
- Contract: Temporary Planner/Prothman
- Interlocal: 2013 Pavement Overlay Project/SPWSD
- Approval: Notes for May 14, 2013 Joint Meeting/Study Session

**MOTION:** Councilmember Vance moved to approve the consent calendar. Councilmember Gerend seconded. Motion carried unanimously 5-0.

### **Public Hearings**

#### **Resolution: Adopting An Updated Six-Year Transportation Improvement Plan For 2014-2019**

Public Work Director Laura Philpot gave a staff report and presentation on the 6 year Transportation Improvement Plan. *(Presentation is available on the City website at [www.sammamish.us](http://www.sammamish.us))*

Public Hearing was opened at: 7:06 pm and closed at 7:08 pm

#### **Public Comment**

Jim Stanton, 22533 SE 47<sup>th</sup> Place, Highland Park neighborhood, thanked Council for improving the

signalization this summer. He spoke regarding Project # 4 on Exhibit A – Issaquah Pine Lake Road Improvements - SE 48<sup>th</sup> to Klahanie Blvd. He would like to see additional public improvements to this neighborhood. Currently there are no shoulders, sidewalks, curb/gutters or stormwater improvements.

**MOTION:** Councilmember Gerend moved to adopt an updated Six-Year Transportation Improvement Plan for the 2014-2019. Councilmember Vance seconded. Motion carried unanimously 5-0. **(R2013-538)**

**Ordinance: First Reading Extending A Moratorium On The Establishment Of Collective Gardens; Defining "Collective Gardens;" And Establishing An Effective Date.**

**Ordinance: First Reading Imposing A Moratorium On The Establishment Of Certain Marijuana-Related Facilities; Defining Said Certain Marijuana-Related Facilities; Entering Legislative Findings; Providing For Severability; And Establishing An Effective Date.**

Community Development Director Kamuron Gurol gave a staff report on both ordinances, extending Collective Garden Moratorium and regarding an Interim Recreational Marijuana, *(presentation is available on the City website at [www.sammamish.us](http://www.sammamish.us))*

### **Public Hearing**

Public Hearing opened at 7:25 pm and remain open until the Regular Council meeting on July 2, 2013

### **Public Comment**

Frank Blau, 24742 SE 28<sup>th</sup> Place, Sammamish, spoke regarding the use of medical marijuana use in Sammamish to get a sense of the intention of the Council.

### **New Business**

**Ordinance: Amending Chapter 21a.50 (Environmentally Critical Areas), Of The Sammamish Municipal Code To Extend The Sunset Date; Declaring An Emergency; And Scheduling A Public Hearing**

Director of Community Development Kamuron Gurol gave an update on the Environmental Critical Areas extension emergency and report on the ECA sunset clause extension. *(presentation is available on the City website at [www.sammamish.us](http://www.sammamish.us))*

**MOTION:** Councilmember Vance moved to approve extending the ECA Sunset Clause until July 31, 2013. Councilmember Curley seconded. Motion carried unanimously 5-0. **(O2013-347)**

### **Council Reports**

Councilmember Nancy Whitten – tomorrow there will be an Economic Development Committee meeting at 5:30 – 6:45 pm at City Hall.

Councilmember Tom Vance – attended the Sound Cities, Public Issues Committee meeting last week. They voted on an emergency resolution to support the transportation package in the house.

Councilmember Don Gerend – will be at Bellevue City Hall on June 19, 2013 at 5:30 pm for a Transportation Open House and Workshop. He plans to discuss the transit service in Sammamish.

Deputy Mayor Valderrama – attended a Citizen’s for Sammamish meeting with Sammamish and Klahanie residents discussing the Sammamish Plateau Water & Sewer district issues. Also discussed were issues with Eastside Fire & Rescue, vision statement/goals, in prelude to a funding discussion.

Attended a Public Safety meeting – there has been a significant drop in crime in Sammamish. Rachel Carson Elementary school will be increasing busing to neighborhoods. The School District, the City and committee will be working together to ensure the best solution. Mr. Valderrama attended his son’s graduate ceremony at the US Military Academy.

**City Manager Report** – No Report

**Executive Session** - Potential Litigation pursuant to RCW 42.30.110(1) (i)

Council retired to Executive Session at 7:39 and returned at 8:09 pm. No action taken.

Meeting adjourned at 8:10 pm

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Lita Hachey, Administrative Assistant  
to the City Clerk

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Thomas T. Odell, Mayor



# City Council Agenda Bill

**Meeting Date:** July 2, 2013

**Date Submitted:** June 12, 2013

**Originating Department:** City Manager

**Clearances:**

<input checked="" type="checkbox"/> City Manager	<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Attorney	<input type="checkbox"/> Finance & IT	<input type="checkbox"/> Police
<input type="checkbox"/> Admin Services	<input type="checkbox"/> Fire	<input type="checkbox"/> Public Works

**Subject:** Medical Marijuana Moratorium Extension

**Action Required:** Second Reading and public hearing

**Exhibits:** 1. Proposed Ordinance with Exhibit A (work program)

**Budget:** No Impact

**Summary Statement:** State Law regarding Medical Cannabis is in conflict with Federal Law. The truncated and partially vetoed version of ESSSB 5073 that became effective July 22, 2011, passes many of the governor's concerns to cities, and the recent passage of Initiative 502 does not provide further clarity. Meanwhile, a great deal of confusion remains related to medical cannabis.

**Background:**

Legislative Action: Engrossed Second Substitute Senate Bill 5073 (ESSSB 5073) passed the state legislature on April 22, 2011, and was partially approved by the Governor on April 29, 2011. Some of the changes that were approved for incorporation into RCW 69.51A, the chapter dealing with Medical Marijuana include:

1. Up to ten qualifying patients may join together and have a collective garden with a maximum of 45 plants.
2. A minimum of 15 days must elapse before a qualified provider can switch from being the provider for one patient to another qualified patient. (This change addresses the argument used by many dispensaries to justify providing cannabis to multiple patients, one after another.)
3. Medical marijuana gardens cannot be open to the view of the general public (individual gardens cannot be visible from the public right of way).

The governor vetoed provisions in the legislation regarding the licensing of producers, processors and dispensers and establishing a state registry for patients, providers and collective gardens. The rationale was a letter from the US Department of Justice that the legislation was in conflict with Federal Drug Laws and that employees of the state could be at risk of federal prosecution if they processed licenses for production and sale of medical cannabis under the law. Medical Cannabis remains a class I drug under Federal Law.



## City Council Agenda Bill

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Zoning and Business Regulations: ESSSB 5073 also provided that cities may adopt and enforce zoning regulations, business license requirements and business taxes for collective gardens. This could put cities in conflict with federal law and in the position the governor sought to avoid for state employees.

The City Council adopted Ordinance 2011-309 on July 18, 2011, establishing a six month moratorium on the establishment of collective gardens within the City of Sammamish. The moratorium was renewed by Ordinance 2012-320, effective January 18, 2012, Ordinance 2012-328, effective July 18, 2012, and Ordinance 2012-340, effective January 18, 2013. At this point in time, additional regulatory clarity at the state and federal level is still not available, and the current proposed ordinance would renew the moratorium for an additional six months. The city would continue to review how other jurisdictions are dealing with this issue and determine what, if any, specific zoning and/or business regulations should apply to medical marijuana dispensaries and/or collective gardens. A work program is attached as Exhibit A.

Provisions for a Moratorium: State law authorizes cities to impose moratoria to maintain the status quo while considering impending zoning, land use or similar regulations (RCW 36.70A.390). A moratorium is typically valid for six months though it may be renewed with six month extensions if a public hearing is held and findings of fact are made prior to each renewal.

**Financial Impact:** None

**Recommended Motion:** Staff recommends that the Council re-open the public hearing, take testimony and move adoption of the Ordinance.

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO. O2013-**

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**AN INTERIM ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON, EXTENDING A MORATORIUM ON THE  
ESTABLISHMENT OF COLLECTIVE GARDENS; DEFINING  
“COLLECTIVE GARDENS;” AND ESTABLISHING AN  
EFFECTIVE DATE.**

WHEREAS, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for “qualifying patients” to the charge of possession of cannabis; and

WHEREAS, the initiative and current Chapter 69.51A RCW are clear that nothing in its provisions are to be “construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes;” and

WHEREAS, the Washington State Department of Health opines that it is “not legal to buy or sell” medical cannabis and further opines that “the law [Chapter 69.51A RCW] does not allow dispensaries;” leaving enforcement to local officials; and

WHEREAS, the City acknowledges the right of qualified health care professionals to recommend the medical use of cannabis, acknowledges the affirmative defense available to qualifying patients from the possession of cannabis as well as the right of patients to designate a “designated provider” who can “provide” rather than sell cannabis to “only one patient at any one time;” and

WHEREAS, the Legislature has passed E2SSB 5073 (the Act) and the Governor has signed the bill but has vetoed several sections of the bill; and

WHEREAS, E2SSB 5073 was effective on July 22, 2011, and

WHEREAS, the Act authorizes “collective gardens” which would authorize certain qualifying patients the ability to produce, grow and deliver cannabis for medical use; and

WHEREAS, the City Council deemed it to be in the public interest to establish a zoning moratorium pending local review of the anticipated changes in the law, which was implemented by Ordinance 2011-309 on July 18, 2011; and extended by Ordinance 2012-320, effective January 18, 2012, and Ordinance 2012-328, effective July 18, 2012, and Ordinance 2012-340, effective January 18, 2013; and

## Exhibit 1

WHEREAS, the recent passage of Initiative 502 has not yet provided any additional clarity related to medical cannabis collective gardens; and

WHEREAS, no clarity regarding state and federal regulations related to the licensing, establishment, maintenance, or continuation of any medical cannabis collective garden is currently available; and

WHEREAS, a public hearing was held on June 17, 2013 in the City Council Chambers at City Hall; and

WHEREAS, on May 16, 2013, the Washington State Liquor Control Board (“WLCB”) issued informal draft regulations concerning implementation of I-502, which draft includes provisions for issuance of licenses for retailers of marijuana without respect to whether a purchaser is a “qualifying patient” as defined in the Act; and

WHEREAS, the WLCB has indicated it plans to issue draft regulations in approximately mid-June, 2013, with final adoption in approximately August, 2013 and issuance of marijuana producer, processor and retail licenses to qualified applicants beginning in December, 2013; and

WHEREAS, issuance and implementation of the WLCB’s final regulations may affect the City Council’s ability to comprehensively evaluate the need and/or appropriateness of medical marijuana collective gardens within the City of Sammamish;

WHEREAS, the City intends to implement the work program set forth in Exhibit A;

WHEREAS, the Council deems it in the public interest to renew the current moratorium continued by Ordinance 2012-340 for an additional six months in order to investigate this issue further and obtain regulatory clarity and guidance on how to proceed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1.** Pursuant to the provisions of RCW 35A.63.220 and 36.70A.390, a zoning moratorium is hereby enacted in the City of Sammamish prohibiting the acceptance, processing, or approval of any license, permit, or other ministerial or discretionary approval authorizing the licensing, establishment, maintenance, or continuation of any medical cannabis collective garden. A “collective garden” is an area or garden where qualifying patients engage in the production, processing, transporting, and delivery of cannabis for medical use as set forth in the Act and subject to the limitations therein.

**Section 2.** Collective gardens as defined in Section 1 are hereby designated as prohibited uses in the City of Sammamish. In accordance with the provisions of RCW 35A.82.020 and SMC 5.05, no business license shall be issued to any person for a collective garden, which are hereby defined to be prohibited uses under the ordinances of the City of Sammamish.

**Section 3.** Upon receipt of sufficient information and/or guidance on this issue, the Sammamish City Council shall identify an appropriate time to refer the issue to the Sammamish Planning Commission for review and recommendations.

**Section 4.** Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

**Section 5.** Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 6.** This Ordinance shall be effective for a period of six months from the date of enactment unless: sooner terminated by action of the Council; or, renewed for one or more additional six-month periods as provided by state law.

**Section 7.** The above "Whereas" clauses of this ordinance constitute specific findings of fact by the City Council in support of passage of this ordinance.

**Section 8.** This moratorium shall be effective five days after passage and publication, but no sooner or later than the termination of the moratorium imposed by Ordinance 2012-340 (July 18, 2013).

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF  
ON JULY 2nd, 2013.**

CITY OF SAMMAMISH

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Mayor Thomas T. Odell

ATTEST/AUTHENTICATED:

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Melonie Anderson, City Clerk

Exhibit 1

Approved as to form:

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Bruce L. Disend, City Attorney

Filed with the City Clerk: June 12, 2013  
Public Hearing: June 17, 2013  
First Reading: June 17, 2013  
Public Hearing: July 2, 2013  
Passed by the City Council:  
Date of Publication:  
Effective Date:

## Exhibit 1

### EXHIBIT A

Monitor WLCB rulemaking process, actions of peer cities and Association of Washington Cities guidance

Review the final WLCB rules, local regulation examples and timeframe

Seek policy guidance from the City Council

Develop options based on policy guidance from City Council

Complete Planning Commission review, public hearing and recommendation to the Council

State Environmental Policy Act (SEPA) review and threshold determination

Complete State of Washington Department of Commerce 60 day Notice of Intent to Adopt

City Council review, public hearing, and adoption of regulations





# City Council Agenda Bill

**Meeting Date:** July 2, 2013

**Date Submitted:** June 12, 2013

**Originating Department:** City Manager

**Clearances:**

<input checked="" type="checkbox"/> City Manager	<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Attorney	<input type="checkbox"/> Finance & IT	<input type="checkbox"/> Police
<input type="checkbox"/> Admin Services	<input type="checkbox"/> Fire	<input type="checkbox"/> Public Works

**Subject:** Recreational Marijuana Moratorium

**Action Required:** Second reading and public hearing

**Exhibits:** 1. Proposed Ordinance

**Budget:** No Impact

**Summary Statement:**

The passage of Initiative 502 legalized the recreational use of marijuana in Washington State for adults 21 years of age and older, and calls for the State to license marijuana producers, processors and retailers. The Washington State Liquor Control Board (LCB) is in the process of adopting a comprehensive set of regulations for licensing of these facilities. On May 16th they issued their initial draft rules for producers, processors and retailers. Because I-502 is silent regarding medical marijuana it creates a separate licensing process for providing marijuana for recreational use and does not affect local regulations for medical marijuana. The State anticipates issuance of producer, processor and retailer licenses beginning December 1, 2013. The Federal government's Controlled Substances Act still prohibits the possession and distribution of marijuana for any purpose.

**Background:**

There is uncertainty related to the State of Washington requirements related to recreational marijuana since the State is still in the process of developing these rules. There is uncertainty as well related to the federal government response and other legal issues. Therefore, it is recommended that the City adopt a moratorium on producers, processors and retailers of recreational marijuana until additional information is available. At that time, zoning and other requirements would be considered by the Planning Commission and Council.

The City Council is also considering the extension of the current moratorium on medical marijuana collective gardens. This is a separate moratorium that would apply to producers, processors and retailers of recreational marijuana.

State law authorizes cities to impose moratoria to maintain the status quo while considering impending zoning, land use or similar regulations (RCW 36.70A.390). A moratorium is typically valid for six months



## City Council Agenda Bill

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though it may be renewed with six month extensions if a public hearing is held and findings of fact are made prior to each renewal.

**Recommended Motion:**

Staff recommends that the Council re- open the public hearing, take testimony and move for adoption of the Ordinance.

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO.**

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**AN INTERIM ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF CERTAIN MARIJUANA-RELATED FACILITIES; DEFINING SAID CERTAIN MARIJUANA-RELATED FACILITIES; ENTERING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, recent amendments to Chapter 69.51A RCW have expanded the scope of certain activities involving the use of marijuana for medical purposes, including the ability of “qualifying patients” to create and participate in “collective gardens” for the purpose of producing, processing, transporting, and delivering marijuana for medical use, subject to certain conditions; and

**WHEREAS**, Ordinance Nos. 2011-309, 2012-320, and Ordinance 2012-328 enacted and extended a moratorium on the establishment, licensing, and permitting of collective gardens within the city; and

**WHEREAS**, in 2012, the voters of the state of Washington passed Initiative 502, which authorizes the issuance of marijuana producer, processor and retailer licenses, subject to the proviso that retail sale and certain acts of producing and processing marijuana in accordance with I-502 and implementing regulations shall not be a criminal or civil offense under Washington state law, and subject to the further proviso that no such license shall be issued shall not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older; and

**WHEREAS**, under Initiative 502 the Washington State Liquor Control Board (“WLCB”) is tasked with adopting no later than December 1, 2013 rules establishing the procedures and criteria for the licensing and operation of marijuana producers, processors and retailers; and

**WHEREAS**, on May 16, 2013, the Washington State Liquor Control Board (“WLCB”) issued informal draft rules; and

**WHEREAS**, the WLCB has indicated it plans to issue draft rules in approximately mid-June, 2013, with final adoption in approximately August, 2013 and issuance of marijuana producer, processor and retail licenses to qualified applicants beginning in December, 2013; and

**WHEREAS**, marijuana production, processing and retailing uses and facilities authorized by Initiative 502 must be addressed in the City's zoning code, but the impacts of these uses are still largely unknown, and the regulations that the City will need to address are uncertain pending the WLCB's formal adoption of licensing regulations and procedures; and

**WHEREAS**, a public hearing was held on June 17, 2013 in the City Council Chambers at City Hall; and

**WHEREAS**, the Council deems it in the public interest to impose a moratorium for a period of six months in order to investigate this issue further and obtain regulatory clarity and guidance from the WLCB's rules;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, ORDAINS AS FOLLOWS:**

**Section 1.** Definitions. As used in this ordinance, the following terms have the definitions set forth below:

"Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

"Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

"Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

"Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

**Section 2. Moratorium Imposed.** Pursuant to the provisions of RCW 35A.63.220 and RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Sammamish prohibiting the acceptance, processing, or approval of any license, permit, or other ministerial or discretionary approval authorizing the licensing, establishment, maintenance, or continuation of any use of property by a marijuana producer, marijuana processor, or marijuana retailer, or for use by any person for the production, processing, and/or retailing of marijuana.

**Section 3. Marijuana Production, Processing and Retailing Prohibited.** Pursuant to the moratorium imposed in Section 2, marijuana production, processing and retailing as defined in Section 1 are hereby designated as prohibited uses in the City of Sammamish while this ordinance is in effect. In accordance with the provisions of RCW 35A.82.020 and SMC 5.05, no business license shall be issued to any person for marijuana production, processing or retailing, and any permits issued for any of these uses in error or based on a vague and/or misleading application description during this moratorium are null and void, and without legal force or effect.

**Section 4.** Upon receipt of sufficient information and/or guidance on this issue, the Sammamish City Council shall identify an appropriate time to refer the issue to the Sammamish Planning Commission for review and recommendations.

**Section 5. Ordinance to be Transmitted to Department.** Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

**Section 6. Recitals Adopted as Findings of Fact.** The Sammamish City Council adopts as its preliminary findings of fact the recitals set forth above. The Council may adopt additional findings in the event that additional public hearings are held or evidence is presented to the City Council.

**Section 7. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 8. Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

**Section 9. Effective Date.** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**Section 10.** Duration. This ordinance shall be in effect for a period of six months from the effective date set forth above, and shall automatically expire at the conclusion of that six-month period unless extended as provided in RCW 35A.63.220 and RCW 36.70A .390, or unless earlier terminated by action of the City Council.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON  
THE \_\_\_\_ DAY OF \_\_\_\_\_ 2013.**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Thomas T. Odell

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Melonie Anderson, City Clerk

Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney

Filed with the City Clerk: June 12, 2013  
Public Hearing: June 17, 2013  
First Reading: June 17, 2013  
Public Hearing: July 2, 2013  
Passed by the City Council:  
Date of Publication:  
Effective Date:



# City Council Agenda Bill

**Meeting Date:** July 2, 2013

**Date Submitted:** June 26, 2013

**Originating Department:** Community Development

**Clearances:**

<input checked="" type="checkbox"/> City Manager	<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Attorney	<input type="checkbox"/> Finance & IT	<input type="checkbox"/> Police
<input type="checkbox"/> Admin Services	<input type="checkbox"/> Fire	<input type="checkbox"/> Public Works

**Subject:** Amendment to the Environmentally Critical Area (ECA) Regulations

**Action Required:** Fifth Reading, Deliberation

**Exhibits:**

1. Draft Adopting Ordinance
  - a. Attachment A – Council Review Draft Code
2. Updated Decision Table - Proposed Amendments to the “Council Review Draft” ECA code

**Budget:** N/A

**Background:** On June 4, 2013, following five study sessions and three public hearings, the City Council began its deliberations on the Planning Commission’s recommended amendments to the Environmentally Critical Areas (ECA) regulations. The Council continued their deliberations on June 11, 2013.

In order to ensure that the ECA regulations are updated by July 31, 2013, it is important that the Council complete their deliberations regarding the items identified on the Decision Table on July 2<sup>nd</sup>. The staff will prepare a final review draft for the Council’s adoption on July 15<sup>th</sup>, based upon the policy decisions made on June 4<sup>th</sup>, 11<sup>th</sup>, and July 2<sup>nd</sup>.

Updated Decision Table

The “Updated” Decision Table reflects the same list of policy decision items originally identified by the Council, public, and agencies, updated to reflect the actions taken by the City Council to date.

**Financial Impact:** N/A

**Recommended Motions:** Continue and complete deliberations on the policy decisions summarized in Exhibit 2 – Updated Decision Table. Direct the staff to prepare regulatory language consistent with the Council’s policy decisions for final review and adoption on July 15, 2013.



**DRAFT  
CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO. O2013 -**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, PERTAINING TO THE PROTECTION AND REGULATION OF ENVIRONMENTALLY CRITICAL AREAS, AMENDING CHAPTERS 21A.50, 21A.15 AND 21A.70 OF THE SAMMAMISH MUNICIPAL CODE.**

WHEREAS, the adopted City of Sammamish Comprehensive Plan supports the protection of environmentally critical areas through the adoption of development regulations; and

WHEREAS, the State Growth Management Act (GMA) includes adopted goals and requirements to guide the development and adoption of comprehensive plans and development regulations including requirements to designate and protect environmentally critical areas; and

WHEREAS; the City has considered those adopted goals, policies and requirements in development of the proposed Sammamish Municipal Code Amendments related to critical areas, and, has considered other state requirements, law, rules, guidelines, and agency comments; and

WHEREAS, the City researched and assessed the experience of other jurisdictions in regard to standards and requirements for regulating critical areas, undertook an extensive Best Available Science (BAS) review and public process in accordance with the requirements of the GMA, developed Sammamish Municipal Code amendment drafts, prepared environmental documents in accordance with the requirements of the State Environmental Policy Act (SEPA), and held meetings and hearings throughout the code development process; and

WHEREAS, the City has been provided feedback on draft work products and guidance from members of the public, city staff, the Washington State Department of Fish and Wildlife, the Washington State Department of Ecology, other stakeholders and experts, the Sammamish Planning Commission, and elected and appointed officials during the development of the recommended code amendments; and

WHEREAS, in developing this ordinance, the City has followed the GMA's requirements, including to provide "early and continuous public involvement" through a variety of mechanisms described in the public record; and

WHEREAS, the City has followed the State guidelines for the BAS process required by RCW 36.70A.172 and WAC 365-195-900 through 925, employing a variety of mechanisms described in the public record; and

## Exhibit #1

WHEREAS, a notice of intent to adopt the proposed code amendments was sent to the State of Washington Department of Commerce and to other State agencies on March 14, 2013 for a 60 day review and comment period in accordance with State law; and

WHEREAS, an environmental review has been conducted in accordance with the requirements of State Environmental Policy Act (SEPA), and a SEPA threshold determination was issued, and published on May 20, 2013, in the Seattle Times; and

WHEREAS, the Planning Commission held a total of 22 public meetings to consider the proposed amendments, which included three open house public meetings, two joint meetings with the City Council on December 1, 2011 and May 8, 2012, and a public hearing beginning on November 8, 2012 and continuing through November 15, 2012, and deliberations on December 6, December 13, 2012, January 17, and January 24, 2013; and

WHEREAS, the Planning Commission has provided a recommendation to the City Council related to the proposed amendments; and

WHEREAS, the City Council held five study sessions on the proposed amendments on March 5, March 12, March 18, April 2, and April 15, 2013, public hearings on May 7, 2013, May 20, 2013, and June 4, 2013, and deliberated on June 4, 2013, June 11, 2013, July 2, 2013, and July 15, 2013; and

WHEREAS, the City Council has considered the recommendation of the City Planning Commission and the public comments received; and

WHEREAS, the City Council has reviewed and considered a variety of information sources including Best Available Science materials, informational documents in the public record, and public testimony submitted verbally and in writing to the Planning Commission and to the City Council; and

WHEREAS, the City Council desires the proposed amendments to be effective throughout the City including within shoreline jurisdiction, a subsequent Shoreline Master Program amendment should be prepared for submittal to the State Department of Ecology for approval;

WHEREAS, based upon the foregoing process, the City Council has made the following Findings of Facts and Conclusions:

1. The Growth Management Act requires critical areas to be designated and protected and for cities to include and be informed by BAS when developing critical areas regulations. RCW 36.70A.
2. Critical areas include wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas.

3. The City of Sammamish has within its borders a variety of environmentally sensitive areas that require protection of important functions and values.
4. The proposed regulations for critical areas are sufficient and appropriate to protect the functions and values of those areas consistent with the Sammamish Comprehensive Plan and Growth Management Act.
5. The amendments hereafter set forth address requirements related to development in and near environmentally critical areas including environmentally critical areas buffers, performance standards, mitigation requirements, exemptions and exceptions.
6. The amendments serve to further implement the Comprehensive Plan, and provide protection for critical areas that is consistent with BAS and with providing options and development flexibility, and are in the public interest.
7. The critical areas regulations continue to allow for reasonable use of property to ensure that such regulations do not infringe on constitutional private property rights.
8. The public record demonstrates that the amendments were developed through a review of the BAS literature available to the City for review and consideration.
9. The City has followed the GMA's requirements for public involvement and for including and considering BAS in modification of the regulations for critical areas.
10. The public testimony provided to the City included both support for the proposed amendments and suggestions for modifications.
11. Based on the review of the testimony and public record, the amendments attached to this ordinance reflect the City's requirement to protect critical areas and to consider the planning goals of the GMA, while recognizing public and private interests.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. Adoption of amendments to Sammamish Municipal Code 21A.50 - Environmentally Critical Area Regulations, 21A.15 - Technical Terms and Land Use Definitions, and 21A.70 - Nonconformance, Temporary Uses, and Re-Use of Facilities.** The amendments to the Sammamish Municipal Code as set forth in Attachment "A" to this ordinance are hereby adopted.

**Section 2. Codification of the regulations.** The City Council authorizes the Community Development Director and City Clerk to correct errors in Attachment A, codify the regulatory provisions of the amendment to into Title 21A of the Sammamish Municipal Code, and publish the amended code.

**Section 3. Interpretation.** The City Council authorizes the Community Development Director to adopt administrative rules, adopt interpretations and administer the amended code as necessary to implement the legislative intent of the City Council.

**Section 4. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 5. Effective Date.** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force \_\_\_\_\_ after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF  
ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2013**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Melonie Anderson, City Clerk

Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney

Filed with the City Clerk: May 1, 2013  
Public Hearing: May 7, 2013  
First Reading: May 7, 2013  
Public Hearing: May 20, 2013  
Second Reading: May 20, 2013  
Public Hearing: June 4, 2013  
Third Reading: June 4, 2013

Exhibit #1

Public Hearing: June 11, 2013  
Fourth Reading: June 11, 2013  
Fifth Reading: July 2, 2013  
Passed by the City Council:  
Ordinance No.  
Date of Publication:



1 **City Council Review Draft – May 7, 2013**

2 **COUNCIL REVIEW DRAFT**

3 **Chapter 21A.50**  
4 **ENVIRONMENTALLY CRITICAL AREAS**

5  
6 "Plain Text" is existing code language

7 "~~Strikethrough Text~~" is existing language that the Planning Commission has recommended be deleted

8 "Underline Text" is code language that that the Planning Commission has recommended be added

9 "~~Strikethrough Highlighted Text~~" is language the Planning Commission has recommended that will be deleted

10 "Underline Highlighted Text" is language added to the Planning Commission's recommendation

11

Council Review Draft

# Exhibit 1

1 Sections:

- 2 [21A.50.010](#) Purpose.
- 3 [21A.50.020](#) Applicability.
- 4 [21A.50.030](#) Appeals.
- 5 [21A.50.040](#) Critical areas rules.
- 6 [21A.50.045](#) Fees.
- 7 [21A.50.050](#) Complete exemptions.
- 8 [21A.50.060](#) ~~Partial exemptions – Critical areas.~~ Allowances for Existing Urban Development and Other
- 9 Uses
- 10 [21A.50.070](#) Exceptions.
- 11 [21A.50.080](#) *Repealed.*
- 12 [21A.50.090](#) Critical area maps and inventories.
- 13 [21A.50.100](#) Disclosure by applicant.
- 14 [21A.50.110](#) Critical area review.
- 15 [21A.50.120](#) Critical areas study requirement.
- 16 [21A.50.130](#) Contents of critical areas study.
- 17 [21A.50.135](#) Avoiding impacts to critical areas.
- 18 [21A.50.140](#) Mitigation, maintenance, monitoring and contingency.
- 19 [21A.50.145](#) Mitigation plan requirements.
- 20 [21A.50.150](#) Financial guarantees.
- 21 [21A.50.160](#) Vegetation management plan.
- 22 [21A.50.170](#) Critical area markers, signs and fencing.
- 23 [21A.50.180](#) Notice on title.
- 24 [21A.50.190](#) Critical area tracts and designations on site plans.
- 25 [21A.50.200](#) *Recodified.*
- 26 [21A.50.210](#) Building setbacks.
- 27 [21A.50.220](#) Erosion hazard areas – Development standards and permitted alterations.
- 28 [21A.50.225](#) Erosion hazards near sensitive water bodies – Special district overlay.
- 29 [21A.50.230](#) Frequently flooded areas.
- 30 [21A.50.240](#) *Repealed.*
- 31 [21A.50.250](#) *Repealed.*
- 32 [21A.50.260](#) Landslide hazard areas – Development standards and permitted alterations.
- 33 [21A.50.270](#) Seismic hazard areas – Development standards and permitted alterations.
- 34 [21A.50.280](#) Critical aquifer recharge areas – Development standards.
- 35 [21A.50.290](#) Wetlands – Development standards.
- 36 [21A.50.300](#) Wetlands – Permitted alterations.
- 37 [21A.50.310](#) Wetlands – Mitigation requirements.
- 38 [21A.50.315](#) Wetlands – Mitigation banking.
- 39 [21A.50.320](#) Wetlands – Limited exemption.
- 40 [21A.50.322](#) Wetland management area – Special district overlay.
- 41 [21A.50.325](#) Fish and wildlife habitat conservation areas – Development standards.
- 42 [21A.50.327](#) Wildlife habitat corridors.
- 43 [21A.50.330](#) Streams – Development standards.

# Exhibit 1

- 1 [21A.50.340](#) Streams – Permitted alterations.
- 2 [21A.50.350](#) Streams – Mitigation requirements.
- 3 [21A.50.351](#) Ponds – Development standards.
- 4 [21A.50.352](#) *Repealed.*
- 5 [21A.50.355](#) Lake management areas – Special district overlay.
- 6 [21A.50.360](#) Critical areas mitigation fee – Creation of fund.
- 7 [21A.50.370](#) Critical areas mitigation fee – Source of funds.
- 8 [21A.50.380](#) Critical areas mitigation fee – Use of funds.
- 9 [21A.50.390](#) Critical areas mitigation fee – Investment of funds.
- 10 [21A.50.400](#) Sunset provisions.
- 11 **21A.50.010 Purpose.**
- 12 The purpose of this chapter is to implement the goals and policies of the Washington State Growth
- 13 Management Act, Chapter 36.70A and 36.70B RCW, the State Environmental Policy Act, Chapter 43.21C
- 14 RCW, and the City of Sammamish comprehensive plan [as amended](#), that call for protection of the functions
- 15 and values of the natural environment and the public health and safety by:
- 16 (1) Establishing development standards to protect defined critical areas;
- 17 (2) Protecting members of the public and public resources and facilities from injury, loss of life, property
- 18 damage or financial loss due to flooding, erosion, landslides, seismic events, soil subsidence or steep slope
- 19 failures;
- 20 (3) Protecting unique, fragile, and valuable elements of the environment including, but not limited to, wildlife
- 21 and its habitat;
- 22 (4) Requiring mitigation of unavoidable impacts on environmentally critical areas by regulating alterations in
- 23 or near critical areas;
- 24 (5) Preventing cumulative adverse environmental impacts on water availability, water quality, groundwater,
- 25 wetlands, and streams;
- 26 (6) Measuring the quantity and quality of wetland and stream resources and preventing overall net loss of
- 27 wetland and stream functions and values;
- 28 (7) Protecting the public trust as to navigable waters and aquatic resources;
- 29 (8) Meeting the requirements of the National Flood Insurance Program and maintaining the City as an eligible
- 30 community for federal flood insurance benefits;
- 31 (9) Alerting members of the public including, but not limited to, appraisers, owners, potential buyers or
- 32 lessees to the development limitations of critical areas;
- 33 (10) Establishing special district overlays with alternative development standards for increasing minimum
- 34 requirements to address unique site characteristics in areas of increased sensitivity;

# Exhibit 1

- 1 (11) Providing City officials with sufficient information to protect critical areas; and
- 2 (12) Providing the public with a clear review and approval process for the development of sites constrained  
3 by critical areas. (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)
- 4 **21A.50.020 Applicability.**
- 5 (1) The provisions of this chapter shall apply to all land uses in the City of Sammamish, and all persons within  
6 the City shall comply with the requirements of this chapter.
- 7 (2) The City shall not approve any permit-development proposal or otherwise issue any authorization to alter  
8 the condition of any land, water or vegetation or to construct or alter any structure or improvement without  
9 first assuring compliance with the requirements of this chapter.
- 10 (3) Approval of a development proposal pursuant to the provisions of this chapter does not discharge the  
11 obligation of the applicant to comply with the provisions of this chapter.
- 12 (4) When any provision of any other chapter of the Sammamish Municipal Code conflicts with this chapter or  
13 when the provisions of this chapter are in conflict, that provision that provides more protection to  
14 environmentally critical areas shall apply unless specifically provided otherwise in this chapter or unless such  
15 provision conflicts with federal or state laws or regulations.
- 16 (5) The provisions of this chapter shall apply to all forest practices over which the City has jurisdiction  
17 pursuant to Chapter 76.09 RCW and WAC Title 222. (Ord. O2005-193 § 1; Ord. O99-29 § 1)
- 18 **21A.50.030 Appeals.**
- 19 Any decision to approve, condition or deny a development proposal based on the requirements of this  
20 chapter may be appealed according to and as part of the appeal procedure for the permit or approval  
21 involved. (Ord. O2005-193 § 1; Ord. O99-29 § 1)
- 22 **21A.50.040 Critical areas rules.**
- 23 Applicable departments within the City are authorized to adopt, pursuant to Chapter 2.55 SMC, such  
24 administrative rules and regulations as are necessary and appropriate to implement this chapter and to  
25 prepare and require the use of such forms as are necessary to its administration. (Ord. O2005-193 § 1; Ord.  
26 O99-29 § 1)
- 27 **21A.50.045 Fees.**
- 28 (1) Consistent with the City's adopted fee schedule, the City shall establish fees for the application filing,  
29 review and other services provided by the City for critical areas review. Basis for these fees shall include, but  
30 not be limited to, the cost of engineering and planning review time, cost of inspection time, costs for  
31 administration, costs for third-party peer review, and any other special costs attributable to the critical areas  
32 review process.
- 33 (2) Unless otherwise indicated in this title, the applicant shall be responsible for the initiation, preparation,  
34 submission, and expense of all required reports, assessments, studies, plans, reconnaissances, or other work  
35 prepared in support of or necessary to review the application. (Ord. O2005-193 § 1)

# Exhibit 1

1 **21A.50.050 Complete exemptions.**

2 The following are exempt from the provisions of this chapter and any administrative rules promulgated  
3 thereunder:

4 (1) Alterations in response to emergencies that threaten the public health, safety, and welfare or that pose  
5 an imminent risk of damage to private property as long as any alteration undertaken pursuant to this  
6 subsection is reported to the department immediately. The director shall confirm that an emergency exists  
7 and determine what, if any, mitigation shall be required to protect the health, safety, welfare and  
8 environment and to repair any resource damage;

9 (2) Public water, electric, and natural gas distribution, public sewer collection, cable communications,  
10 telephone utility, and related activities undertaken pursuant to City-approved best management practices, as  
11 follows:

12 (a) Normal and routine maintenance or repair of existing utility structures or rights-of-way;

13 (b) Relocation of electric facilities, lines, equipment or appurtenances, not including substations,  
14 with an associated voltage of 55,000 volts or less, only when required by a local governmental  
15 agency that approves the new location of the facilities;

16 (c) Replacement, operation, repair, modification, installation, or construction in existing developed  
17 utility corridors, an improved City street right-of-way or City-authorized private street of all electric  
18 facilities, lines, equipment, or appurtenances, not including substations;

19 (d) Relocation of public sewer local collection, public water local distribution, natural gas, cable  
20 communication or telephone facilities, lines, pipes, mains, equipment, or appurtenances, only when  
21 required by a local governmental agency that approves the new location of the facilities; and

22 (e) Replacement, operation, repair, modification, installation, or construction of public sewer local  
23 collection, public water local distribution, natural gas, cable communication or telephone facilities,  
24 lines, pipes, mains, equipment, or appurtenances when such facilities are located within an  
25 improved public right-of-way or authorized private street;

26 (3) Maintenance, operation, repair, modification, or replacement of publicly improved streets as long as any  
27 such alteration does not involve the expansion of streets or related improvements into previously  
28 unimproved rights-of-way or portions of rights-of-way;

29 (4) Maintenance, operation, or repair of parks, trails and publicly improved recreation areas as long as any  
30 such alteration does not involve the expansion of improvements into previously unimproved areas or new  
31 clearing of native vegetation beyond routine pruning and related activities; and

32 (5) All clearing and grading activities that are exempt from the requirement for a clearing and grading permit  
33 as specified in SMC [16.15.050](#), unless these activities require other permits or authorizations as specified in  
34 SMC [21A.50.020](#). (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

35 **21A.50.060 Allowances for Existing Urban Development and Other Uses** ~~Partial exemptions – Critical areas.~~

Comment [EM1]: 2-14c, 5-1, & 5-20

# Exhibit 1

1 The following developments, activities, and uses are allowed in critical areas and associated buffers and  
2 building setbacks as specified in the following subsections, provided such activities are otherwise consistent  
3 with this program and other applicable regulations. The Director may apply conditions to an underlying  
4 permit or approval to ensure that the activities are consistent with the provisions of this chapter.

5 (1) Maintenance of Existing Improvements. Existing single detached dwelling unit, other structures,  
6 landscaping, and other existing uses that do not meet the requirements of this chapter, which were  
7 legally established according to the regulations in place at their time of establishment may be  
8 maintained and no critical areas study or review is required.

9  
10 (2) Modifications of Existing Improvements. Addition, expansion, reconstruction or revision of existing  
11 building(s) or other structures is subject to the following:

12 a) Modification or replacement. Structural modification or replacement of legally established  
13 structures that do not meet the building setback or buffer requirements for wetlands, streams, Fish  
14 and Wildlife Habitat Conservation Area, wildlife habitat corridor, or landslide hazard areas is allowed  
15 if the modification, replacement or related activity does not increase the existing footprint of the  
16 structure lying within the critical area, buffer or building setback area, and there is no increased risk  
17 to life or property.

18 b) Expansions. Structural modification of, addition to, or replacement of legally created building(s)  
19 and associated impervious surfaces that do not meet the applicable building setback or buffer  
20 requirements for wetlands, streams, Fish and Wildlife Habitat Conservation Area, wildlife habitat  
21 corridor, or landslide hazard areas are allowed a one-time up to 1,000 square foot increase in the  
22 existing total footprint of the building(s) and associated impervious surface areas lying within the  
23 buffer or building setback subject to the following:

24 1. If the existing legally created building(s) and associated impervious surfaces are  
25 located within the building setback or buffer required for a landslide hazard area, a critical  
26 areas study must be supplied and approved by the City that demonstrates that there will be  
27 no increased risk to life or property by the proposed footprint expansion;

28 2. If the existing legally created building(s) and associated impervious surfaces are  
29 located over or within a wetland, stream, Fish and Wildlife Habitat Conservation Area,  
30 wildlife habitat corridor, or landslide hazard area, no further expansion within the wetland,  
31 stream, Fish and Wildlife Habitat Conservation Area, wildlife habitat corridor, or landslide  
32 hazard area is allowed; and

33 3. If an existing legally created single detached dwelling unit and associated impervious  
34 surfaces are located within the building setback or buffer for a stream or wetland, or within a  
35 Fish and Wildlife Habitat Conservation Area:

36 a. No portion of the modification, addition or replacement may be located  
37 closer to the critical area-a wetland or stream than the nearest extent of the existing  
38 single detached dwelling unit, except as provided under subsection "b." below.

1           b.       When there is an intervening building(s) on a perpendicular line in between  
2           the subject critical wetland or stream area(s) and a single detached dwelling unit that  
3           is proposed to be modified, added to, or replaced, the modification, addition or  
4           replacement may be located closer to the wetland or stream critical area, provided  
5           no portion of the modification, addition or replacement is located closer than 50-feet  
6           to the wetland or stream critical area.

7           c.       Modifications, additions, or replacements authorized under subsections "a,"  
8           and "b," above this section, shall meet the following criteria:

9                   i.       A critical areas study approved by the City demonstrates a net  
10                  improvement in hydrologic and habitat values to the subject critical area(s)  
11                  affected wetland, stream, Fish and Wildlife Habitat Conservation Area  
12                  through restoration of degraded critical areas and/or buffer or through  
13                  provision of additional vegetated buffer; and

14                  ii.       Mitigation of impacts to disturbed critical areas or buffers is  
15                  provided in accordance with this chapter.

16       (3) Revisions to existing legally-established landscaping are allowed subject to the following:

17           a) The landscaped area shall not be increased within the critical area or buffer; and,

18           b) Landscaping features may be revised or replaced with similar features or features with less  
19           impact to the critical area or buffer, such that the remaining functions of the critical area and/or  
20           buffer are maintained or improved (e.g. plant material replaced with alternate plant material,  
21           hardscape replaced with alternate hardscape, hardscape replaced with plant material, etc.); and,

22           c) Revisions authorized under this section shall not require a critical areas study.

23       (4) Conservation, Preservation, Restoration and/or Enhancement is allowed within critical areas or  
24       buffers subject to the following:

25           a) Conservation and preservation of soil, water, vegetation, and other fish and wildlife habitat is  
26           allowed where it does not include alteration of the location, size, dimensions or functions of an  
27           existing critical area or buffer.

28           b) Restoration and enhancement of critical areas or buffers is allowed provided that actions do not  
29           alter the location, dimensions or size of the critical area or buffer; that actions improve and do  
30           not reduce the existing quality or functions of the critical areas or buffers; and that actions are  
31           implemented according to a restoration or enhancement plan that has been approved by the  
32           City of Sammamish.

33       (5) ~~Select~~ Vegetation Removal Activities.

Comment [EM2]: Item 5-2

Exhibit 1

1 a) Removal of non-native or invasive Washington State and/or King County listed noxious weeds in  
2 an area of up to 2,500 square feet within a critical area or buffer is allowed with no permit  
3 requirement if the following provisions are met:

4 i. The plants are removed using hand labor and/or light equipment;

5 ii. Soil disturbance is minimized and no filling or modification of soil contours occurs;

6 iii. Water quality is protected and there is no modification of hydrology patterns within the  
7 critical area or buffer is permitted;

8 iv. Native plants are protected from removal or damage;

9 v. Appropriate erosion-control measures are used;

10 vi. The area is replanted with a like kind and density of native vegetation following non-native  
11 plant removal. For example, if dense non-native blackberry is removed, at a minimum, dense  
12 native shrubs must be replanted following blackberry removal, though native trees and  
13 groundcover could also be included and are encouraged if desired; and

14 vii. Removal of non-native or invasive plants authorized under this subsection shall not require a  
15 critical areas study.

16 b) For removal of non-native vegetation in an area greater than 2,500 square feet, a clearing and  
17 grading permit is required and must be accompanied by a native plant restoration plan in accordance  
18 with applicable provisions of this chapter. A critical areas study may be required by the director.

19  
20 (6) Reconstruction, or replacement, or expansion of the exterior footprint of an existing, legally  
21 established structure not meeting current regulations is allowed; provided, that the addition or  
22 reconstruction does not increase the noncompliance to current regulations. A critical areas study  
23 may be required by the director.

24 a) Replacement may be allowed in a different location not meeting current regulations if a  
25 determination is made by the City that the new location results in less impact to environmental  
26 critical area functions and values than replacement in the existing footprint.

27 b) Existing structures that were legally established but which are not meeting current  
28 regulations may be maintained, reconstructed, or repaired; provided, that the maintenance /  
29 reconstruction / repair does not increase the extent of noncompliance with current regulations by  
30 encroaching upon or extending into the environmental critical areas or other area where new  
31 construction or use would not be allowed.

32 c) If a structure not meeting current regulations is damaged by fire, explosion, or other casualty  
33 and/or natural disaster or is otherwise demolished, it may be reconstructed to match the footprint

# Exhibit 1

1 that existed immediately prior to the time the damage occurred or in accordance with subsection  
2 (6)a) of this section; provided, that all of the following criteria are met:

3  
4 (i) The owner(s) submit a complete application within 24 months of the date the  
5 damage occurred; and

6 (ii) All permits are issued within two years of initial submittal of the complete  
7 application, and the restoration is completed within two years of permit issuance. This  
8 period may be extended for one additional year by the director if the applicant has  
9 submitted the applications necessary to establish the use or activity and has provided written  
10 justification for the extension.

11 d) A structure not meeting current regulations that is moved outside the existing footprint must  
12 be brought into conformance with this chapter, except as allowed by subsection (6)a) of this section.

13 ~~(1) The following developments, activities and uses are exempt from the review process of this chapter,~~  
14 ~~except for the notice on title provisions, SMC 21A.50.180 and 21A.50.190, and the frequently flooded areas~~  
15 ~~provisions, SMC 21A.50.230, and provided such exempt activities are otherwise consistent with the purpose~~  
16 ~~of this chapter and other applicable regulations. The director may apply conditions to an underlying permit~~  
17 ~~or approval to ensure that the activities are consistent with the provisions of this chapter.~~

18 ~~(a) Structural modification of, addition to or replacement of existing legally created structures, except~~  
19 ~~single detached residences in existence before November 27, 1990, which do not meet the building~~  
20 ~~setback or buffer requirements for wetlands, streams, ponds or landslide hazard areas if the~~  
21 ~~modification, addition, replacement or related activity does not increase the existing footprint of the~~  
22 ~~structure lying within the above-described building setback area, critical area or buffer.~~

23 ~~(b) Structural modification of, addition to or replacement of legally created single detached residences~~  
24 ~~and improvements constructed on existing associated legally created impervious surfaces in existence~~  
25 ~~before November 27, 1990, which do not meet the building setback or buffer requirements for~~  
26 ~~wetlands, streams, lakes, ponds or landslide hazard areas if the modification, addition, replacement or~~  
27 ~~related activity does not increase the existing total footprint of the residence and associated~~  
28 ~~impervious surface lying within the above-described buffer or building setback area by more than~~  
29 ~~1,000 square feet over that existing before November 27, 1990, and no portion of the modification,~~  
30 ~~addition or replacement is located closer to the critical area or, if the existing residence is in the critical~~  
31 ~~area, extends farther into the critical area.~~

32 ~~(c) Maintenance or repair of structures that do not meet the development standards of this chapter for~~  
33 ~~landslide or seismic hazard areas if the maintenance or repair does not increase the footprint of the~~  
34 ~~structure and there is no increased risk to life or property as a result of the proposed maintenance or~~  
35 ~~repair.~~

# Exhibit 1

1 ~~(d) Select Vegetation Removal Activities. The removal of the following invasive vegetation is allowed~~  
2 ~~with hand labor and/or light equipment; provided, that the appropriate erosion control measures are~~  
3 ~~used and the area is replanted with native vegetation according to a restoration or enhancement plan~~  
4 ~~that has been approved by the City of Sammamish:~~

5 ~~(i) Noxious weeds as identified by Washington State or King County noxious weed lists;~~

6 ~~(ii) Himalayan blackberry (*Rubus discolor*, *R. procerus*);~~

7 ~~(iii) Evergreen blackberry (*R. laciniatus*);~~

8 ~~(iv) Ivy (*Hedera spp.*); and~~

9 ~~(v) Holly (*Ilex spp.*), laurel, Japanese knotweed (*Polygonum cuspidatum*), or any other species on~~  
10 ~~the King County noxious weed list.~~

11 ~~Removal of any native vegetation or woody debris from a critical area is prohibited unless the action is~~  
12 ~~part of an approved alteration.~~

13 ~~(e) Conservation, Preservation, Restoration and/or Enhancement.~~

14 ~~(i) Conservation and preservation of soil, water, vegetation, fish and other wildlife that does not~~  
15 ~~entail alteration of the location, size, dimensions or functions of an existing critical area or buffer;~~  
16 ~~and~~

17 ~~(ii) Restoration and enhancement of critical areas or buffers; provided, that actions do not alter~~  
18 ~~the location, dimensions or size of the critical area or buffer; that actions improve and do not~~  
19 ~~reduce the existing quality or functions of the critical areas or buffers; and that actions are~~  
20 ~~implemented according to a restoration or enhancement plan that has been approved by the City~~  
21 ~~of Sammamish.~~

22 ~~(2) Existing and ongoing agriculture and grazing of livestock is exempt from the provisions of this chapter and~~  
23 ~~any administrative rules promulgated thereunder, except for the livestock restriction provisions, SMC~~  
24 ~~[21A.50.290](#) and [21A.50.330](#), and any animal density limitations established by law, if the agriculture or~~  
25 ~~grazing activity was in existence before November 27, 1990.~~

26 ~~(73) A permit or approval sought as part of a development proposal where previous critical areas review has~~  
27 ~~been completed is exempt from the provisions of this chapter and any administrative rules promulgated~~  
28 ~~thereunder, except for the notice on title provisions, SMC [21A.50.180](#) and [21A.50.190](#), if:~~

29 ~~(a) The City previously reviewed all critical areas on the site;~~

30 ~~(b) There is no material change in the development proposal since the prior review that would affect a~~  
31 ~~critical area;~~

# Exhibit 1

1 (c) There is no new information available that is important to any critical area review of the site or  
2 particular critical area;

3 (d) No more than five years have lapsed since the issuance of the permit or approval under which the  
4 prior review was conducted; provided, that the director may allow a longer time period if new review  
5 would be unlikely to provide new information about the critical area; and

6 (e) The prior permit or approval, including any conditions, has been complied with. (Ord. O2009-264 §  
7 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

## 8 **21A.50.070 Exceptions.**

9 (1) Public Agency and Utility Exception. If the application of this chapter would prohibit an activity or a  
10 development proposal by a public agency or utility, the agency or utility may apply for an exception pursuant  
11 to this section:

12 (a) The public agency or utility shall apply to the department and shall make available to the  
13 department other related project documents such as permit applications to other agencies, special  
14 studies and SEPA documents.

15 (b) The director may approve alterations to critical areas, buffers and critical area setbacks by an  
16 agency or utility not otherwise allowed by this chapter when the following criteria are met:

17 (i) There is no other reasonable alternative to the activity or proposed development with less  
18 impact on the critical area; and

19 (ii) The activity or development proposal is designed to avoid, minimize, and mitigate the  
20 impact on environmentally critical areas consistent with the avoidance and mitigation  
21 sequencing requirements in this chapter; and, if applicable:

22 (iii) The proposed development or activity is of a linear nature and is on an existing corridor or  
23 connects to public lands, trails, utility corridors, rights-of-way or other public infrastructure, or  
24 is required for functional reasons such as gravity flow.

25 (c) The department shall process exceptions, provide public notice, provide opportunity for the  
26 public to request a public hearing, and provide an appeal process consistent with the provisions of  
27 Chapter [20.05](#) SMC.

28 (2) Reasonable Use Exception. If the application of this chapter would deny all reasonable use of the  
29 property, the applicant may apply for an exception pursuant to this subsection:

30 (a) The director may approve alterations to critical areas, critical area buffers and setbacks to allow a  
31 reasonable use not otherwise allowed by this chapter when the following criteria are met:

32 (i) The application of this chapter would deny all reasonable use of the property;

33 (ii) There is no other reasonable use with less impact on the critical area;

# Exhibit 1

1 (iii) The proposed development does not pose an unreasonable threat to the public health,  
2 safety, or welfare on or off the development proposal site and is consistent with the general  
3 purposes of this chapter and the public interest; and

4 (iv) Any alterations permitted to the critical area or buffer shall be the minimum necessary to  
5 allow for reasonable use of the property; and any authorized alteration of a critical area under  
6 this subsection shall be subject to conditions established by the department including, but not  
7 limited to, mitigation under an approved mitigation plan. (Ord. O2005-193 § 1; Ord. O2005-172  
8 § 4; Ord. O99-29 § 1)

## 9 **21A.50.080 Modification or waiver of sensitive area requirements – Urban lots.**

10 *Repealed by Ord. O2005-193. (Ord. O99-29 § 1)*

## 11 **21A.50.090 Critical area maps and inventories.**

12 Not all of the critical areas in the City of Sammamish are fully mapped. Field verification and, if appropriate,  
13 evaluation and mapping by a qualified professional of the location of critical areas will be required. The  
14 distribution of many environmentally critical areas in the City of Sammamish is displayed in the City's critical  
15 areas map folio, as amended. Additionally, the following maps are referenced and/or maintained by the City:

16 (a) Additionally, many of the wetlands located within the City's boundaries are inventoried in the  
17 King County wetlands inventory notebooks.

18 (b) Many flood hazard areas are mapped by the Federal Insurance Administration in a scientific and  
19 engineering report entitled "The Flood Insurance Study for King County."

20 (c) The wetland management, erosion hazard near sensitive water bodies, critical aquifer recharge  
21 area, and lake management special overlay districts are designated on maps maintained by the  
22 City of Sammamish Department of Community Development.

23 All maps are deemed advisory with the exception of the Critical Aquifer Recharge Area, Flood Insurance  
24 Study for King County, Wetland Management Area and Erosion Hazard Near Sensitive Water Bodies overlay  
25 maps. If there is a conflict among the advisory maps, inventory and/or site-specific features, the  
26 Department of Community Development shall verify the actual presence or absence of the features  
27 defined in this title as environmental critical areas. The determination may be challenged by the property  
28 owner pursuant to SMC 21A.05. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

## 29 **21A.50.100 Disclosure by applicant.**

30 (1) The applicant shall disclose to the City the presence of critical areas on the development proposal site and  
31 any mapped or identifiable critical areas within the distance equal to the largest potential required buffer  
32 applicable to the development proposal area on the applicant's property.

33 (2) If the development proposal site contains or is within a critical area or buffer, the applicant shall submit  
34 an affidavit that declares whether the applicant has knowledge of any illegal alteration to any or all critical  
35 areas or their buffers on the development proposal site and whether the applicant previously has been found  
36 in violation of this chapter, pursuant to SMC Title 23. If the applicant previously has been found in violation,  
37  
38

Comment [EM3]: Item 5-4

# Exhibit 1

1 the applicant shall declare whether such violation has been corrected to the satisfaction of the City. (Ord.  
2 O2005-193 § 1; Ord. O99-29 § 1)

### 3 **21A.50.110 Critical area review.**

4 (1) The City shall perform a critical area review prior to issuing any approval for a development proposal  
5 permit application or other request for permission to proceed with an alteration on a site that includes a  
6 critical area or is within an identified critical area buffer or building setback area.

7 (2) As part of the critical area review, the City shall:

8 (a) Confirm whether critical areas or buffers have been mapped or identified within the distance  
9 equal to the largest potential required buffer applicable to the development proposal area;

10 (b) Confirm the nature and type of the critical area;

11 (c) Determine whether a critical areas study is required;

12 (d) Evaluate the critical areas study ~~and require third party review, if necessary independent peer~~  
13 ~~review, if required; and;~~

Comment [EM4]: Item 4-10

14 (e) Determine whether the development proposal is consistent with this chapter;

15 (f) Determine whether any proposed alteration to the critical area is necessary; and

16 (g) Determine if the mitigation and monitoring plans and bonding measures proposed by the  
17 applicant are sufficient to protect the public health, safety, and welfare, consistent with the goals,  
18 purposes, objectives, and requirements of this chapter. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

### 19 **21A.50.120 Critical areas study requirement.**

20 (1) An applicant for a development proposal where ~~impacts to, or~~ alteration of an ~~environmentally critical~~  
21 ~~area landslide hazard area, wetland, stream, or fish and wildlife habitat conservation area~~ or modification or  
22 reduction of a buffer ~~associated with an environmentally critical area~~ is proposed ~~or may occur as a~~  
23 ~~consequence of proposed actions,~~ shall submit a critical areas study at a level determined by the director to  
24 adequately evaluate the proposal and probable impacts. ~~A critical areas study shall also be required for a~~  
25 ~~development proposal located in erosion and seismic hazard areas, critical aquifer recharge areas, and~~  
26 ~~frequently flooded areas, consistent with the requirements of this chapter, as determined by the director.~~

27 (2) The director may waive or modify the requirement for a critical areas study if the applicant shows, to the  
28 director's satisfaction, that:

29 (a) There will be no alteration of the critical area or buffer;

30 (b) The development proposal will not have an impact on the critical area in a manner contrary to  
31 the goals, purposes, objectives, and requirements of this chapter; and

32 (c) The minimum standards required by this chapter are met; or

# Exhibit 1

1 (d) Critical areas are located off-site and access to applicable off-site property is restricted.

2 (3) If the development proposal will affect only a part of the development proposal site, the department may  
3 limit the scope of the required critical areas study to include only that area that is affected by the  
4 development proposal.

5 (4) If necessary to ensure compliance with this chapter, the director may require additional information from  
6 the applicant, separate from the critical areas study.

7 (5) A development proposal may be allowed to utilize past studies from neighboring properties, if confirmed  
8 that the study findings remain accurate and applicable to proposed development. (Ord. O2005-193 § 1; Ord.  
9 O99-29 § 1)

## 10 **21A.50.130 Contents of critical areas study.**

11 (1) The critical areas study shall be in the form of a written report prepared by a qualified professional using  
12 guidance based on best available science per RCW 36.70A and shall contain the following, as determined to  
13 be applicable by the director:

Comment [CdS5]: Item 5-6

14 (a) The applicant shall disclose to the City the presence of critical areas on the development  
15 proposal site and any mapped or identifiable critical areas within the distance equal to the largest  
16 potential required buffer applicable to the development proposal area on the applicant's  
17 property. ~~Identification and characterization of all critical areas and buffers within the distance equal~~  
18 ~~to the largest potential required buffer that can be reasonably ascertained from the subject~~  
19 ~~property;~~

20 (b) Assessment of the impacts or risks ~~of any alteration proposed for~~ to an environmental critical  
21 area or buffer;

22 (i) Related to the development proposal and associated alterations to the subject property;  
23 assessment of the impacts of any alteration on the development proposal; and

24 (ii) Affecting other properties and any environmental critical areas or buffers located on  
25 them other properties and the environment, and/or assessment of the impacts to the development  
26 proposal resulting from development near the critical area or buffer;

27 (c) A description of efforts made to apply mitigation sequencing pursuant to SMC 21A.50.135 to  
28 avoid, minimize and mitigate impacts to environmentally critical areas;

29 (d) Studies that propose adequate mitigation, maintenance, monitoring, and contingency plans and  
30 bonding measures as necessary to offset impacts to the critical area from the development  
31 proposal;

32 (e) A scale map of the development proposal site;

33 (f) Photographic records of the site ~~both before~~ any the proposed alteration occurs;

Comment [EM6]: Item 5-6

# Exhibit 1

1 (fg) Detailed studies, as required by this chapter, for individual critical areas or as otherwise deemed  
2 necessary for critical areas protection by the director;

3 (gh) Assessment of potential impacts that may occur downstream or downhill from the  
4 development site, such as sedimentation or erosion, where applicable;

5 (hi) Assessment of potential impacts to wetland management areas, lake management areas, and  
6 other areas designated for special protection, where applicable; and

7 (hj) Consideration of the protection recommendations of the East Lake Sammamish Basin and  
8 Nonpoint Action Plan (1994), the Lake Washington/Cedar/Sammamish Watershed Chinook Salmon  
9 Conservation Plan – WRIA 8 Steering Committee, and adopted sub-basin plans.

10 (2) A critical areas study may be combined with any studies required by other laws and regulations.

11 ~~(3) If the development proposal will affect only a part of the development proposal site, the director may~~  
12 ~~limit the scope of the required critical areas study to include only that part of the site that may be affected by~~  
13 ~~the development. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

## 14 21A.50.135 Avoiding impacts to critical areas.

15 (1) Except as otherwise provided in SMC 21A.50.060, An applicant for a development proposal, activity, or  
16 alteration shall document the consideration of and subsequently shall implement the following sequential  
17 measures, which appear in order of preference, to avoid, minimize, and mitigate impacts to environmentally  
18 critical areas and associated buffers:

19 (a) Avoiding the impact or hazard by not taking a certain action, or redesigning the proposal to  
20 eliminate the impact. The applicant shall consider reasonable, affirmative steps and make best  
21 efforts to avoid critical area impacts. However, avoidance shall not be construed to mean  
22 mandatory withdrawal or denial of the development proposal or activity if the proposal or activity is  
23 an allowed, permitted, conditional, or special use in the SMC. In determining the extent to which the  
24 proposal should be redesigned to avoid the impact, the department may consider the purpose,  
25 effectiveness, engineering feasibility, commercial availability of technology, best management  
26 practices, safety and cost of the proposal and identified modifications to the proposal.

27 The department may also consider the extent to which the avoidance of one type or location of an  
28 environmentally critical area could require or lead to impacts to other types or locations of nearby  
29 or adjacent environmentally critical areas. The department should seek to avoid, minimize and  
30 mitigate overall impacts based on the functions and values of all of the relevant environmentally  
31 critical areas and based on the recommendations of a critical areas study. If impacts cannot be  
32 avoided through redesign, or because of site conditions or project requirements, the applicant shall  
33 then proceed with the sequence of steps in subsection (1)(b) through (g) of this section.

34 (b) Minimizing the impact or hazard by limiting the degree or magnitude of the action or impact with  
35 appropriate technology or by changing the timing of the action.

# Exhibit 1

1 (c) Restoring the impacted critical areas by repairing, rehabilitating or restoring the affected critical  
2 area or its buffer.

3 (d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through  
4 plantings, engineering or other methods.

5 (e) Reducing or eliminating the impact or hazard over time by preservation or maintenance  
6 operations during the life of the development proposal, activity or alteration.

7 (f) Compensating for the adverse impact by enhancing critical areas and their buffers or creating  
8 substitute critical areas and their buffers as required in the SMC.

9 (g) Monitoring the impact, hazard or success of required mitigation and taking remedial action  
10 based upon findings over time.

11 (2) In addition to the above steps, the specific development standards, permitted alteration requirements,  
12 and mitigation requirements of this chapter and elsewhere in the SMC apply.

13 (3) The department shall document the decision-making process used under this section as a part of the  
14 critical areas review conducted pursuant to SMC [21A.50.110](#). (Ord. O2005-193 § 1)

#### 15 **21A.50.140 Mitigation, maintenance, monitoring and contingency.**

16 (1) When mitigation is required by this chapter to compensate for adverse impacts, unless otherwise  
17 provided, mitigation, maintenance, monitoring measures and contingency plans shall be in place to protect  
18 critical areas and buffers from alterations occurring on the development proposal site.

19 (2) Where monitoring reveals a significant deviation from predicted impacts or a failure of mitigation or  
20 maintenance measures, the applicant shall be responsible for appropriate corrective action which, when  
21 approved, shall be subject to further monitoring.

22 (3) Mitigation shall be in-kind and on-site where on-site mitigation is feasible, and sufficient to maintain  
23 critical area and buffer functions, and where applicable to prevent risk from a hazard posed by a critical area.

24 (4) The city may approve off-site mitigation if an applicant demonstrates that:

25 (a) It is not feasible to mitigate on the development proposal site; and

26 (b) The off-site mitigation will achieve equivalent or greater hydrological, water quality and wetland  
27 or aquatic area habitat functions.

28 (5) When off-site mitigation is authorized, the city shall give priority to locations in the following order of  
29 preference:

30 (a) Within the same drainage subbasin; and

31 (b) Within the city limits;

32 **Comment [EM7]:** Item 2-8 & 3-3

# Exhibit 1

1 (c) Within the Sammamish service area boundaries of an approved fee-in-lieu mitigation program;

2 (d) Within the Sammamish service area boundaries of an approved mitigation bank program.

3 (64) Mitigation shall not be implemented until after the City of Sammamish approves the applicable critical  
4 areas study, mitigation plan and any required permits. Following City approval, mitigation shall be  
5 implemented in accordance with the provisions of the approved critical areas study and mitigation plan.  
6 (Ord. O2005-193 § 1; Ord. O99-29 § 1)

## 7 21A.50.145 Mitigation plan requirements.

8 When mitigation is required, the applicant shall submit, for approval by the City of Sammamish, a mitigation  
9 plan as part of, or in addition to, the critical areas study. The mitigation plan shall include, or be accompanied  
10 by a report with, the following information, as determined to be applicable by the director:

11 (1) Existing Conditions and Proposed Impacts. A description of existing critical area(s) and/or buffer(s)  
12 conditions, functions, and values and a description of the anticipated impacts;

13 (2) Proposed Mitigation. A description of proposed mitigating actions and mitigation site selection criteria;

14 (3) Environmental Goals and Objectives. A description of the goals and objectives of proposed mitigation. The  
15 goals and objectives shall be related to the functions and values of the impacted critical area(s) and/or  
16 buffer(s);

17 (4) Best Available Science. A review of the best available science supporting proposed mitigation, a  
18 description of the plan/report author's experience to date in restoring or creating the type of critical area  
19 proposed, and an analysis of the likelihood of success of the mitigation project;

20 (5) Performance Standards. A description of specific measurable criteria for evaluating whether or not the  
21 goals and objectives of the mitigation plan have been successfully attained and whether or not the  
22 requirements of this chapter have been met;

23 (6) Detailed Construction Plans. Detailed site diagrams, cross-sectional drawings, topographic elevations at  
24 one- or two-foot contours, slope percentage, final grade elevations, and any other drawings appropriate to  
25 show construction techniques or anticipated final outcome. In addition, plans should include specifications  
26 and descriptions of:

27 (a) Proposed construction sequence, timing, and duration;

28 (b) Grading and excavation details;

29 (c) Erosion and sediment control features;

30 (d) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

31 (e) Measures to protect and maintain plants until established;

# Exhibit 1

1 (7) Monitoring Program. Mitigation plans shall include a program for monitoring construction of the  
2 compensation project, and for assessing a completed project. A protocol shall be included that outlines the  
3 schedule for site monitoring and how the monitoring data will be evaluated to determine if the performance  
4 standards are being met. A monitoring report shall be submitted as needed to document milestones,  
5 successes, problems, and contingency actions of the compensation project. The compensation project shall  
6 be monitored for a period necessary to establish that performance standards have been met. The monitoring  
7 period shall be five years; provided, that the director may approve a greater period when needed to ensure  
8 mitigation success or a lesser period for minor mitigation; ~~and~~

9 (8) Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any  
10 corrective measures to be taken if monitoring or evaluation indicates project performance standards are not  
11 being met- (Ord. O2005-193 § 1; Ord. O2005-172 § 4); and

12 (9) Fee in lieu program. If fee-in lieu mitigation is proposed, a critical areas study shall be supplied that  
13 demonstrates how proposed impacts and mitigation meet the requirements of SMC 21A.50.140 and  
14 21A.50.310 or 21A.50.350, whichever is applicable, and also the specific requirements of the fee-in-lieu  
15 mitigation program to be utilized.

Comment [EM8]: Item 2-8 & 3-3

#### 16 **21A.50.150 Financial guarantees.**

17 Financial guarantees shall be required consistent with the provisions of SMC Title 27A. (Ord. O2005-193 § 1;  
18 Ord. O99-29 § 1)

#### 19 **21A.50.160 Vegetation management plan.**

20 (1) For all development proposals where preservation of existing vegetation is required by this chapter, a  
21 vegetation management plan shall be submitted and approved prior to issuance of the permit or other  
22 request for permission to proceed with an alteration.

23 (2) The vegetation management plan shall identify the proposed clearing limits for the project and any areas  
24 where vegetation in a critical area or its buffer is proposed to be disturbed.

25 (3) Where clearing includes cutting any merchantable stand of timber, as defined in WAC 222-16-010(28), the  
26 vegetation management plan shall include a description of proposed logging practices that demonstrates  
27 how all critical areas will be protected in accordance with the provisions of this chapter.

28 (4) Clearing limits as shown on the plan shall be marked in the field in a prominent and durable manner.  
29 Proposed methods of field marking shall be reviewed and approved by the City prior to any site alteration.  
30 Field marking shall remain in place until the certificate of occupancy or final project approval is granted.

31 (5) The vegetation management plan may be incorporated into a temporary erosion and sediment control  
32 plan or landscaping plan where either of these plans is required by other laws or regulations.

33 (6) Submittal requirements for vegetation management plans shall be set forth by the department. (Ord.  
34 O2005-193 § 1; Ord. O99-29 § 1)

#### 35 **21A.50.170 Critical area markers, signs and fencing.**

# Exhibit 1

1 (1) Markers. Permanent survey stakes delineating the boundary between adjoining property and critical area  
2 tracts shall be set, using markers capable of being magnetically located and as established by current survey  
3 standards.

4 (2) Signs. ~~Development proposals approved by the city shall require that~~ the boundary between a critical  
5 area ~~buffer tract~~ and contiguous land shall be identified with permanent signs. Permanent signs shall be a  
6 City-approved type designed for high durability. Signs must be posted at an interval of one per lot or every 50  
7 feet, whichever is less, and must be maintained by the property owner or homeowners' association in  
8 perpetuity. The wording, number and placement of the signs ~~shall may be as at specified by modified by the~~  
9 ~~director based on specific site conditions.~~

Comment [CdS9]: Item 5-7

Comment [CdS10]: Item 5-7

10 (3) ~~Fencing. The director may require fencing to protect the functions of a critical area. If found to be~~  
11 ~~necessary, permanent~~ Permanent fencing shall be required at the outer edge of the critical area ~~or~~ buffer  
12 under the following circumstances:

Comment [EM11]: Item 5-7

13 (a) As part of any development proposals for:

14 (i) Plats;

15 (ii) Short plats;

16 (iii) Parks;

17 (iv) Other development proposals, including but not limited to multifamily, mixed use, and  
18 commercial development where the Director determines that such fencing is necessary to  
19 protect the functions of the critical area.

20 (b) When buffer reductions are employed as part of a development proposal;

21 (c) When buffer averaging is employed as part of a development proposal; and

22 (d) At the director's discretion to protect the values and functions of a critical area.

23 ~~Fencing installed in accordance with this section shall be designed to not interfere with fish and wildlife~~  
24 ~~migration and shall be constructed in a manner that minimizes critical areas impacts. (Ord. O2005-193 § 1;~~  
25 ~~Ord. O99-29 § 1)~~

## 26 **21A.50.180 Notice on title.**

27 (1) The owner of any property containing critical areas or buffers on which a development proposal is  
28 submitted or any property on which mitigation is established as a result of development, except a public  
29 right-of-way or the site of a permanent public facility, shall file a notice approved by the City with the records  
30 and elections division of King County. The required contents and form of the notice shall be determined by  
31 the director. The notice shall inform the public of the presence of critical areas, buffers or mitigation sites on  
32 the property, of the application of this chapter to the property and that limitations on actions in or affecting  
33 such critical areas or buffers may exist. The notice shall run with the land.

# Exhibit 1

1 (2) The applicant shall submit proof that the notice has been filed for public record before the City shall  
2 approve any development proposal for the property or, in the case of subdivisions, short subdivisions and  
3 binding site plans, at or before recording. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

#### 4 **21A.50.190 Critical area tracts and designations on site plans.**

5 (1) Critical area tracts shall be used to delineate and protect those critical areas and buffers listed below in  
6 development proposals for subdivisions, short subdivisions, or binding site plans and shall be recorded on all  
7 documents of title of record for all affected lots:

8 (a) All landslide hazard areas and buffers that are one acre or greater in size;

9 (b) All wetlands and buffers;

10 (c) All streams and buffers; and

11 (d) All fish and wildlife habitat conservation areas and buffers.

12 (2) Any required critical area tract shall be held in an undivided interest by each owner of a building lot within  
13 the development with this ownership interest passing with the ownership of the lot or shall be held by an  
14 incorporated homeowners' association or other legal entity which assures the ownership, maintenance, and  
15 protection of the tract, or dedicated to the City of Sammamish, at the City's discretion.

16 (3) Site plans submitted as part of development proposals for building permits, master plan developments,  
17 and clearing and grading permits shall include and delineate all flood hazard areas (if they have been mapped  
18 by FEMA ~~or King County~~ or if a critical area study is required), landslide hazard areas, streams and wetlands,  
19 buffers, and building setbacks. If only a part of the development site has been mapped pursuant to SMC  
20 [21A.50.130](#)(3), the part of the site that has not been mapped shall be clearly identified and labeled on the  
21 site plans. The site plans shall be attached to the notice on title required by SMC [21A.50.180](#). (Ord. O2005-  
22 193 § 1; Ord. O99-29 § 1)

#### 23 **21A.50.200 Alteration.**

24 *Recodified to SMC [21A.15.056](#) by Ord. O2005-172. (Ord. O99-29 § 1)*

#### 25 **21A.50.210 Building setbacks.**

26 Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the  
27 edges of a critical area buffer. The following may be allowed in the building setback area:

28 (1) Landscaping;

29 (2) Uncovered decks, **less than 18 inches above grade;**

30 (3) Building overhangs if such overhangs do not extend more than 18 inches into the setback area;

31 (4) Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be  
32 subject to special drainage provisions adopted for the various critical areas; and

1 (5) Trails. (Ord. O2009-264 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

2 **21A.50.220 Erosion hazard areas – Development standards and permitted alterations.**

3 (1) Land clearing, grading, filling, and foundation work in an erosion hazard area is allowed only from May 1st  
4 to September 30th, except that:

5 (a) Construction outside of this seasonal development limitation may be authorized if the director  
6 determines that the hazard area will not be adversely impacted by the proposed construction work  
7 or the applicant demonstrates that erosion hazards will be fully mitigated through a temporary  
8 erosion and sediment control management plan that includes:

9 (i) The minimum requirements from the adopted Surface Water Design Manual and Title 13  
10 Surface Water Management:

11 (A) Provisions to store site construction runoff and treat runoff sufficiently to  
12 meet water quality standards prior to discharge;

13 (B) Daily and post-storm inspections of temporary erosion and sediment control  
14 best management practices;

15 (C) Establishment of a manager, who is a Certified Erosion and Sediment  
16 Control Lead (CESCL) in the State of Washington, and will be available on-call  
17 to respond to temporary erosion and sediment control non-compliance;

18 (D) A water-quality monitoring plan for site discharges, where the applicant is  
19 responsible for measuring turbidity of stormwater released from the site  
20 and maintaining records of monitoring data that shall be available upon  
21 request by the City or Ecology. Monitoring protocols **should-shall** conform to  
22 the monitoring requirements of the construction stormwater general permit;

23 (E) A Contingency Plan incorporated into the temporary erosion and sediment  
24 control plan that identifies corrective actions and BMPs that will be  
25 implemented if monitoring shows discharge water quality exceeds water  
26 quality standards, and that specifies materials to be stockpiled on site for use  
27 in an erosion and sediment control response;

28 (F) A Seasonal Suspension Plan for suspending work until the end of the rainy  
29 season if temporary erosion and sediment control measures are found to be  
30 inadequate;

31 (ii) Pre-design site inspection by a licensed engineer or geologist to identify erosion  
32 hazard areas, no-disturbance areas, **other environmentally critical areas**, and resources  
33 downstream of the site that are to be protected;

34 (iii) Construction stormwater systems and temporary erosion and sediment control  
35 best management practices are to be sized for a minimum of a 10-year storm interval;:-

36 (iv) The owner must provide a financial guarantee in accordance with SMC 27A.15,  
37 **specifically and in an amount sufficient** to cover all costs of implementing the approved  
38 temporary erosion and sediment control plan, monitoring site discharges, permanently

Exhibit 1

1 stabilizing the site, and restoring any off-site impacts, including materials, labor, and  
2 City costs, and include a mechanism allowing the City to be used the financial  
3 guarantee if the development is stalled or not completed;

4 (v) Preparation and implementation of site grading, stabilization, and restoration plans  
5 by a licensed engineer, with certification by a geotechnical engineer that these plans  
6 are sufficient to prevent erosion and sedimentation of susceptible soils; and

7 (vi) Preparation of a vegetation mManagement Pplan by a qualified professional for  
8 establishment of permanent vegetation on the site following completion of clearing and  
9 grading work.

10 (b) In addition to the requirements of 21A.50.220(1)(a), ~~the director may require a critical~~  
11 ~~areas~~ additional studies of the site hydrology, soils and stormwater retention, and may also require,  
12 grading, structural improvements, ~~hydrology, soils and storm water retention studies,~~ erosion  
13 control measures, restoration plans, and/or an indemnification/release agreement.

Comment [EM12]: Item 4-1

14 (c) Timber harvest may be allowed pursuant to an approved forest practice Type II and III permit  
15 issued by the Washington Department of Natural Resources.

16 (d) Construction activity associated with subdivisions, short subdivisions, and similar projects that  
17 drain to Lake Sammamish during the wet season shall provide water quality monitoring reports to  
18 the city consistent with SMC 21A.50.225(5)(g), and shall include monitoring of water temperature.

19 (ed) The director may halt wet season construction as necessary to protect the hazard area and/or  
20 to prevent downstream impacts.

Comment [CdS13]: Item 4-1

21 (2) All development proposals on sites containing erosion hazard areas shall include a temporary erosion and  
22 sediment control plan as specified in section (1)(a) above consistent with this section and other laws and  
23 regulations prior to receiving approval. Specific requirements for such plans shall be set forth in the adopted  
24 surface water design manual and Title 13 Surface Water Management, or as otherwise specified by the  
25 department.

26 (3) All subdivisions, short subdivisions, or binding site plans on sites with erosion hazard areas shall comply  
27 with the following additional requirements:

28 (a) Except as provided in this section, existing vegetation shall be retained on all lots until building  
29 permits are approved for development on individual lots;

30 (b) If any vegetation on the lots is damaged or removed during construction of the subdivision  
31 infrastructure, the applicant shall be required to submit a restoration plan to the department for  
32 review and approval. Following approval, the applicant shall be required to implement the plan;

33 (c) Clearing of vegetation on lots will not be allowed unless the City determines that:

34 (i) Such clearing is a necessary part of a large-scale grading plan;

# Exhibit 1

1 (ii) It is not a reasonable alternative to perform such grading on an individual lot basis; and

2 (iii) Drainage from the graded area will meet water quality standards to be established by the  
3 adopted surface water design manual and Title 13 Surface Water Management.

4 (4) Where the City determines that erosion from a development site poses a significant risk of damage to  
5 downstream receiving waters, based either on the size of the project, the proximity to the receiving water or  
6 the sensitivity of the receiving water, the applicant shall be required to provide regular monitoring of surface  
7 water discharge from the site as required by the adopted Surface Water Design Manual and City of  
8 Sammamish Addendum (2009). If the project does not meet the applicable provisions of the adopted water  
9 quality standards as established by law, the City may suspend further development work on the site until  
10 such standards are met.

Comment [CdS14]: Item 4-2

11 (5) The use of hazardous substances, pesticides, and fertilizers in erosion hazard areas may be prohibited by  
12 the City. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

## 13 21A.50.225 Erosion hazards near sensitive water bodies — ~~Special district~~ overlay.

14 (1) The purpose of the erosion hazards near sensitive water bodies ~~special overlay district~~ is to provide a  
15 means to designate sloped areas posing erosion hazards that drain directly to lakes or streams of high  
16 resource value that are particularly sensitive to the impacts of increased erosion and the resulting sediment  
17 loads from development.

18 (2) General development standards. The following development standards shall be applied to all properties  
19 within the erosion hazard near sensitive water body overlay:

Comment [EM15]: Re-organization for clarity

20 (a) The one (1) acre exemption in the Storm Water Design Manual Addendum shall not apply  
21 within the erosion hazards near sensitive water body overlay.

Comment [EM16]: Item 4-15d

22 (b) If the application of this section would deny all reasonable use of property, the applicant may  
23 apply for a reasonable use exception pursuant to SMC 21A.50.070(2).

Comment [EM17]: Re-organization for clarity

24 (c) The director may modify the property-specific development standards required by this  
25 section when a critical areas study is conducted by the applicant and approved by the director which  
26 demonstrates that the proposed development substantially ~~increases~~ improves water quality by  
27 showing all of the following:

28 (i) Water quality on site is improved through site enhancements and/or other innovative  
29 management techniques;

30 (ii) The development project will not subject downstream channels to increased risk of  
31 landslide or erosion; and

32 (iii) The development project will not subject the nearest sensitive water body to additional  
33 hazards resulting from erosion hazards.

# Exhibit 1

1 ~~The department of community development shall maintain a map of the boundaries of the erosion hazard~~  
2 ~~near sensitive water bodies overlay district.~~

3 (3) No-disturbance area development standards. The following development standards shall be applied, in  
4 addition to all applicable requirements of this chapter, to development proposals located within the no-  
5 disturbance area erosion hazards near a sensitive water bodies special district overlay:

6 ~~(a) A no-disturbance area shall be established on the sloped portion of the special district overlay to~~  
7 ~~prevent damage from erosion. The upslope boundary of the no-disturbance area lies at the first~~  
8 ~~obvious break in slope from the upland plateau over onto the steep valley walls. The downslope~~  
9 ~~boundary of the no-disturbance area is the extent of those areas designated as erosion or landslide~~  
10 ~~hazard areas. The department shall maintain maps of the approximate location of the no-~~  
11 ~~disturbance areas, which shall be subject to field verification for new development proposals.~~

12 ~~(ab) Land-clearing or d~~Development shall not occur in the no-disturbance area, except for the  
13 ~~clearing-development~~ activities listed in subsection (3)(~~ba~~)(i) of this section. Clearing-Development  
14 activities listed in subsection (3)(~~ba~~)(i) of this section shall only be permitted if they meet the  
15 requirements of subsection (3)(~~ab~~)(ii) of this section.

16 (i) Clearing-Development activities may be permitted as follows:

17 (A) For single-family residences, associated landscaping and any appurtenances on pre-  
18 existing separate lots;

19 (B) For utility corridors to service existing development along existing rights-of-way  
20 including any vacated portions of otherwise contiguous rights-of-way, or for the  
21 construction of utility corridors identified within an adopted water, storm water, or sewer  
22 comprehensive plan;

23 (C) For streets providing sole access to buildable property and associated utility facilities  
24 within those streets; ~~or~~

25 (D) For public park facilities including parking lots, restrooms or recreational structures  
26 and pedestrian trail/sidewalks; or.

27 (E) Work authorized pursuant to the pilot program.

28 (ii) The clearing-development activities listed in subsection (3)(~~ba~~)(i) of this section may be  
29 permitted only if the following requirements are met:

30 (A) ~~A-Where applicable under SMC 21A.50.120, a~~ report that meets the requirements of  
31 SMC 21A.50.130 shall show that the clearing-development activities will not subject the  
32 area to risk of landslide or erosion and that the purpose of the no-disturbance area is not  
33 compromised in any way;

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(B) The clearing-development activities shall be mitigated, monitored and bonded consistent with the mitigation requirements applicable to environmentally critical areas;

(C) The clearing-development activities are limited to the minimal area and duration necessary for construction; and

(D) The clearing-development activities are consistent with this chapter.

(b) New single-family home construction or modifications or additions to existing single-family homes on existing legal lots that will result in a total site impervious surface of more than 2,000 square feet shall provide a drainage design, using the following sequential measures, which appear in order of preference:

Comment [EM18]: Re-organization for clarity

(i) Infiltration of all site runoff shall be required to the maximum extent technically feasible in existing soil conditions, consistent with the infiltration system design requirements of the KCSWDM;

(ii) Development proposals that meets the goals of Low Impact Development, as follows:

(A) Sixty-five (65) percent of the site shall remain as open space.

Comment [EM19]: Item 4-15e

(B) No more than ten (10) percent of the gross site area may be covered with impervious surface.

(C) The development proposal's stormwater system shall limit stormwater discharge volumes to match the average annual volume discharged from the pre-developed forested site conditions as determined using a calibrated continuous simulation hydrologic model based on the EPA's HSPF program or an approved equivalent model. The city may modify these requirements based upon site specific analysis of the feasibility of required improvements, standards and specifications. Such analysis shall include evaluation of site and vicinity soils, hydrology, and other factors, as determined by the City, affecting the successful design of the stormwater or low impact development improvements. The city shall consider purpose, effectiveness, engineering feasibility, commercial availability of technology, best management practices, safety and cost of the proposal when evaluating a waiver or modification request. The applicant shall bear the burden of proof that a waiver or modification is warranted.

(iii) For development proposals that cannot infiltrate all site runoff, the applicant shall design a drainage system that provides a drainage outlet designed using the best available science techniques in addition to the applicable flow control and water quality treatment standards of the adopted surface water design manual to minimize limit the risk of landslide or erosion to within the no-disturbance area and minimize the risk of water quality impacts to any sensitive water body located downstream of the no disturbance area; and

(iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements that were legally established according to the regulations in

# Exhibit 1

1 place at the time of establishment, where such modification, addition or replacement does not  
2 increase the amount of impervious surface on the lot, shall be exempt from the provisions of  
3 this section.

4 (4) ~~Development~~ standards for properties draining to the no-disturbance area. The following development  
5 standards shall be applied, in addition to all applicable requirements of this chapter, to development  
6 proposals located within the erosion hazards near sensitive water body overlay that drain to a no-  
7 disturbance area:

Comment [EM20]: Re-organization for clarity

8 (ae) New proposed subdivisions, short subdivisions, public institutions, commercial site  
9 development permits, and binding site plans for sites that drain ~~ed~~ predeveloped runoff to the no-  
10 disturbance zone shall evaluate the suitability of on-site soils for infiltration. All runoff from newly  
11 constructed impervious surfaces shall be retained on site unless this requirement precludes a  
12 proposed subdivision or short subdivision from achieving 75 percent of the maximum net density as  
13 identified in Chapter 21A.25 SMC. When 75 percent of the maximum net density cannot be met, the  
14 applicant shall retain runoff on site and a perforated tightline (Figure C.2.1, Appendix C, of the 1998  
15 KCSWDM, as amended ~~per the adopted surface water design manual and Title 13 Surface Water~~  
16 ~~Management~~.) shall be used to connect each lot to the central drainage system. The following  
17 drainage systems shall be evaluated, using the following sequential measures, which appear in order  
18 of preference:

Comment [CdS21]: Item 4-5

19 (i) Infiltration of all site runoff shall be required in granular soils as defined in the ~~adopted~~  
20 ~~surface water design manual and Title 13 Surface Water Management, King County Surface~~  
21 ~~Water Design Manual (KCSWDM);~~

22 (ii) Infiltration of downspouts shall be required in granular soils and in soil conditions defined  
23 as allowable in the KCSWDM when feasible to fit the required trench lengths on site. All flows  
24 not going to an individual infiltration system shall be detained on site using the most restrictive  
25 flow control standard; and

26 (iii) When infiltration of downspouts is not feasible, the applicant shall design a drainage  
27 system that will detain flows on site using the applicable flow control standard and shall install  
28 an outlet from the drainage system designed using the best available science techniques to  
29 limit the risk of landslide or erosion to the no-disturbance area; provided, that in no case shall  
30 development proposals generating more than 2,000 square feet of impervious surface create  
31 point discharges in or upstream of the no-disturbance or landslide hazard areas.

32 ~~(d) New single-family home construction or modifications or additions to existing single-family~~  
33 ~~homes on existing legal lots that will result in a total site impervious surface of more than 2,000~~  
34 ~~square feet shall provide a drainage design, using the following sequential measures, which appear~~  
35 ~~in order of preference:~~

36 ~~(i) Infiltration of all site runoff shall be required to the maximum extent technically feasible in~~  
37 ~~soil conditions, consistent with the infiltration system design requirements of the KCSWDM;~~

(ii) For development proposals that cannot infiltrate all site runoff, impervious surfaces shall be infiltrated to the maximum extent technically feasible in soil conditions, consistent with the infiltration system design requirements of the KCSWDM;

(iii) For development proposals that cannot infiltrate all site runoff, the applicant shall design a drainage system that provides a drainage outlet designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; and

(iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements in existence before January 1, 2006, that do not increase the existing total footprint of the residence and associated impervious surface by more than 200 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this section.

(eb) For the portions of proposed subdivisions, short subdivisions and binding site plans that cannot infiltrate runoff up to the 100-year peak flow, at least 25 percent of the portion of the site that cannot infiltrate shall remain undisturbed and set aside in an open space tract consistent with SMC 21A.50.160 through 21A.50.190. The open space tract shall be located adjacent to any required critical area tracts and shall be designed to maximize the amount of separation between the critical area and the proposed development. If no critical areas tracts are required, the open space tract shall be located to provide additional protection to the no-disturbance area.

(fc) For the portions of all subdivisions and short subdivisions that cannot infiltrate runoff up to the 100-year peak flow, no more than 35 percent of the gross site area shall be covered by impervious surfaces. For new subdivisions and short subdivisions, maximum lot coverage should be specified for subsequent residential building permits on individual lots.

(5) Pilot Program.

Comment [EM22]: Item 4-15d

(a) Establishment of Pilot Program. A Pilot Program is hereby established to allow clearing and development projects within the no-disturbance area as set forth herein on land that has slopes of less than 40 percent grade and that is located outside of environmentally critical area buffers.

(b) Purpose. The purpose of this Pilot Program is to allow for limited development within the no disturbance area under strict limitations in order to evaluate the ability to allow increased development within the no-disturbance area without adversely affecting the water quality of Lake Sammamish. Projects qualifying for this Pilot Program are subject to the requirements below, would are not be subject to the preceding sections of 21A.50.225.

(c) Eligible Projects. Projects eligible for inclusion in this Pilot Program include, without limitation, three (3) subdivisions with direct discharges to the lake using a permitted tightline system conforming to the requirements set forth in (c)(i) below, three (3) subdivisions without direct discharge via a tightline conforming to the requirements set forth in (c)(ii) or (c)(iii) below, and three (3) short subdivisions conforming to the requirements set forth in (c)(i), (c)(ii), or (c)(iii) below that are designed subject to one of the following:

Comment [EM23]: Item 4-15g

1 (i) Where direct access to Lake Sammamish is available, the applicant shall install permanent  
2 water quality treatment per adopted manual and a tightline storm drain system discharging  
3 directly into Lake Sammamish designed by a professional engineer using the most current  
4 drainage manual and technologies. The applicant shall also install temporary erosion  
5 sediment control improvements, in particular active water quality treatment. The tightline  
6 system shall extend through the property and be available by extension or easement  
7 upstream to properties that naturally drain to the subject property; or,

8 (ii) Where direct access to Lake Sammamish is not available, the applicant shall design a  
9 project consistent with the development standards of Low Impact Development, specifically:

Comment [EM24]: Item 4-15d

10 (A) Sixty-five (65) percent of the site shall remain as forested open space. Re-  
11 vegetation shall be required to convert non-forested open space to forested as  
12 part of the project approval.

13 (B) No more than ten (10) percent of the gross site area may be covered with  
14 impervious surface.

15 (C) The project's stormwater system shall limit stormwater discharge volumes to  
16 match the average annual volume discharged from the pre-developed forested  
17 site conditions as determined using a calibrated continuous simulation  
18 hydrologic model based on the EPA's HSPF program or an approved equivalent  
19 model. The city may modify these requirements based upon site specific analysis  
20 of the feasibility of required improvements, standards and specifications. Such  
21 analysis shall include evaluation of site and vicinity soils, hydrology, and other  
22 factors, as determined by the City, affecting the successful design of the  
23 stormwater or low impact development improvements. The city shall consider  
24 purpose, effectiveness, engineering feasibility, commercial availability of  
25 technology, best management practices, safety and cost of the proposal when  
26 evaluating a waiver or modification request. The applicant shall bear the burden  
27 of proof that a waiver or modification is warranted.

28 (iii) Where access to Lake Sammamish is only available via connection to an existing offsite,  
29 manmade conveyance, the applicant shall design a project consistent with the following:

30 (A) The project site must be less than 5 acres in size;

31 (B) Permanent stormwater treatment and flow control facilities shall be installed  
32 consistent with current City standards. In addition, these facilities shall remove  
33 60 percent of total phosphorus be designed to achieve a goal of 60 percent total  
34 phosphorus (TP) removal for the WQ design flow or volume (defined in Section  
35 6.2.1, p. 6-17 of the 2009 KCSWDM);

36 (C) Stormwater detention shall be enhanced to achieve Level 3 flow control or  
37 equivalent based upon the adopted surface water design manual and Title 13  
38 Surface Water Management;

39 (D) All treatment and flow control facilities, tightlines, and connections to existing  
40 offsite, manmade conveyances shall be designed by a professional engineer,  
41 using the adopted surface water design manual. The off-site manmade  
42 conveyance shall be evaluated per section 1.2.4.2 (Conveyance Requirements for  
43 Existing Systems) of the adopted surface water design manual and Title 13

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Surface Water Management. A downstream analysis of all open channel elements of the off-site, manmade conveyance shall be required. The analysis shall address the entirety of the conveyance from the project site to Lake Sammamish and shall include a field inspection, geotechnical review, and quantitative hydraulic analysis. The analysis shall be subject to a third-party peer review at the applicant's expense. Any necessary repairs or improvements to the existing offsite, manmade conveyance, as identified in the downstream analysis, shall be required to ensure that the conveyance can function properly without creating or exacerbating erosive or flooding conditions within the conveyance or on other affected areas;

(E) Temporary erosion and sediment control improvements, in particular temporary flow attenuation and active water quality treatment, shall be installed in accordance with current City standards, subject to the additional provisions of 5(e), below;

(F) Effective impervious surface coverage on each residential lot shall be limited to a maximum of 50 percent of the lot area;

(G) A minimum of 15 percent of the gross project site area shall be retained as open space. This open space shall be in addition to the open space otherwise required for recreational use, and shall be established in dedicated tracts that may include stormwater management facilities;

(H) In addition to meeting current tree retention standards per SMC 21A.35.210(1)(a), all dedicated open space areas shall be revegetated. Revegetation shall consist of: native trees (70% evergreen), provided at a rate of 1 per 200 square feet and spaced no more than 40 feet on center; native shrubs, provided at a rate of 1 per 20 square feet; and groundcover pursuant to SMC 21A.35.080. Revegetation shall apply to disturbed areas not otherwise occupied by storm water management facilities or recreation area;

(I) A minimum of 15 percent of each residential lot shall contain drought-tolerant native plantings; and,

(J) Each single-family residence developed shall provide roof rainwater harvesting (collection, storage, and distribution) facilities sufficient to flush toilets for a family of four.

(d) Pilot Program Administration.

(i) Application. Applications for eligible projects meeting the provisions of 5(c) above must be submitted within three calendar years from the effective date of the adoption by ordinance of the Pilot Program on forms provided by the Department.

(A) Application for eligible projects shall be accepted in the order received. To qualify for application, an applicant must have a complete application as described in the city's application material and SMC 20.05, and completed any necessary preliminary steps prior to application as set forth in SMC 20.05. The City shall maintain a register of applications submitted after the maximum number of application have been received.

(B) In the event that an application for a project accepted into the Pilot Program is withdrawn by the applicant or cancelled by the City prior to the expiration of the

Pilot Program, the next submitted application on the register for the same development type shall be accepted into the Pilot Program.

(C) The city shall use its authority under SMC 20.05.100 to ensure expeditious processing of subdivision applications. In particular, the director shall set a reasonable deadline for the submittal of corrections, studies, or other information when requested; an extension may be provided based upon a reasonable request. Failure by the applicant to meet a deadline shall be cause for the department to cancel/deny the application.

(D) Site development construction shall begin no later than 18 months from the date of preliminary plat approval. The director may authorize a one year extension based upon extenuating circumstances.

(ii) Pilot Program Expiration. The Pilot Program shall expire and no further applications shall be accepted after such three year period as established in subsection "(d)(i)" above. Projects for which applications are accepted into the Pilot Program may be reviewed, approved and constructed, under the terms of the Pilot Program, even if such review, approval, or construction occurs after the Pilot Program has expired.

(e) Development Restrictions. Projects accepted under this Pilot Program may conduct clearing and development in the no-disturbance area, and shall not be subject to subsection 21A.50.225(2) so long as such clearing and development meets all of the following requirements:

(i) The development shall comply with the adopted Surface Water Design Manual (KCSWDM) and Title 13 Surface Water Management;

(ii) Clearing of the site shall be limited based on the treatment capacity designed into the permanent and temporary water quality treatment systems installed;

(iii) Construction Season Work Limits - Land clearing and grading may only occur between May 1st to September 30th with the phases of construction limited as follows:

(A) On or after May 1st, site clearing and grading necessary for the installation of permanent and temporary water quality treatment and conveyance may occur. Clearing and grading shall be limited to those portions of a site where such work is necessary to install tight-line stormwater conveyance, permanent and temporary stormwater detention, and/or water quality facilities. For the purposes of temporary erosion and sediment control, the required tightline system may be either a portion of the permanent stormwater conveyance system if feasible, or a temporary tightline system to be replaced by the permanent system as construction progresses;

(B) On or after June 1st, development of the site may occur;

(C) No later than September 30th, all site clearing and grading activity must be completed and the site fully prepared for winter rains, through techniques such

1 as hydroseeding or stabilization as set forth in an approved Construction Season  
2 Work Limit Plan;

3 (D) The Director may extend the seasonal construction limitations described above  
4 may be extended with permission of the director if, in the Director's  
5 determination, appropriate erosion control measures and practices are in place  
6 and then prevailing weather patterns permit.

7 (iv) Construction Season Work Limit Implementation. City approval of a temporary  
8 erosion and sediment control plan consistent with this section, SMC 21A.50.220, and  
9 other laws and regulations is required prior to any site work. The temporary erosion  
10 and sediment control plan shall comply with grading limits, shall include Construction  
11 Season Work Limits that comply with the construction season limitations, and shall  
12 include a Close Out Plan identifying the actions that will be taken to ready the site for  
13 winter weather. The Close Out Plan shall include the following:

14 (A) By August 15th City approval of any proposed changes to the Close Out Plan to  
15 assure that the site will be prepared for winter weather by September 30<sup>th</sup> is  
16 required.

17 (B) By September 1st review and approval of any revisions to the close out plan is  
18 required.

19 (C) By September 15<sup>th</sup>, city inspection is required of the site to confirm that all  
20 mandatory elements of the Close Out Plan are being implemented. Following  
21 inspections, the city shall direct the applicant to take any additional actions that  
22 are necessary and may order all construction work to be stopped other than  
23 work to prepare the site for winter weather.

24 (D) By September 30th all site work to prepare the site for winter weather shall be  
25 completed.

26 (E) The Director may extend these seasonal construction limitations may be  
27 extended with permission of the director if, in the Director's determination,  
28 appropriate erosion control measures and practices are in place and then  
29 prevailing weather patterns permit.

30 (v) Early Installation of Permanent Stormwater Management System. In addition to  
31 installation of all required Temporary Sediment and Erosion Control measures, and  
32 prior to any grading, other than grading necessary for installation of the stormwater  
33 management system, the applicant shall construct the Project's stormwater  
34 management systems in accordance with plans approved by the City. Stormwater  
35 systems shall include permanent and temporary water quality treatment and  
36 detention facilities specified in the latest approved version of the Surface Water  
37 Design Manual and the pipes and outlet facilities necessary to convey stormwater to  
38 the approved discharge location.

39 (A) Temporary water quality treatment facilities shall be sized to treat runoff  
40 generated by cleared areas during the 10 year storm event during May through

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September and the 25 year storm event for the remainder of the year and release treated runoff with a measured turbidity of no more than 25 NTU.

Comment [EM25]: Item 4-15g

(B) Temporary water quality treatment facilities shall include active sediment controls, such as chemical treatment, enhanced filtration or a combination of both per DOE guidelines (Section C250 & C251, Volume II, Department of Ecology Stormwater Management Manual).

(f) ~~Post Development Phosphorous Control.~~ Post development water quality treatment shall be designed to be designed to achieve a goal of 60 percent total phosphorus (TP) removal for the WQ design flow or volume (defined in Section 6.2.1, p. 6-17 of the 2009 KCSWDM) remove, on an annual basis, 60% or more of all new total phosphorous loading resulting from new development and associated storm water discharge.

Comment [EM26]: Item 4-15g

(g) Monitoring and Reporting on Pilot Program projects. The purpose of collecting monitoring and reporting information on the pilot program projects is to create inform the eventual legislative decision on development in the no-disturbance area. Projects authorized by this pilot program shall collect and report the following:

(i) Monitoring Data. Water quality monitoring data collected pursuant to this section shall include the following:

- (A) Turbidity;
- (B) Total phosphorous;
- (C) Total suspended solids;
- (D) Temperature
- (E) Flow rate; and,
- (F) Volume.

Pilot program projects authorized under subsection (5)(c)(i) above, shall not be required to collect flow rate or volume data. Water quality monitoring data shall be retained by the project applicant for a period of five years after final inspection of the last house built.

(ii) Prior to Construction. Prior to any site construction activity, the project applicant shall be responsible for completing visual inspections of the site and downstream properties to identify possible sources of erosion before, during, and after construction to provide a baseline condition for other data collection.

(iii) During Construction. During any site construction activity the project applicant shall be responsible for collecting monitoring data in accordance with the frequency established by the NPDES permit at the natural discharge location. Monitoring data shall be collected prior to the start of construction, through the construction period and until the last house has been built on the site.

(iv) Following Construction. Following the final inspection of the last house built, the project applicant shall be responsible for collecting monitoring data for five years. Data collection shall occur at a frequency of seven times a year between the months of October and June. Monitoring shall not be required following construction if the Pilot

Program is adopted as a permanent amendment to the Erosion Hazard Near Sensitive Water Body overlay.

(v) Water Quality Reporting. Monitoring data shall be summarized in annual water quality reports submitted to the city. Annual reports shall evaluate the effect on King County water quality data from Lake Sammamish.

(vi) Administrative rules. The director is authorized to adopt administrative rules to ensure the successful water quality data collection, monitoring, and reporting to the city.

(h) Pilot Program Evaluation. The city shall monitor the pilot program through the annual reports and shall summarize the report findings in a report evaluating how well each project achieved the pilot program’s purpose and goals and present the report to the City Council along with a recommended legislative action.

(g) If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to SMC 21A.50.070(2).

(h) The director may modify the property-specific development standards required by this section when a critical areas study is conducted by the applicant and approved by the director which demonstrates that the proposed development substantially increases water quality by showing the following:

(i) Water quality on site is improved through site enhancements and/or other innovative management techniques;

(ii) The development project will not subject downstream channels to increased risk of landslide or erosion; and

(iii) The development project will not subject the nearest sensitive water body to additional erosion hazards. (Ord. O2009-250 § 1; Ord. O2005-193 § 1)

**21A.50.230 Frequently flooded areas.**

(1) Frequently flooded areas include all areas of special flood hazards within the jurisdiction of the City of Sammamish.

(a) The areas of special flood hazard are identified by the Federal Insurance Administration in a scientific and engineering report entitled “the Flood Insurance Study for King County,” as amended, as stated in SMC 15.10.060. The flood insurance study is on file at Sammamish City Hall. The best available information for flood hazard area identification as outlined in SMC 15.10.130(2) shall be the basis for regulation until a new Flood Insurance Rate Map (FIRM) is issued that incorporates the data utilized under SMC 15.10.130(2).

(b) The director may use additional flood information that is more restrictive or detailed than that provided in the Flood Insurance Study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar information.

Comment [EM27]: Clarification

# Exhibit 1

1 (2) Development in frequently flooded areas shall be subject to the provisions in Chapter [15.10](#) SMC. (Ord.  
2 O2005-193 § 1; Ord. O99-29 § 1)

### 3 **21A.50.240 Flood hazard areas – Certification by engineer or surveyor.**

4 *Repealed by Ord. O2005-193.* (Ord. O99-29 § 1)

### 5 **21A.50.250 Channel relocation and stream meander areas.**

6 *Repealed by Ord. O2005-193.* (Ord. O99-29 § 1)

### 7 **21A.50.260 Landslide hazard areas – Development standards and permitted alterations.**

8 A development proposal containing, or within 50 feet of, a landslide hazard area shall meet the following  
9 requirements:

10 (1) A minimum buffer of 50 feet shall be established from ~~all edges~~ the top and toe of the landslide hazard  
11 area. The buffer shall be extended as required to mitigate a landslide or erosion hazard or as otherwise  
12 necessary to protect the public health, safety, and welfare.

Comment [CdS28]: Item 4-7

13 ~~(a)~~ (2) The buffer may be reduced to a minimum of 15 feet if, based on a critical areas study, the City  
14 determines that the reduction will adequately protect the proposed development and other  
15 properties, the critical area and other critical areas off-site.

16 ~~(ab)~~ For single-family residential building permits only, the City may ~~waive the~~ reduce the scope of  
17 the critical areas study requirement if other development in the area has already provided sufficient  
18 information or if such information is otherwise readily available.

Comment [CdS29]: Item 5-8

19 ~~(2)(b)~~ In addition to the general requirements for critical areas studies that may be required consistent with  
20 SMC [21A.50.130](#), the critical areas study for a landslide hazard area shall include a geotechnical report  
21 prepared by a qualified professional consistent with SMC 21A.15.545, unless otherwise approved by the city,  
22 which also includes the following:

Comment [EM30]: Item 5-6

Comment [EM31]: Item 5-6

23 (i) A description of the extent and type of vegetative cover;

24 (ii) A description of subsurface conditions based on data from site-specific explorations;

25 (iii) Descriptions of surface and groundwater conditions, public and private sewage disposal  
26 systems, fills and excavations, and all structural improvements;

27 ~~(Div)~~ An estimate of slope stability and the effect construction and placement of structures  
28 will have on the slope over the estimated life of the structure;

Comment [CdS32]: Item 4-11

29 (iv) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic  
30 events such as seismic activity or a 100-year storm event;

31 (v) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide  
32 run-out on downslope properties;

# Exhibit 1

1 ~~(vii) A study of slope stability including an analysis of proposed cuts, fills, and other site~~  
2 ~~grading;~~

Comment [CdS33]: 4-11

3 (vi) Recommendations for building siting limitations; ~~and~~

4 (vii) An analysis of proposed surface and subsurface drainage, and the vulnerability of the  
5 site to erosion; ~~and~~

6 ~~(viii) A comprehensive study of slope stability including an analysis of proposed cuts, fills, and~~  
7 ~~other site grading and construction effects where the overall minimum factor of safety for~~  
8 ~~slope stability is 1.5 for static conditions and 1.1 for seismic conditions as based on current~~  
9 ~~building code seismic design conditions.~~

Comment [CdS34]: Item 4-11

10 ~~(43)~~ Unless otherwise provided herein or as part of an approved alteration, removal of any vegetation from a  
11 landslide hazard area or buffer shall be prohibited, except for limited removal of vegetation necessary for  
12 surveying purposes and for the removal of hazard trees determined to be unsafe by the City. The City may  
13 require the applicant to submit a report prepared by a certified arborist to confirm hazard tree conditions.  
14 Notice to the City shall be provided prior to any vegetation removal permitted by this subsection.

15 ~~(54)~~ Vegetation on slopes within a landslide hazard area or buffer that has been damaged by human activity  
16 or infested by noxious weeds may be replaced with native vegetation pursuant to an enhancement plan  
17 approved by the City pursuant to SMC 21A.50.060. The use of hazardous substances, pesticides, and  
18 fertilizers in landslide hazard areas and their buffers may be prohibited by the City.

19 ~~(65)~~ Alterations to landslide hazard areas and buffers may be allowed only as follows:

20 (a) A landslide hazard area located on a slope 40 percent or steeper may be altered only if the  
21 alteration meets the following standards and limitations:

22 (i) Approved surface water conveyances, as specified in the ~~applicable adopted surface water~~  
23 ~~design manual and Title 13 Surface Water Management, City-adopted storm water~~  
24 ~~requirements~~, may be allowed in a landslide hazard area if they are installed in a manner to  
25 minimize disturbance to the slope and vegetation;

26 (ii) Public and private trails may be allowed in a landslide hazard area subject to the standards  
27 and mitigations contained in this chapter, development standards in Chapter 21A.30 SMC, and  
28 requirements elsewhere in the SMC, when locating outside of the hazard area is not feasible;

29 (iii) Utility corridors may be allowed in a landslide hazard area if a critical areas study shows  
30 that such alteration will not subject the area to the risk of landslide or erosion;

31 (iv) Limited trimming and pruning of vegetation may be allowed in a landslide hazard area  
32 pursuant to an approved vegetation management plan for the creation and maintenance of  
33 views if the soils are not disturbed;

Exhibit 1

1 (v) Stabilization of sites where erosion or landsliding threatens public or private structures,  
2 utilities, roads, driveways or trails, or where erosion and landsliding threaten any lake, stream,  
3 wetland, or shoreline. Stabilization work shall be performed in a manner that causes the least  
4 possible disturbance to the slope and its vegetative cover; and

5 (vi) Reconstruction, remodeling, or replacement of an existing structure upon another portion  
6 of an existing impervious surface that was established pursuant to City ordinances and  
7 regulations may be allowed; provided:

8 (A) If within the buffer, the structure is located no closer to the landslide hazard area than  
9 the existing structure; and

10 (B) The existing impervious surface within the buffer or landslide hazard area is not  
11 expanded as a result of the reconstruction or replacement.

12 (b) A landslide hazard area located on a slope less than 40 percent may be altered only if the  
13 alteration meets the following requirements:

14 (i) The development proposal will not decrease slope stability on contiguous properties; and

15 (ii) Mitigation based on the best available engineering and geological practices is implemented  
16 that either eliminates or minimizes the risk of damage, death, or injury resulting from  
17 landslides; and

18 (c) Neither buffers nor a critical area tract shall be required if the alteration meets the standards of  
19 subsection (5)(b) of this section.

20 ~~(6) New development proposals that will result in a total site impervious surface of more than 2,000 square~~  
21 ~~feet shall submit a drainage plan which complies with all applicable and project specific provisions of the~~  
22 ~~King CountySDM and City of Sammamish Addendum. provide a drainage design, using the following~~  
23 ~~sequential measures, which appear in order of preference:~~

24 ~~(a) Infiltration of all site runoff shall be required to the maximum extent technically feasible in soil~~  
25 ~~conditions, consistent with the infiltration system design requirements of the KCSWDM;~~

26 ~~(b) For development proposals that cannot infiltrate all site runoff, impervious surfaces shall be~~  
27 ~~infiltrated to the maximum extent technically feasible in soil conditions, consistent with the~~  
28 ~~infiltration system design requirements of the KCSWDM;~~

29 ~~(c) For development proposals that cannot infiltrate all site runoff, the applicant shall design a~~  
30 ~~drainage system that provides a drainage outlet designed using the best available science~~  
31 ~~techniques to limit the risk of landslide or erosion to the no-disturbance area; and~~

32 ~~(d) Structural modification of, addition to or replacement of legally created single detached~~  
33 ~~residences and improvements in existence before January 1, 2006, that do not increase the existing~~

Comment [CdS35]: Item 4-9

~~total footprint of the residence and associated impervious surface by more than 200 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this section.~~

(7) The following are exempt from the provisions of this section:

(a) Slopes that are 40 percent or steeper with a vertical elevation change of up to 20 feet if no adverse impact will result from the exemption based on the City’s review of and concurrence with a soils report prepared by a licensed geologist or geotechnical engineer; and

(b) The approved regrading of any slope that was created through previous legal grading activities. (Ord. O2009-250 § 1; Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.270 Seismic hazard areas – Development standards and permitted alterations.**

A development proposal containing a seismic hazard area shall meet the following requirements:

(1) All applicable building code requirements; and

(2) Alterations to seismic hazard areas may be allowed only as follows:

(a) The evaluation of site-specific subsurface conditions shows that the proposed development site is not located in a seismic hazard area; or

(b) Mitigation based on the best available engineering and geological practices is implemented that either eliminates or minimizes the risk of damage, death, or injury resulting from seismically induced settlement or soil liquefaction. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.280 Critical aquifer recharge areas – Development standards.**

(1) Groundwater Quantity Protection Standards. For developments in all CARA classes, the applicant shall provide surface water infiltration as follows:

(a) Seventy-five percent of on-site storm water volume generated from the proposed development shall be infiltrated; provided, that a lesser standard may apply or on-site infiltration may be waived when:

(i) The applicant demonstrates that infiltration is not a reasonable alternative due to site-specific soil and/or geologic conditions;

(ii) It is determined that increased saturation of soils would result in an increased risk to existing facilities and/or adjacent properties;

(iii) Infiltration would result in significant unavoidable impacts to other critical areas or result in an excessive loss of native vegetation; or

# Exhibit 1

1 (iv) The applicant proposes an addition of no more than 700 square feet of total new  
2 impervious surface compared cumulatively to 2005 levels.

3 (b) If infiltration is not feasible or required, then storm water facilities shall be constructed in  
4 accordance with City standards.

5 (c) The design and implementation of infiltration facilities shall follow the ecology infiltration  
6 guidelines specified in the Western Washington Stormwater Manual (2005), or other technical  
7 guidance as approved by the City.

8 (d) To prevent groundwater contamination, storm water infiltration may be prohibited for all or a  
9 portion of a site that includes use of hazardous substances.

10 (2) Groundwater Quality Protection Standards. The following provisions shall apply to development in all  
11 CARA classes:

12 (a) Activities may only be permitted in a critical aquifer recharge area if the proposed activity will  
13 not result in a significant increased risk of contamination of drinking water supplies;

14 (b) The City shall impose development conditions when necessary to prevent degradation of  
15 groundwater. Conditions to permits shall be based on known, available and reasonable methods of  
16 prevention control and treatment; and

17 (c) The proposed activity must comply with the water source protection requirements and  
18 recommendations of the Federal Environmental Protection Agency, State Department of Ecology,  
19 State Department of Health, and the Seattle-King County health district.

20 (3) Regulation of Facilities Handling and Storing Hazardous Materials regulated by the State Department of  
21 Ecology.

22 (a) New and existing commercial and industrial land uses and activities located in Class 1 and Class 2  
23 CARAs shall submit a hazardous materials inventory statement with a ~~land use or building permit~~  
24 ~~application~~ development proposal.

25 (b) Report Requirement. Commercial and industrial land uses and activities that involve the use,  
26 storage, transport or disposal of hazardous materials ~~as regulated by the State of Washington, as~~  
27 ~~defined in this chapter~~, in quantities equal to or greater than 20 gallons or the equivalent of 200  
28 pounds, located in Class 1 and Class 2 CARAs, shall submit a critical areas study in accordance with  
29 SMC 21A.50.130 including, as necessary, a hydrogeologic critical area assessment report, spill  
30 containment and response plan and/or groundwater monitoring plan, except for the following  
31 uses/activities:

32 (i) Retail sale of containers five gallons or less in size, where there is less than 500 total gallons;  
33 and

34 (ii) Hazardous materials of no risk to the aquifer.

## Exhibit 1

1 (c) A hydrogeologic critical area assessment report, when required by subsection (3)(b) of this  
2 section, shall be prepared by a qualified professional to determine potential impacts of  
3 contaminants on the aquifer. The report shall include the following site- and proposal-related  
4 information, at a minimum:

5 (i) Information regarding geologic and hydrogeologic characteristics of the site including the  
6 surface location of all CARA classes located on site or immediately adjacent to the site and  
7 permeability of the unsaturated/vadose zone;

8 (ii) Groundwater depth, flow direction and gradient;

9 (iii) Data on wells and springs within 1,300 feet of the project area;

10 (iv) Location of other critical areas, including surface waters, within 1,300 feet of the project  
11 area;

12 (v) Historic hydrogeologic data for the area to be affected by the proposed activity;

13 (vi) Best management practices (BMPs) and integrated pest management (IPM) proposed to be  
14 used; and

15 (vii) Discussion of the effects of the proposed project on the groundwater quality and quantity,  
16 including:

17 (A) Predictive evaluation of groundwater withdrawal and recharge effects on nearby wells  
18 and surface water features;

19 (B) Predictive evaluation of contaminant transport based on potential releases to  
20 groundwater; and

21 (C) Predictive evaluation of changes in the infiltration/recharge rate.

22 (d) A spill containment and response plan, when required by subsection (3)(b) of this section, is  
23 required to identify equipment and/or structures that could fail and shall include provisions for

24 inspection as required by the applicable state regulations, repair and replacement of structures and  
25 equipment that could fail.

26 (e) A groundwater monitoring plan, when required by subsection (3)(b) of this section, may be  
27 required to monitor quality and quantity of groundwater, surface water runoff, and/or site soils. The  
28 City may require the owner of a facility to install one or more groundwater monitoring wells to  
29 accommodate the required groundwater monitoring.

30 (i) Criteria used to determine the need for site monitoring shall include, but not be limited to,  
31 the proximity of the facility to production or monitoring wells, the type and quantity of

# Exhibit 1

hazardous materials on-site, and whether or not the hazardous materials are stored in underground vessels.

(ii) The City may employ an outside consultant at the applicant's expense to review the monitoring plan and analysis, to ensure that the monitoring plan is followed, and that corrective actions are completed.

(4) Prohibited Uses. Where land uses or materials prohibited in this section are allowed in the Table of Permitted Land Uses (Chapter [21A.20](#) SMC), this section shall control and the use shall be prohibited.

(a) Table 21A.50.280a identifies land uses and materials prohibited in Class 1, 2 and 3 CARAs for new uses; and

(b) Table 21A.50.280b identifies land uses and materials that should be discontinued, removed and decommissioned where existing in Class 1, 2 and 3 CARAs. The City shall require discontinuation, removal and decommissioning of these uses from Class 1, 2 and 3 CARAs at the time of development and redevelopment, in proportion to the degree and nature of the proposal.

**Table 21A.50.280a**

Prohibited Land Uses and Materials (New Uses/Activities)	Class 1 (1- and 5-year WHPA)	Class 2 (10-year WHPA)	Class 3 (High Recharge Areas)
Hazardous liquid transmission pipelines	prohibited	allowed subject to compliance with federal and state standards	
Mining, processing and reclamation of any type	prohibited	prohibited	reviewed under development permit
Processing, storage, and disposal of radioactive substances (except certain medical uses)	prohibited	prohibited	prohibited
Underground storage tanks (UST)	prohibited	prohibited	prohibited
UST with double walls, vault and monitor	prohibited	allowed subject to compliance with federal and state standards	
Above ground storage tanks for hazardous substances or hazardous waste with primary and secondary containment area and spill protection plan	allowed subject to compliance with federal and state standards		
Wells for class B and private water systems, when located in a water service area	prohibited	prohibited	allowed subject to compliance with federal and state

Exhibit 1

Table 21A.50.280a

Prohibited Land Uses and Materials (New Uses/Activities)	Class 1 (1- and 5-year WHPA)	Class 2 (10-year WHPA)	Class 3 (High Recharge Areas)
			standards
Golf courses	prohibited	**	**
Land use activities that require the use of nitrates, phosphorus, pesticides, and other chemicals that have a potential to degrade groundwater and surface water quality when used inappropriately or in excess.	Prohibited	**	**
Closed loop geothermal / heat exchange wells	allowed subject to compliance with federal and state standards **		**
Closed loop geothermal/heat exchange systems (surface)	allowed subject to compliance with federal and state standards **		**
Open loop geothermal / heat exchange wells	allowed subject to compliance with federal and state standards **		Prohibited
Injection Wells (storm water or reclaimed water)	Prohibited	Prohibited	**
Cemeteries	prohibited	**	**
Wrecking yards	prohibited	prohibited	prohibited
Landfills with hazardous waste, municipal solid waste, or special waste	prohibited	prohibited	prohibited
Dry cleaning using chlorinated solvents	prohibited	prohibited	prohibited
**Best management practices (BMPS) and integrated pest management (IPM), as applicable, are required for these uses.			

Comment [EM36]: Item 1-1

Comment [EM37]: Item 1-2

Comment [EM38]: Item 1-2

Comment [EM39]: Item 1-3

Table 21A.50.280b

Exhibit 1

Restricted Land Uses and Materials – (Existing Uses/Activities)	Class 1 (1- and 5-year WHPA)	Class 2 (10-year WHPA)	Class 3 (High Recharge Areas)
UST (underground storage tank)	Remove, decommission or upgrade to comply with federal and state standards		
Abandoned wells	Decommission to comply with federal and state standards		
Existing uses that have a long-term potential to degrade water quality in the WHPA	Discontinue, remove or mitigate potential impacts		

1 (5) Requirements for Specific Uses and Activities.

2 (a) Commercial Vehicle Repair and Servicing.

3 (i) In all CARA classes, vehicle repair and servicing must be conducted over impermeable pads,  
 4 with containment curbs, and within a covered structure capable of withstanding normally  
 5 expected weather conditions. Chemicals used in the process of vehicle repair and servicing  
 6 must be stored in a manner that protects them from weather and provides containment  
 7 should leaks occur.

8 (ii) In all CARA classes, no dry wells shall be allowed on sites used for vehicle repair and  
 9 servicing. Dry wells existing on the site prior to facility establishment must be abandoned using  
 10 techniques approved by the State Department of Ecology prior to commencement of the  
 11 proposed activity.

12 (b) Use of Pesticides, Herbicides, and Fertilizers.

13 (i) Residential Use. In all CARA classes, application of household pesticides, herbicides, and  
 14 fertilizers shall not exceed times, rates, concentrations and locations specified on the  
 15 packaging.

16 (ii) Other Uses. In Class 1 and 2 CARA areas, proposed developments with maintained  
 17 landscape areas greater than 10,000 square feet in area shall prepare an operations and  
 18 maintenance manual using best management practices (BMPs) and integrated pest  
 19 management (IPM) for fertilizer and pesticide/herbicide applications. The BMPs shall include  
 20 recommendations on the quantity, timing and type of fertilizers applied to lawns and gardens  
 21 to protect groundwater quality.

22 (c) Spreading or Injection of Storm Water or Reclaimed Water. Water reuse projects for reclaimed  
 23 water and storm water are regulated in accordance with the adopted water, sewer or storm water  
 24 comprehensive plans that have been approved by the Departments of Ecology and Health. Injection  
 25 wells are prohibited in Class 1 and 2 CARA areas. Injection wells are allowed, subject to city review  
 26 and approval, in Class 3 CARA areas provided injection wells shall comply with the requirements of  
 27 WAC 173-200 and 173-218 and Sammamish Municipal Code.

Comment [EM40]: Item 1-3

# Exhibit 1

1 (d) Construction Activity. In all CARA classes, if construction vehicles will be refueled on a  
2 construction site and/or the quantity of hazardous materials that will be used or stored on a site  
3 exceeds 20 gallons, exclusive of the quantity of hazardous materials contained in fuel or fluid  
4 reservoirs of construction vehicles, then persons obtaining construction permits shall provide  
5 information to the public works department regarding the types and quantities of hazardous  
6 materials that will be on-site and then use BMPs to prevent and respond to spills. Construction site  
7 refueling must be conducted over impermeable pads, with containment curbs. The operator of the  
8 site shall immediately report to the City any spills and is responsible for complete recovery and  
9 cleanup.

10 (e) Fill Quality Standards and Imported Fill Source Statement. In all CARA classes, fill material shall  
11 not contain concentrations of contaminants that exceed cleanup standards for soil as specified in  
12 the Model Toxics Control Act (MTCA). An imported fill source statement is required for all projects  
13 where more than 100 cubic yards of fill will be imported to a site. The City may require analytical  
14 results to demonstrate that fill materials do not exceed cleanup standards. The imported fill source  
15 statement shall include:

16 (i) Source location of imported fill;

17 (ii) Previous land uses of the source location; and

18 (iii) Whether or not fill to be imported is native, undisturbed soil.

19 (f) In Class 1 and 2 CARAs, on lots smaller than one acre, new on-site septic systems are prohibited,  
20 unless:

21 (i) The system is approved by the Washington State Department of Health and the system  
22 either uses an upflow media filter system or a proprietary packed-bed filter system or is  
23 designed to achieve approximately 80 percent total nitrogen removal for typical domestic  
24 wastewater; or

25 (ii) The Seattle–King County department of public health determines that the systems required  
26 under subsection (5)(f)(i) of this section will not function on the site.

27 (g) Geothermal / heat exchange wells are allowed, subject to city review and approval, provided:

28 (i) The system is approved by the Washington Department of Ecology as compliant with the  
29 provisions of WAC 173-160; and

30 (ii) A notice on title is recorded documenting the maintenance requirements of the  
31 geothermal / heat exchange wells

## 32 **21A.50.290 Wetlands – Development standards.**

33 A development proposal on a parcel or parcels containing a wetland or associated buffer of a wetland  
34 located on-site or off-site shall meet the following requirements:

# Exhibit 1

1 (1) The following standard buffers shall be established from the wetland edge:

Wetland Category		Standard Buffer Width (ft)
Category I:	Natural Heritage or bog wetlands	215
	Habitat score 29–36	200
	Habitat score 20–28	150
	Not meeting above criteria	125
Category II:	Habitat score 29–36	150
	Habitat score 20–28	100
	Not meeting above criteria	75
Category III:	Habitat score 20–28	75
	Not meeting above criteria	50
Category IV:		All Land Use Types - 50
<u>Category III and IV:</u>	<u>subject to SMC 21A.50.320</u>	

2 (a) Where a legally established and constructed street or the East Lake Sammamish Trail transects a  
 3 wetland buffer, the department may approve a modification of the standard buffer width to the  
 4 edge of the street or the East Lake Sammamish Trail if the isolated part of the buffer does not  
 5 provide additional protection of the wetland and provides insignificant biological, geological or  
 6 hydrological buffer functions relating to the wetland. If the resulting buffer distance is less than 50  
 7 percent of the standard buffer for the applicable wetland category, no further reduction shall be  
 8 allowed.

9 (b) In addition to the provisions of SMC 21A.50.060, where a buffer has been previously  
 10 established on a legally created parcel or tract that was legally established according to the  
 11 regulations in place at the time of establishment through City or county development review on or  
 12 after November 27, 1990, and is permanently recorded on title or placed within a separate tract, the  
 13 buffer shall be remain as previously established, provided it is at least as large as equal to or greater  
 14 than 50 percent of the current required standard buffer distance for the applicable wetland  
 15 category.

Comment [EM41]: Item 5-9

16 (c) Where wetland functions have been improved due to voluntary implementation of an approved  
 17 stewardship, restoration and/or enhancement plan that is not associated with required mitigation  
 18 or enforcement, the standard wetland buffer width shall be determined based on the previously  
 19 established wetland category and habitat score as documented in the approved stewardship and  
 20 enhancement plan.

21 (2) Repealed by Ord. 02009-264. Removal of any native vegetation or woody debris from a wetland or  
 22 wetland buffer may be allowed only as part of an approved alteration. Only native vegetation can be planted

Comment [EM42]: Item 5-3

# Exhibit 1

1 in wetland or buffer areas, unless the planting is otherwise allowed by SMC 21A.50.060 –Allowance for  
2 Existing Urban Development and Other Uses.

3 (3) Activities and uses shall be prohibited from wetlands and associated buffers, except as provided for in this  
4 chapter.

5 (4) Any wetland restored, relocated, replaced, or enhanced because of a wetland alteration shall have the  
6 buffer required for the highest wetland class involved.

7 (5) For a wetland buffer that includes a landslide hazard area, the buffer width shall be the greater of either  
8 the buffer width required by the wetland’s category in this section or 25 feet beyond the top of the landslide  
9 hazard area.

10 (6) Buffer Averaging. Buffer width averaging may be allowed by the department if:

11 (a) It will provide additional protection to wetlands or enhance their functions, as long as the total  
12 area contained in the buffer on the development proposal site does not decrease (see also SMC  
13 [21A.30.210\(5\)](#) for buffer compensation requirements for trails);

14 (b) The wetland contains variations in sensitivity due to existing physical characteristics or the  
15 character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a  
16 wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

17 (c) The buffer width is not reduced to less than 50 percent of the standard buffer width at any  
18 location; ~~and~~

19 ~~(de)~~ The buffer width is decreased on one part of a wetland and increased on another part of the  
20 same wetland feature; and

21 ~~(ef)~~ The buffer is associated with a development proposal and it will not further encumber a  
22 neighboring property not owned by the applicant.

23 ~~(fe)~~ Buffer averaging may be used in conjunction with buffer reduction options in this section,  
24 provided the total combined reduction does not reduce the buffer to less than 50 percent of  
25 standard buffer width at any location;:-

26 (7) Increased Buffers. Increased buffer widths may be required by a distance necessary to protect wetland  
27 functions and provide connectivity to other wetland and habitat areas when the following occur:

28 (a) When a Category 1 or 2 wetland with a habitat score of greater than 29 points (per Washington  
29 State Wetland Rating System for Western Washington – Department of Ecology 2009 or as revised) is  
30 located within 200 feet of the wetland subject to the increased buffer;

31 (b) Fish and wildlife habitat conservation area and habitat connections are present;

32 (c) Landslide or erosion hazard areas are contiguous to wetlands;

Comment [CdS43]: Item 5-10

Comment [CdS44]: Item 5-11

# Exhibit 1

1 (d) Groundwater recharge and discharge areas are at risk;

2 (e) Or to offset buffer impacts, such as trail and utility corridors; and

3 (f) Ecological wetland functions are at risk including, but not limited to the following:

4 \_\_\_\_\_ (i) Habitat complexity, connectivity and biological functions;

5 \_\_\_\_\_ (ii) Seasonal hydrological dynamics as provided in the adopted Surface Water Design Manual;

6 \_\_\_\_\_ (iii) Sediment removal and erosion control;

7 \_\_\_\_\_ (iv) Pollutant removal;

8 \_\_\_\_\_ (v) Large wood debris (LWD) recruitment;

9 \_\_\_\_\_ (vi) Water temperature;

10 \_\_\_\_\_ (vii) Wildlife habitat; and

11 \_\_\_\_\_ (viii) Microclimate. Increased Buffers. The department may require the standard buffer to be  
12 increased by the greater of 50 feet or a distance necessary to protect wetland functions and provide  
13 connectivity to other wetland and habitat areas when a Category 1 or 2 wetland with a habitat score greater  
14 than 20 points is located within 300 feet of:

15 (a) Another Category 1 or 2 wetland;

16 (b) A fish and wildlife habitat conservation area; or

17 (c) A type S or F stream.

18 ~~The increased buffer distance may be limited to those areas that provide connectivity or are necessary to~~  
19 ~~protect wetland and habitat functions.~~

20 (8) Buffer Reduction. Buffers may be reduced when buffer reduction impacts are mitigated and result in  
21 equal or greater protection of the wetland functions. Prior to considering buffer reductions, the applicant  
22 shall demonstrate application of mitigation sequencing as required in SMC [21A.50.135](#). A plan for mitigating  
23 buffer-reduction impacts must be prepared using selected incentive-based mitigation options from the list  
24 below. The following incentive options for reducing standard buffer widths shall be considered cumulative up  
25 to a maximum reduction of 50 percent of the standard buffer width. In all circumstances where a substantial  
26 portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native  
27 vegetation in the degraded portions of the remaining buffer area and shall include a five-year monitoring and  
28 maintenance plan.

29 (a) Installation of biofiltration/infiltration mechanisms: up to 20 percent reduction in the standard  
30 buffer width may be allowed for the installation of bioswales, Up to 20 percent reduction in the  
31 standard buffer width may be allowed if water quality is improved in excess of the requirements of

# Exhibit 1

1 the adopted surface water design manual and Title 13 Surface Water Management, through the use  
2 of created and/or enhanced wetlands, or ponds supplemental to existing storm drainage and water  
3 quality requirements.

4 (b) Removal of existing impervious surfaces:

5 (i) Up to 10 percent reduction in standard buffer width if impervious surfaces within the to-be-  
6 remaining buffer area are reduced by at least 50 percent; or

7 (ii) Up to 20 percent reduction in standard buffer width if the to-be-remaining buffer area is  
8 presently more than 50 percent impervious and all of it is to be removed.

9 (c) Removal of invasive, nonnative vegetation: up to 10 percent reduction in standard buffer width  
10 for the removal and extended (minimum five-year) monitoring and continued-removal maintenance  
11 of relatively dense stands of invasive, nonnative vegetation from significant portions of the  
12 remaining buffer area.

13 (d) Restoration, preservation and maintenance of the existing wetland and buffer vegetation if the  
14 following conditions are present and/or attainable as a result of action:

Comment [EM45]: Item 3-10

15 (i) An undisturbed vegetated buffer of 100 feet is preserved in the remaining buffer width;  
16 and,

17 (ii) Existing buffer conditions are degraded such that more than 40 percent of the buffer is  
18 covered by non-native/invasive plant species and are the buffer is restored according to a  
19 city-approved restoration plan to improve wetland buffer functions; and,

20 (iii) Native tree or shrub vegetation covers less than 25 percent of the total buffer area and  
21 the area will be re-vegetated according to a city-approved restoration plan with native trees  
22 and shrubs to replace existing reduced and impacted buffer functions; and,

23 (iv) The wetland buffer has slopes of less than 25 percent; and

24 (v) The buffer reduction determination and percentage shall be on a site by site basis based  
25 on the applicant's plan and demonstration of improvement to water quality and habitat  
26 functions.

27  
28  
29 (e) If not already required under an existing development proposal, installation of oil/water  
30 separators for storm water quality control: up to 10 percent reduction in standard buffer width.

31  
32  
33 (f) Use of pervious material for driveway/road construction: up to 10 percent reduction in standard  
34 buffer width.

35  
36  
37 (g) Restoration of on-site buffer and wetland areas, or restoration of off-site buffer and wetland  
38 areas within the same sub-basin of the impacted wetland if no on-site restoration is possible:

39 (i) Up to 10 percent reduction in standard buffer width if restoration area is at a 2:1 ratio or  
40 greater; or

# Exhibit 1

1 (ii) Up to 20 percent reduction in standard buffer width if restoration area is at a 4:1 ratio or  
2 greater.

3 (gh) Removal of significant refuse or sources of toxic material: up to 10 percent reduction in  
4 standard buffer width.

5 (hi) Percentages listed above may be added together to create a total buffer reduction; provided,  
6 that the total reduction does not exceed 50 percent of the standard buffer width.

7 (9) The use of hazardous substances, pesticides and fertilizers in the wetland and its buffer may be prohibited  
8 by the City.

9 (10) ~~The introduction of livestock into a wetland or wetland buffer is prohibited. Unless otherwise provided,  
10 the following restrictions shall apply to all development proposals that include the introduction of livestock  
11 on sites with wetlands or wetland buffers:~~

12 ~~(a) A plan to protect and enhance the wetland's water quality shall be implemented pursuant to the  
13 adopted surface water design manual standards; and~~

14 ~~(b) Fencing located not closer to the wetland than the outer wetland buffer edge shall be required. (Ord.  
15 O2009-264 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)~~

Comment [CdS46]: Item 5-12

## 16 **21A.50.300 Wetlands – Permitted alterations.**

17 Alterations to wetlands and wetland buffers are not allowed, except as provided for by complete  
18 exemptions, ~~allowances for existing urban development and other uses~~ ~~partial exemptions~~ and exceptions in  
19 this chapter or as allowed for by this section.

20 (1) Alterations may be permitted if the department determines, based upon its review of critical areas  
21 studies completed by qualified professionals, that the proposed development will:

22 (a) Protect, restore or enhance the wildlife habitat, natural drainage, or other valuable functions of  
23 the wetland resulting in a net improvement to the functions of the wetland system;

24 (b) Design, implement, maintain, and monitor a mitigation plan prepared by a qualified professional;

25 (c) Perform the mitigation under the direction of a qualified professional; and

26 (d) Will otherwise be consistent with the purposes of this chapter.

27 (2) If a wetland is in a flood hazard area, the applicant shall notify affected communities and native tribes of  
28 proposed alterations prior to any alteration and submit evidence of such notification to the Federal Insurance  
29 Administration.

30 (3) There shall be no introduction of any nonnative or invasive plant or wildlife into any wetland or wetland  
31 buffer ~~unless authorized except as required~~ by a state or federal permit or approval ~~or as otherwise allowed~~  
32 ~~by SMC 21A.50.060 – Allowance for Existing Urban Development and Other Uses.~~

Comment [EM47]: Item 5-15

# Exhibit 1

- 1 (4) Utilities may be allowed in wetland buffers if:
- 2 (a) The director determines that no reasonable alternative location is available; and
- 3 (b) The utility corridor meets any additional requirements for installation, replacement of vegetation
- 4 and maintenance, as needed to mitigate impacts.
- 5 (5) Sewer utility corridors may be allowed in wetland buffers only if:
- 6 (a) The applicant demonstrates that ~~the sewer lines are~~ location is necessary for gravity flow;
- 7 (b) The corridor is not located in a wetland or buffer used by species listed as endangered or
- 8 threatened by the state or federal government or containing critical or outstanding actual habitat
- 9 for those species or heron rookeries or raptor nesting trees;
- 10 (c) The corridor alignment including, but not limited to, any allowed maintenance roads follows a
- 11 path farthest from the wetland edge as feasible;
- 12 (d) Corridor construction and maintenance protects the wetland and buffer and is aligned to avoid
- 13 cutting trees greater than 12 inches in diameter at breast height, when possible, and pesticides,
- 14 herbicides and other hazardous substances are not used;
- 15 (e) An additional, contiguous and undisturbed buffer, equal in width to the proposed corridor,
- 16 including any allowed maintenance roads, is provided to protect the wetland;
- 17 (f) The corridor is revegetated with appropriate native vegetation at preconstruction densities or
- 18 greater immediately upon completion of construction or as soon thereafter as possible, and the
- 19 sewer utility ensures that such vegetation survives;
- 20 (g) Any additional corridor access for maintenance is provided, to the extent possible, at specific
- 21 points rather than by a parallel road; and
- 22 (h) The width of any necessary parallel road providing access for maintenance is as small as possible,
- 23 but not greater than 15 feet; the road is maintained without the use of herbicides, pesticides or
- 24 other hazardous substances; and the location of the road is contiguous to the utility corridor on the
- 25 side away from the wetland.
- 26 (6) Joint use of an approved sewer utility corridor by other utilities may be allowed.
- 27 (7) Where technically feasible, surface water discharge shall be located outside of the wetland and wetland
- 28 buffer. The following surface water management activities and facilities may be allowed in wetlands or their
- 29 buffers only as follows: Where surface water discharge is authorized within a wetland or wetland buffer, the
- 30 following shall apply:
- 31 (a) Surface water discharge to a wetland from a flow control or water quality treatment facility,
- 32 sediment pond or other surface water management activity or facility may be allowed if the

Comment [CdS48]: Item 5-13

## Exhibit 1

1 discharge does not increase the rate of flow, change the plant composition in a forested wetland or  
2 decrease the water quality of the wetland;

3 (b) Isolated Category 4 wetlands and buffers may be used as a flow control facility if:

4 (i) Presettlement pond or water quality treatment is required prior to flow into the wetland;  
5 and

6 (ii) They are not part of, or immediately adjacent to, a designated wildlife habitat corridor and  
7 all requirements of the applicable City-adopted storm water requirements are met; and

8 (c) Use of a wetland buffer for a surface water management activity or facility, other than a flow  
9 control or water quality treatment facility, such as an energy dissipater and associated pipes, may be  
10 allowed only if the applicant demonstrates, to the satisfaction of the department, that:

11 (i) No reasonable alternative exists; and

12 (ii) The functions of the buffer or the wetland are not adversely affected.

13 (8) Public and private trails may be allowed in wetland buffers consistent with the standards and  
14 requirements in this chapter, development standards in Chapter [21A.30](#) SMC, and requirements elsewhere in  
15 the SMC. Proposals for constructing viewing platforms, associated access trails, and spur trails must be  
16 reviewed by a qualified professional and a critical areas study may be required.

17 (9) A dock, pier, moorage, float, or launch facility may be allowed, subject to the provisions of SMC Title [25](#),  
18 if:

19 (a) The existing and zoned density around the wetland is three dwelling units per acre or more;

20 (b) At least 75 percent of the lots around the wetland have been built upon and no significant buffer  
21 or wetland vegetation remains on these lots; and

22 (c) Open water is a significant component of the wetland.

23 (10) Crossings. The use of existing crossings, including but not limited to utility corridors, road and railroad  
24 rights-of-way, within wetlands or buffers for public or private trails is preferred to new crossings, subject to  
25 the standards and requirements in the SMC. New wetland road and trail crossings may be allowed if:

26 (a) The director determines that:

27 (i) The crossing is identified as a part of a corridor shown in a City-adopted parks or trails plan,  
28 park master plan, transportation plan, or comprehensive plan, or otherwise is necessary to  
29 connect or construct the road or trail to publicly owned lands, utility corridors, rights-of-way or  
30 other public infrastructure, or is required to provide access to property where no other  
31 reasonable alternative access is possible; or

# Exhibit 1

1 (ii) The applicant demonstrates that the new crossing creates less overall or less incremental  
2 impacts to critical areas and habitat than the use of an existing corridor while still achieving  
3 overall project goals and objectives;

4 (b) All crossings avoid or minimize impact to the wetland and provide mitigation for unavoidable  
5 impacts through restoration, enhancement or replacement of disturbed areas as described in this  
6 chapter and in the SMC;

7 (c) Crossings do not significantly change the overall wetland hydrology;

8 (d) Crossings do not diminish the flood storage capacity of the wetland; and

9 (e) All crossings are constructed during summer low water periods.

10 ~~(11) Reconstruction, Remodeling, or Replacement of Existing Structures. Reconstruction, remodeling, or~~  
11 ~~replacement of an existing structure upon another portion of an existing impervious surface that was~~  
12 ~~established pursuant to ordinances and regulations in effect at the time may be allowed, provided:~~

13 ~~(a) If within the buffer, the structure is located no closer to the wetland than the existing structure;~~  
14 ~~and~~

15 ~~(b) The existing impervious surface within the buffer or wetland is not expanded as a result of the~~  
16 ~~reconstruction or replacement.~~

17 (12) Enhancement and Restoration. Wetland enhancement or restoration not associated with any other  
18 development proposal may be allowed if accomplished according to a plan for its design, implementation,  
19 maintenance and monitoring prepared by and carried out under the direction of a qualified professional.  
20 Restoration or enhancement must result in a net improvement to the functions of the wetland system.

21 (13) Wetland Restoration Project. A wetland restoration project for habitat enhancement may be allowed if:

22 (a) The restoration is sponsored by a public agency with a mandate to do such work;

23 (b) The restoration is not associated with mitigation of a specific development proposal;

24 (c) The restoration is limited to revegetation of wetlands and their buffers and other specific fish and  
25 wildlife habitat improvements that result in a net improvement to the functions of the wetland  
26 system;

27 (d) The restoration only involves the use of hand labor and light equipment, or the use of helicopters  
28 and cranes that deliver supplies to the project site; provided, that they have no contact with critical  
29 areas or their buffers; and

30 (e) The restoration is performed under the direction of a qualified professional. (Ord. O2005-193 §  
31 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

# Exhibit 1

1 **21A.50.310 Wetlands – Mitigation requirements.**

2 When mitigation for wetland and/or wetland buffer impacts is required, mitigation shall meet the  
3 requirements listed in SMC [21A.50.145](#) in addition to the following supplementary requirements:

4 (1) Equivalent or Greater Biological Functions. Mitigation for alterations to wetland(s) and/or wetland  
5 buffer(s) shall achieve equivalent or greater biologic functions and shall be consistent with the Department of  
6 Ecology Guidance on Wetland Mitigation in Washington State (2004, Department of Ecology Publication No.  
7 04-06-013), or as revised.

8 (2) No Net Loss. Wetland mitigation actions shall not result in a net loss of wetland area.

9 (3) Functions and Values. Mitigation actions shall address and provide equivalent or greater wetland and  
10 buffer functions and values compared to wetland and buffer conditions existing prior to the proposed  
11 alteration.

12 (4) Mitigation Type and Location. Mitigation actions shall be in-kind and conducted within the same sub-  
13 basin and on the same site as the alteration except when the following apply:

14 (a) There are no reasonable on-site opportunities for mitigation, or on-site opportunities do not  
15 have a high likelihood of success due to development pressures, adjacent land uses, or on-site  
16 buffers or connectivity are inadequate;

17 (b) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions  
18 than the impacted wetland; and

19 (c) Off-site locations ~~shall be in the same sub-basin~~ have been identified and evaluated in the  
20 following ~~sequence~~ order of preference:-

Comment [EM49]: Item 2-8 & 3-3

21 (i) Within the same drainage subbasin;

22 (ii) Within the city limits;

23 (iii) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank  
24 program sites within the city limits in accordance with SMC 21A.50.315;

25 (iv) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank  
26 program sites within the WRIA 8 in accordance with SMC 21A.50.315.

27

28 (5) Mitigation Timing. Where feasible, mitigation projects shall be completed prior to activities that will  
29 disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and  
30 prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed  
31 to reduce impacts to existing wildlife and flora.

32 (6) Mitigation Ratios.

Exhibit 1

(a) Acreege Replacement Ratios. The following ratios shall apply to wetland creation or restoration that is in-kind, on-site, the same category, and has a high probability of success. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Category I	6-to-1
Category II	3-to-1
Category III	2-to-1
Category IV	1.5-to-1

(a) Wetland Mitigation Ratios. The following ratios shall apply to required wetland mitigation. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Comment [EM50]: Item 3-6

(i) Permanent Wetland Mitigation. The following ratios of area of mitigation to area of alteration apply to mitigation measures for permanent alterations.

<u>Category and type of wetland</u>	<u>Wetland reestablishment or creation</u>	<u>Wetland rehabilitation</u>	<u>1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E)</u>
Category I bog	Not allowed	6:1 rehabilitation of a bog	Case-by-case
Category I natural heritage site	Not allowed	6:1 rehabilitation of a natural heritage site	Case-by-case
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 E
Category I forested	6:1	12:1	1:1 R/C and 10:1 E
Category II	3:1	8:1	1:1 R/C and 4:1 E
Category III	2:1	4:1	1:1 R/C and 2:1 E
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E

(ii) Temporary Wetland Mitigation. The following ratios of area of mitigation to area of alteration apply to mitigation measures for temporary alterations where wetlands will not be impacted by permanent fill material:

<u>Wetland category</u>	<u>Permanent conversion of forested and shrub wetlands into emergent wetlands</u>			<u>Mitigation for temporal loss of forested and shrub wetlands when the impacted wetlands will be revegetated to forest or shrub communities</u>		
	<u>Enhancement</u>	<u>Re-habilitation</u>	<u>Creation or restoration</u>	<u>Enhancement</u>	<u>Re-habilitation</u>	<u>Creation or restoration</u>
Category	6:1	4.5:1	3:1	3:1	2:1	1.5:1

Exhibit 1

<u>I</u>						
<u>Category</u>	<u>3:1</u>	<u>2:1</u>	<u>1.5:1</u>	<u>1.5:1</u>	<u>1:1</u>	<u>.75:1</u>
<u>II</u>						
<u>Category</u>	<u>2:1</u>	<u>1.5:1</u>	<u>1:1</u>	<u>1:1</u>	<u>.75:1</u>	<u>.5:1</u>
<u>III</u>						
<u>Category</u>	<u>1.5:1</u>	<u>1:1</u>	<u>.75:1</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>Not applicable</u>
<u>IV</u>						

(b) Wetland Buffer Replacement Ratio. Altered wetland buffer area shall be replaced at a minimum ratio of one-to-one, provided that the replacement ratio may be increased at the director's discretion to replace lost functions and values.

Comment [EM51]: Item 3-5

(cb) Increased Replacement-Mitigation Ratio. The director may increase the ratios under the following circumstances:

- (i) Uncertainty exists as to the probable success of the proposed restoration or creation; or
- (ii) A significant period of time will elapse between impact and replication of wetland functions; or
- (iii) Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
- (iv) The impact was an unauthorized impact.

(de) Decreased Replacement-Mitigation Ratio. The director may decrease these ratios under the following circumstances:

- (i) Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high likelihood of success. This documentation should specifically identify how the proposed mitigation actions are similar to other known mitigation projects with similar site-specific conditions and circumstances that have been shown to be successful;
- (ii) Documentation by a qualified professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; or
- (iii) The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful over the course of at least one full year.

(d) Minimum Replacement-Mitigation Ratio. In all cases of permanent wetland impacts, a minimum acreage replacement ratio of one to one shall be required.

(7) Wetland Enhancement as Mitigation.

# Exhibit 1

1 ~~(a)~~ Impacts to wetlands may be mitigated by enhancement of existing significantly degraded  
2 wetlands only after a one-to-one minimum acreage replacement ratio has been satisfied. Applicants  
3 proposing to enhance wetlands must produce a critical areas study that identifies how enhancement  
4 will increase the functions of the degraded wetland and how this increase will adequately mitigate  
5 for the loss of wetland function at the impact site.

6 ~~(b) At a minimum, enhancement acreage shall be double the acreage required for creation or~~  
7 ~~restoration under subsection (6)(a) of this section. The ratios shall be greater than double the~~  
8 ~~required acreage where the enhancement proposal would result in minimal gain in the performance~~  
9 ~~of wetland functions and/or result in the reduction of other wetland functions currently being~~  
10 ~~provided in the wetland.~~

11 (8) Restoration Required. Restoration shall be required when a wetland or its buffer is altered in violation of  
12 law or without any specific permission or approval by the City in accordance with the following provisions:-

13 ~~(a) A mitigation plan for restoration shall conforming to the requirements of this chapter and section~~  
14 ~~shall be provided. (Ord. 02005-193 § 1; Ord. 099-29 § 1)~~

15 ~~(b) On sites where non-native vegetation was cleared, restoration shall include installation of native~~  
16 ~~vegetation with a density equal to or greater than the pre-altered site conditions.~~

Comment [CdS52]: Item 5-14

## 18 21A.50.315 Wetlands – ~~Alternative Mitigation banking.~~

### 19 (1) Wetland banking:

20 ~~(a)~~ Credits from a wetland mitigation bank may be approved for use as compensation for  
21 unavoidable impacts to wetlands when:

22 ~~(i) Criteria in SMC 21A.50.310(4) are met;~~

23 ~~(ii)~~ The bank is certified under Chapter 173-700 WAC;

24 ~~(iii)~~ The department determines that the wetland mitigation bank provides appropriate  
25 compensation for the authorized impacts;

26 ~~(iv)~~ The proposed use of credits is consistent with the terms and conditions of the bank's  
27 certification; and

28 ~~(v)~~ The compensatory mitigation agreement occurs in advance of authorized impacts.

29 ~~(b)~~ Replacement ratios for projects using bank credits shall be consistent with replacement ratios  
30 specified in the bank's certification.

31 ~~(c)~~ Credits from a certified wetland mitigation bank may be used to compensate for impacts  
32 located within the service area specified in the bank's certification. In some cases, bank service  
33 areas may include portions of more than one adjacent drainage basin for specific wetland functions.

(d4) Implementation of a mitigation bank is subject to City council review and approval. (~~Ord. O2005-193-S-1~~)

Comment [EM53]: Item 2-8 & 3-3

(2) Fee-in-lieu Mitigation:

(a) Fee-in-lieu mitigation may be approved for use as compensation for approved impacts to wetlands, when:

(i) Criteria in SMC 21A.50.310(4) are met;

(ii) The fee-in-lieu mitigation program is state certified;

(iii) The department determines that the wetland fee-in-lieu mitigation provides appropriate compensation for the authorized impacts;

(iv) The proposed use of fee-in-lieu mitigation is consistent with the terms and conditions of the fee-in-lieu mitigation program; and

(v) The compensatory mitigation agreement occurs in advance of authorized impacts.

(b) Fee-in-lieu mitigation may be authorized in the city based upon the following order of preference:

(i) A city approved program that utilizes receiving mitigation sites within the city of Sammamish.

(ii) The King County Mitigation Reserves Program, or other approved program that gives priority to sites within the same sub-basin and/or a pre-defined service area that includes the city of Sammamish.

**21A.50.320 Wetlands – ~~Limited exemption~~ Development Flexibilities.** The following alterations shall be authorized if the City determines that the cumulative impacts do not unduly counteract the purposes of this chapter SMC 21A.50 Environmentally Critical Areas and are mitigated pursuant to an approved mitigation plan.

(1) Isolated wetlands, as designated by a qualified professional in a written and approved critical areas study meeting the requirements of SMC 21A.50.130 and, which includes the use of the adopted Washington State Wetland Rating System for Western Washington, with a total area with an area of less up to than 1,000 square feet may be exempted from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) and the provisions of SMC 21A.50.290 and may be altered and may be altered by filling or dredging if the City determines that the cumulative impacts do not unduly counteract the purposes of this chapter and are mitigated pursuant to an approved mitigation plan.

Comment [EM54]: Item 3-7 & 3-19e

(2) Isolated category III and IV wetlands, as designated by a qualified professional in a written and approved critical areas study meeting the requirements of SMC 21A.50.130 and, which includes the use of the adopted Washington State Wetland Rating System for Western Washington, with a total area of more than 1,000 square feet and up to 4,000 square feet, may be exempted from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) and the provisions of SMC 21A.50.290 and may be altered, provided:

# Exhibit 1

1 (a) The total area of wetland alterations shall be limited to 2,500 square feet; and

2 (b) A critical areas study is prepared, which includes the use of the adopted Washington State  
3 Wetland Rating System for Western Washington, includes a review of the existing functions that the  
4 wetland provides, determines how the isolated wetland should be managed for ecological function  
5 of the watershed as a whole, and according to the approved critical areas study meets all of the  
6 following criteria:

7 (i) The wetland is not adjacent to a riparian area; and

8 (ii) The wetland is not part of a wetland mosaic; and

9 (iii) The wetland does not score 15 points or greater for habitat; and

10 (iv) The wetland does not contain habitat identified as essential for local populations of  
11 priority species identified by Washington Department of Fish and Wildlife; and,

12 (c) Mitigation to replace lost wetland functions and values, consistent with SMC 21A.50.310 shall be  
13 prepared for review and approval by the City; and,

14 (d) No subsequent exemption from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) or  
15 SMC 21A.50.290 is authorized.

16 (3) Category III and IV wetlands with a total area of 4,000 square feet or less may have the buffer reduced to  
17 15 feet, provided:

18 (a) The wetland does not score 15 points or greater for habitat in the adopted Western Washington  
19 Rating System; and,

20 (b) The wetland is not part of a wetland mosaic; and,

21 (c) The buffer functions associated with the area of the reduced buffer width are mitigated through  
22 the enhancement of the wetland, the remaining on-site wetland buffer area, and/or other adjoining  
23 high value habitat areas as needed to replace lost buffer functions and values; and

24 (d) No subsequent buffer reduction or averaging is authorized.

25 **21A.50.322 Wetland management area – Special district overlay.**

26 (1) The purpose of the wetland management area special overlay district is to provide a means to designate  
27 certain unique and outstanding wetlands when necessary to protect their functions and values from the  
28 impacts created from geographic and hydrologic isolation and impervious surface.

29 (2) The wetland management area special overlay district shall be designated on critical areas maps  
30 maintained by the department of community development.

Comment [EM55]: Item 3-19d

# Exhibit 1

1 (3) The following development standards shall be applied in addition to all applicable requirements of this  
2 chapter to development proposals located within a wetland management area district overlay:

3 (a) All development proposals on properties zoned R-1 in wetland management areas shall have a  
4 maximum impervious surface area of eight percent of the gross acreage of the site. Distribution of  
5 the allowable impervious area among the platted lots shall be recorded on the face of the plat.  
6 Impervious surface of existing streets need not be counted towards the allowable impervious area.  
7 The provisions of this section shall not apply to the Sammamish Town Center Study Area as  
8 identified in Ordinance O2005-185;

9 (b) All subdivisions and short subdivisions on properties identified in a management area for  
10 clustering and set aside requirements in the East Lake Sammamish Basin and Nonpoint Action Plan  
11 (1994) shall be required to cluster away from wetlands or the axis of corridors along stream  
12 tributaries and identified swales connecting wetlands. At least 50 percent of all portions of the  
13 property located within wetland management areas identified for vegetation retention shall be left  
14 in native vegetation, preferably forest, and placed in a permanent open space tract. The open space  
15 tract shall be designed to maximize the amount of separation between any critical areas and the  
16 proposed development. If no critical area tracts are required, the open space tract shall be located  
17 to provide additional protection to nearby wetlands;

18 (c) Clearing and grading activity from October 1st through April 30th shall meet the provisions of  
19 SMC [16.15.120](#)(4) wherever not already applicable;

20 (d) All R-1 zoned properties within wetland management areas, as identified in the East Lake  
21 Sammamish Basin and Nonpoint Action Plan, shall retain native vegetation, or revegetate with trees  
22 to meet the following standards:

23 (i) Fifty percent of the site area shall be used to retain trees or revegetate with trees;

24 (ii) Retained vegetation shall be located primarily within the 50 percent open space area  
25 required by SMC [21A.25.030](#);

26 (iii) Retained vegetation shall consist primarily of trees with 0.0096 significant trees per square  
27 foot;

28 (iv) Areas revegetated shall provide 0.012 trees per square foot. Planted trees shall meet the  
29 following specifications:

30 (A) Coniferous trees shall be at least three feet tall;

31 (B) Deciduous trees shall be at least five feet tall; and

32 (C) Trees shall be planted primarily in the required open space area;

33 (v) The provisions of this section shall not apply to the Sammamish Town Center Study Area as  
34 identified in Ordinance O2005-185; and

# Exhibit 1

1 (e) The director may, based upon review and approval of a critical areas special study, modify the  
2 provisions of this chapter to allow for:

3 (i) The installation of site access; provided, that the applicant shall limit impervious surfaces to  
4 the minimum required to grant access; or

5 (ii) Development using low impact development techniques to achieve standards adopted by  
6 the City that will demonstrably minimize development impacts consistent with subsections  
7 (3)(a) through (c) of this section. (Ord. O2005-193 § 1)

## 8 9 **21A.50.325 Fish and wildlife habitat conservation areas – Development standards.**

10 A development proposal that includes ~~alteration of~~ a fish and wildlife habitat conservation area or buffer  
11 shall meet the following requirements:

12 (1) When appropriate due to the type of habitat or species present or the project area conditions, the  
13 director may require a critical areas study ~~that includes a habitat management plan consistent with the latest~~  
14 ~~guidance from the Department of Fish and Wildlife~~. If the habitat conservation area is also classified as a  
15 stream, lake, ~~pond~~ or a wetland, then the stream, lake, ~~pond~~ or wetland protection standards shall apply and  
16 habitat management shall be addressed as part of the stream, lake, ~~pond~~ or wetland review; provided, that  
17 the City may impose additional requirements when necessary to provide for protection of the habitat  
18 conservation areas consistent with this chapter.

Comment [EM56]: Item 2-13

19 (2) The director may require the following site- and proposal-related information with the critical areas  
20 study:

21 (a) Identification of any endangered, threatened, sensitive or candidate species that have a primary  
22 association with habitat on or adjacent to the project area, and an assessment of potential project  
23 impacts to the species;

24 (b) A discussion of any federal or state management recommendations, including Washington  
25 Department of Fish and Wildlife habitat management recommendations, that have been developed  
26 for species or habitats located on or adjacent to the project area;

27 (c) A discussion of any ongoing management practices that will protect habitat after the project site  
28 has been developed, including any proposed monitoring, maintenance, and adaptive management  
29 programs; ~~and~~

30 (d) When appropriate due to the type of habitat or species present or the project area conditions,  
31 the director may also require the habitat management plan to include an evaluation by the State  
32 Department of Fish and Wildlife, local Native American Indian Tribe, or other qualified professional  
33 regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or  
34 programs, to include any recommendations as appropriate; ~~and~~

# Exhibit 1

1 (e) When appropriate, information from the Washington Department of Fish and Wildlife's Fish and  
2 Wildlife's Backyard Wildlife Sanctuary Program shall be included.

Comment [Cd57]: Item 2-13c

3 (3) General Requirements. Habitat conservation areas that are lakes on Lake Sammamish, Pine Lake, and  
4 Beaver Lake shall be governed by the requirements of the Sammamish Shoreline Master program. Other  
5 habitat conservation areas are subject to the following provisions:

6 (a) The department shall require the establishment of buffer areas for development activities in, or  
7 adjacent to, habitat conservation areas when needed to protect habitat conservation areas. Buffers  
8 shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established  
9 to protect the integrity and functions of the habitat. Required buffer widths shall consider the  
10 management recommendations identified in subsection (2) of this section and reflect the sensitivity of  
11 the habitat and the type and intensity of human activity proposed to be conducted nearby. When a  
12 species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions  
13 may apply. Development activities may be further restricted and buffers may be increased during the  
14 specified season.

15 (b) Where applicable, a fish and wildlife habitat corridor shall be established as required in 21A.50.327.

Comment [EM58]: Item 2-13c

16 ~~(c)~~ A habitat conservation area may be altered only if the proposed alteration of the habitat or the  
17 mitigation proposed does not reduce the quantitative and qualitative functions and values of the  
18 habitat, except in accordance with this chapter.

19 (d) In addition to the provisions of SMC 21A.50.060, removal of any native vegetation or woody  
20 debris from the habitat conservation area may be allowed only as part of an approved habitat  
21 management plan, critical areas study, and/or alteration plan.

Comment [C59]: Item 5-3

22 ~~(e)~~ Low impact uses and development activities which are consistent with the purpose and function of  
23 the habitat conservation area and do not detract from its integrity may be permitted within the  
24 conservation area depending on the sensitivity of the habitat area. Examples of uses and development  
25 activities which may be permitted in appropriate cases include trails that are pervious, viewing  
26 platforms, storm water management facilities such as grass-lined swales, utility easements and other  
27 similar uses and development activities; provided, that any impacts to the habitat resulting from such  
28 permitted facilities shall be fully mitigated.

29 ~~(f)~~ Whenever development activities are proposed in or adjacent to a habitat conservation area with  
30 which state or federally endangered or threatened species have a primary association, such area shall  
31 be protected through the application of measures in accordance with a critical areas report prepared  
32 by a qualified professional and approved by the City of Sammamish, with guidance provided by the  
33 appropriate state and/or federal agencies.

34 ~~(g)~~ Plant, wildlife, or fish species not indigenous to the coastal region of the Pacific Northwest shall not  
35 be introduced into habitat conservation areas unless authorized by this chapter and by any required  
36 state or federal permit or approval.

# Exhibit 1

1 (g) Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with  
2 a mitigation plan that is part of an approved critical areas report to minimize the isolating effects of  
3 development on habitat areas, so long as mitigation of aquatic habitat is located within the same  
4 aquatic ecosystem as the area disturbed.

5 (h) The director shall condition approvals of development activities allowed within or adjacent to a  
6 habitat conservation area or its buffers, as necessary, to minimize or mitigate any potential adverse  
7 impacts. Conditions may include, but are not limited to, the following:

8 (i) Establishment of buffer zones;

9 (ii) Preservation of critically important vegetation;

10 (iii) Limitation of public access to the habitat area, including fencing to deter unauthorized access;

11 (iv) Seasonal restriction of development activities;

12 (v) Establishment of a duration and timetable for periodic review of mitigation activities; and

13 (vi) Requirement of a performance bond, when necessary, to ensure completion and success of  
14 proposed mitigation.

15 ~~(i)~~ Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic  
16 functions, and shall include mitigation for adverse impacts from the proposed development as  
17 appropriate. Mitigation shall address each function affected by the alteration to achieve functional  
18 equivalency or improvement on a per-function basis. (Ord. O2005-193 § 1)

19 **21A.50.327 Fish and Wildlife habitat corridors.**

20 ~~Habitat~~ On development proposal sites that contain Type F or Np streams and/or wetlands with a high  
21 habitat score greater than or equal to 29, that are also located within 200 feet of an on-site or off-site Type F  
22 or Np stream and/or wetland with a high habitat score greater than or equal to 29, ~~fw~~corridors as defined in  
23 21A.15.467-a fish and wildlife habitat corridor shall be set aside and protected ~~for preserving connections~~  
24 ~~between habitats along the designated wildlife habitat network~~ as follows:

25 ~~(1) Habitat corridors shall be identified and protected in one of the following ways:~~

26 ~~(1) (a)~~ Subdivisions and short subdivisions shall either place the corridor in a contiguous permanent open  
27 space tract with all developable lots sited on the remaining portion of the project site, or shall design the lots  
28 so that conservation easements on individual lots can form a contiguous easement covering the corridor;

29 ~~(2) (b)~~ Individual lots shall place the corridor in a conservation easement.

30 ~~(2)(3)~~ The fish and wildlife habitat corridor shall be sited on the property in order to meet the following  
31 conditions, where feasible:

Comment [EM60]: Item 2-13

# Exhibit 1

1 (a) Forms one contiguous tract that connects on-site high value habitat areas to other on-site or off-  
2 site high value habitat areas. that enters and exits the property at the points the designated wildlife  
3 habitat network crosses the property boundary;

4 (b) New development proposals shall provide a minimum fish and wildlife habitat corridor width of  
5 300 feet or a corridor width that is consistent with an approved habitat management plan. Maintains  
6 a width, wherever possible, of 300 feet. The network width shall not be less than 150 feet wide at  
7 any point;

8 (c) In addition to the provisions of SMC 21A.50.060, development proposals on sites constrained by  
9 a fish and wildlife habitat corridor and where development already exists, shall maintain a minimum  
10 fish and wildlife habitat corridor width of 300 feet unless, through an approved habitat management  
11 plan, it can be shown that a lesser habitat corridor width supports and maintains the corridor's  
12 function and value; and

Comment [EM61]: Item 2-13

13 (ed) Be contiguous with and may include and / or connect sensitive critical areas, tracts and their  
14 buffers, and open space tracts or wooded areas onsite or on adjacent properties, if present; and

15 (e) The director may modify corridor widths based on supporting conditions documentation from an  
16 approved habitat management plan.

Comment [EM62]: Item 2-13

17 (4) Fish and wildlife habitat corridors do not parallel Type Np streams, except as required to provide a  
18 connection between two features as described above.

19 (3) When feasible, the fish and wildlife habitat corridor shall be sited on the property in order to meet the  
20 following conditions:

21 (a) Connect isolated critical areas or habitat; and

22 (b) Connect with other fish and wildlife habitat corridors, open space tracts or wooded areas on  
23 adjacent properties, if present.

24 (4) The wildlife corridor tract shall be permanently marked consistent with the methods contained in SMC  
25 21A.50.170. Conservation easements are exempt from the permanent marking requirement.

26 (54) A management plan for the wildlife corridor contained within a tract or tracts shall be prepared that  
27 specifies the permissible extent of recreation, forestry or other uses compatible with preserving and  
28 enhancing the wildlife habitat value of the tract or tracts. The management plan shall be reviewed and  
29 approved by the department. The approved management plan for a subdivision shall be contained within  
30 and recorded with the covenants, conditions and restrictions (CCRs). If the wildlife corridor is contained in a  
31 conservation easement, a management plan is not required, but may be submitted to the department for  
32 review and approval, and recorded with the conservation easement.

33 (55) Clearing within the wildlife corridor contained in a tract or tracts shall be limited to that allowed by the  
34 management plan or as otherwise allowed by this chapter. No clearing, including the removal of woody

# Exhibit 1

1 ~~debris~~, shall be allowed within a wildlife corridor contained within a conservation easement on individual  
2 lots, unless the property owner has an approved management plan.

Comment [CdS63]: Item 5-3

3 ~~(66)~~ **Where feasible, a** homeowners' association or other entity capable of long-term maintenance and  
4 operation shall be established to monitor and assure compliance with the management plan. ~~The association~~  
5 ~~shall provide homeowners with information on Washington Department of Fish and Wildlife's Backyard~~  
6 ~~Wildlife Sanctuary Program.~~

Comment [CdS64]: Item 2-13c

7 ~~(89)~~ Wildlife corridors set aside in tracts or conservation easements shall meet the provisions in SMC  
8 ~~16.15.120.~~

9 ~~(910)~~ The permanent open space tract containing the wildlife corridor may be credited toward the other  
10 applicable requirements such as surface water management and the recreation space requirement of SMC  
11 ~~21A.30.140~~, provided the proposed uses within the tract are compatible with preserving and enhancing the  
12 wildlife habitat value. Restrictions on other uses within the wildlife corridor tract shall be clearly identified in  
13 the management plan.

14 ~~(119)~~ Low impact uses and activities which are consistent with the purpose and function of the habitat  
15 corridor and do not detract from its integrity may be permitted within the corridor depending on the  
16 sensitivity of the habitat area. Examples of uses and activities which may be permitted in appropriate cases  
17 include trails that are pervious, viewing platforms, storm water management facilities such as grass-lined  
18 swales, utility easements and other similar uses, ~~or activities otherwise described and approved by the~~  
19 ~~Washington Department of Fish and Wildlife and activities~~; provided, that any impacts to the corridor  
20 resulting from such permitted facilities shall be fully mitigated.

Comment [C65]: Item 2-13

21 ~~(124)~~ At the discretion of the director, these standards may be waived or reduced for public facilities such as  
22 schools, fire stations, parks, and public road projects. (Ord. O2005-193 § 1)

## 23 **21A.50.330 Streams – Development standards.**

24 A development proposal on a parcel or parcels containing a stream or associated buffer of a stream located  
25 on-site or off-site shall meet the following requirements:

26 (1) The following standard buffers shall be established from the ordinary high water mark or from the top of  
27 the bank if the ordinary high water mark cannot be identified:

Stream Type	Standard Buffer Width (ft)
Type S:	150
Type F:	150
Type Np:	75
Type Ns:	50

28 (a) Where a legally established and constructed street ~~or the East Lake Sammamish Trail~~ transects a  
29 stream buffer, the department may approve a modification of the standard buffer width to the edge

# Exhibit 1

1 of the street or the East Lake Sammamish Trail if the isolated part of the buffer does not provide  
2 additional protection of the stream and provides insignificant biological, geological or hydrological  
3 buffer functions relating to the stream. If the resulting buffer distance is less than 50 percent of the  
4 standard buffer, no further reduction shall be allowed.

5 (b) Where a buffer has been previously established on a legally created parcel or tract that was  
6 legally established according to the regulations in place at the time of establishment through City or  
7 county development review on or after November 27, 1990, and is permanently recorded on title or  
8 placed within a separate tract, the buffer shall ~~be remain~~ as previously established, provided it is ~~at~~  
9 ~~least equal to or greater than~~ 50 percent of the required standard buffer distance for the applicable  
10 stream category.

Comment [CdS66]: Item 5-9

11 (2) Any stream with an ordinary high water mark within 25 feet of the toe of a slope 30 percent or steeper,  
12 but less than 40 percent, shall have:

13 (a) The minimum buffer required for the stream class involved or a 25-foot buffer beyond the top of  
14 the slope, whichever is greater, if the horizontal length of the slope, including small benches and  
15 terraces, is within the buffer for that stream class; or

16 (b) A 25-foot buffer beyond the minimum buffer width required for the stream class involved if the  
17 horizontal length of the slope, including small benches and terraces, extends beyond the buffer for  
18 that stream class.

19 (3) Any stream adjoined by a riparian wetland or other contiguous critical area shall have the buffer required  
20 for the stream type involved or the buffer that applies to the wetland or other critical area, whichever is  
21 greater.

22 (4) Buffer Averaging. Buffer width averaging may be allowed by the City if:

23 (a) It will provide additional natural resource protection, as long as the total area contained in the  
24 buffer on the development proposal site does not decrease (see also SMC [21A.30.210](#)(4) for buffer  
25 compensation requirements for trails);

26 (b) The stream contains variations in sensitivity due to existing physical characteristics or the  
27 character of the buffer varies in slope, soils, or vegetation, and the stream would benefit from a  
28 wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

29 (c) The buffer width is not reduced to less than 50 percent of the standard buffer; ~~and~~

30 ~~(de)~~ The buffer is associated with a development proposal and it will not further encumber a  
31 neighboring property not owned by the applicant; ~~and~~,

Comment [CdS67]: Item 5-11

32 ~~(ed)~~ Buffer averaging may be used in conjunction with buffer reduction options in this section,  
33 provided the total combined reduction does not reduce the buffer to less than 50 percent of the  
34 standard buffer width at any location. ~~and~~

# Exhibit 1

1 (5) Increased Buffers. Increased buffer widths shall may be required by the a distance necessary City when  
2 necessary to protect:

3 ~~(a) Critical drainage areas;~~

4 ~~(b) Fish critical fish and wildlife habitat conservation areas and habitat connections based on an~~  
5 ~~approved habitat management plan as defined by the Department of Fish and Wildlife;~~

6 ~~(c) Landslide or erosion hazard areas contiguous to streams;~~

7 ~~(d) Groundwater recharge and discharge area;~~

8 ~~(e) Or to offset buffer impacts, such as trail and utility corridors; and~~

9 ~~(f) At risk ecological streams functions including, but not limited to the following; critical drainage~~  
10 ~~areas, critical fish and wildlife habitat landslide or erosion hazard areas contiguous to streams, and~~  
11 ~~groundwater recharge and discharge area, or to offset buffer impacts, such as trail and utility corridors.~~

12 ~~(i) Habitat complexity, connectivity and biological functions;~~

13 ~~(ii) Seasonal hydrological dynamics as provided in the adopted Surface Water Design Manual;~~

14 ~~(iii) Sediment removal and erosion control;~~

15 ~~(iv) Pollutant removal;~~

16 ~~(v) Large wood debris (LWD) recruitment;~~

17 ~~(vi) Water temperature;~~

18 ~~(vii) Wildlife habitat; and~~

19 ~~(viii) Microclimate.~~

Comment [CdS68]: Item 2-5

20 (6) Buffer Reduction. Buffers may be reduced when buffer-reduction impacts are mitigated and result in  
21 equal or greater protection of the ecological stream functions as defined in 21A.50.330.

Comment [EM69]: Item 2-4

22 Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing  
23 as required in SMC 21A.50.135. A plan for mitigating buffer-reduction impacts must be prepared using  
24 selected incentive-based mitigation options from the list below, and is subject to approval by the City. The  
25 following incentive options for reducing standard buffer widths shall be considered cumulative up to a  
26 maximum reduction of 50 percent of the standard buffer width. In all circumstances where a substantial  
27 portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native  
28 vegetation in the degraded portions of the remaining buffer area and shall include a five-year monitoring and  
29 maintenance plan.

# Exhibit 1

1 (a) ~~Installation of biofiltration/infiltration mechanisms: up to 20 percent reduction in standard buffer~~  
2 ~~width for the installation of bioswales. Up to 20 percent reduction in the standard buffer width may~~  
3 ~~be allowed if water quality is improved in excess of the requirements of the adopted surface water~~  
4 ~~design manual and Title 13 Surface Water Management, through the use of~~ created and/or  
5 enhanced wetlands, or ponds supplemental to existing storm drainage and water quality  
6 requirements.

7 (b) Removal of existing impervious surfaces:

8 (i) Up to 10 percent reduction in standard buffer width if impervious surfaces within the to-be-  
9 remaining buffer area are reduced by at least 50 percent; or

10 (ii) Up to 20 percent reduction in standard buffer width if the to-be-remaining buffer area is  
11 presently more than 50 percent impervious and all of it is to be removed.

12 (c) Removal of invasive, nonnative vegetation: up to 10 percent reduction in standard buffer width  
13 for the removal and extended (minimum five-year) monitoring and continued-removal maintenance  
14 of relatively dense stands of invasive, nonnative vegetation from significant portions of the  
15 remaining buffer area.

16 (d) Restoration, preservation and maintenance of the existing stream and buffer vegetation if the  
17 following conditions are present and/or attainable as a result of action:

18 (i) An undisturbed vegetated buffer is preserved in the remaining buffer width; and,

19 (ii) Existing buffer conditions are degraded such that more than 40 percent of the buffer is  
20 covered by non-native/invasive plant species and are the buffer is restored according to a  
21 city-approved restoration plan to improve wetland buffer functions; and,

22 (iii) Native tree or shrub vegetation covers less than 25 percent of the total buffer area and  
23 the area will be re-vegetated according to a city-approved restoration plan with native trees  
24 and shrubs to replace impacted buffer functions; and,

25 (iv) The stream buffer has slopes of less than 25 percent; and

26 (v) The buffer reduction determination and percentage shall be on a site by site basis based  
27 on the applicant's plan and demonstration of improvement to water quality and habitat  
28 functions.

29 ~~(e)~~ In-stream habitat enhancement:

30 (i) Up to 20 percent reduction in standard buffer width for log structure placement,  
31 bioengineered bank stabilization, or culvert removal; or

32 (ii) Up to 30 percent reduction in standard buffer width for improving fish passage and/or  
33 creation of side channel or backwater areas.  
34  
35  
36  
37  
38

# Exhibit 1

1 (fe) If not already required under an existing development proposal, installation of oil/water  
2 separators for storm water quality control: up to 10 percent reduction in standard buffer width.

3 (gf) Use of pervious material for driveway/road construction: up to 10 percent reduction in standard  
4 buffer width.

5 (hg) Restoration of on-site buffer and habitat areas, or restoration of off-site buffer and habitat  
6 areas within the same sub-basin of the impacted stream if no on-site restoration is possible:

7 (i) Up to 10 percent reduction in standard buffer width if restoration area is at a 2:1 ratio or  
8 greater; or

9 (ii) Up to 20 percent reduction in standard buffer width if restoration area is at a 4:1 ratio or  
10 greater.

11 (ih) Removal of significant refuse or sources of toxic material: up to 10 percent reduction in standard  
12 buffer width.

13 ~~(78)~~ The use of hazardous substances, pesticides and fertilizers in the stream corridor and its buffer may be  
14 prohibited by the City.

15 ~~(89) The introduction of livestock into a stream or stream buffer is prohibited. The livestock restrictions in~~  
16 ~~SMC 21A.50.290 shall also apply to Type S and F streams and their buffers. (Ord. O2005-193 § 1; Ord. O2005-~~  
17 ~~172 § 4; Ord. O99-29 § 1)~~

Comment [CdS70]: Item 5-12

18 ~~(10) In addition to the provisions of SMC 21A.50.060, Removal of any native vegetation or woody debris~~  
19 ~~from the stream or stream buffer may be allowed only as part of an approved habitat management plan,~~  
20 ~~critical areas study, and/or alteration plan.]~~

Comment [C71]: Item 5-3

## 21 **21A.50.340 Streams – Permitted alterations.**

22 Alterations to streams and stream buffers are not allowed except as provided for by complete exemptions,  
23 ~~allowances for existing urban development and other uses, partial exemptions~~ and exceptions in this chapter  
24 or as allowed for by this section.

25 (1) Alterations may only be permitted if based upon a critical areas study conducted in accordance with SMC  
26 21A.50.130 that determines the proposed development will:

27 (a) Protect, restore or enhance the habitat, natural drainage, or other valuable functions of the  
28 stream resulting in a net improvement to the stream and stream buffer;

29 (b) Design, implement, maintain and monitor a restoration or enhancement plan prepared by a  
30 qualified professional;

31 (c) Perform the restoration or enhancement under the direction of a qualified professional; and

32 (d) Will otherwise be consistent with the purposes of this chapter.

# Exhibit 1

1 (2) The applicant shall notify affected communities and native tribes of proposed alterations prior to any  
2 alteration if a stream is in a flood hazard area and shall submit evidence of such notification to the Federal  
3 Insurance Administration.

4 ~~(343)~~ There shall be no introduction of any plant or wildlife which is not indigenous to the coastal region of  
5 the Pacific Northwest into any stream or buffer unless ~~required-authorized~~ by a state or federal permit or  
6 approval or as otherwise allowed by SMC 21A.50.060 – Allowance for Existing Urban Development and Other  
7 Uses.

8 ~~(45)~~ Utilities may be allowed in stream buffers if:

- 9 (a) No reasonable alternative location is available;
- 10 (b) The utility corridor meets any additional requirements for installation, replacement of vegetation  
11 and maintenance, as needed to mitigate impacts;
- 12 (c) The requirements for sewer utility corridors in SMC [21A.50.300](#) shall also apply to streams; and
- 13 (d) Joint use of an approved sewer utility corridor by other utilities may be allowed.

14 ~~(56) Where technically feasible, surface water discharge shall be located outside of the stream and stream~~  
15 ~~buffer. If surface water discharge to a stream or stream buffer is unavoidable, the following management~~  
16 ~~activities and provisions shall apply:~~

Comment [CdS72]: Item 5-13

17 ~~The following surface water management activities and facilities may be allowed in stream buffers as follows:~~

- 18 (a) Surface water discharge to a stream from a flow control or water quality treatment facility,  
19 sediment pond or other surface water management activity or facility may be allowed if the  
20 discharge is in compliance with the applicable City-adopted storm water requirements.
- 21 (b) A Type ~~Np or~~ Ns stream buffer may be used as a regional storm water management facility if:
  - 22 (i) A public agency and utility exception is granted pursuant to SMC [21A.50.070](#);
  - 23 (ii) All requirements of the applicable City-adopted storm water requirements are met;
  - 24 (iii) The use will not lower the rating or alter the factors used in rating the stream; and
  - 25 (iv) There are no significant adverse impacts to the stream or habitat.

26 ~~(67)~~ Except as provided in subsection (7) of this section, public and private trails may be allowed in stream  
27 buffers consistent with the standards and requirements in this chapter, the development standards in  
28 Chapter [21A.30](#) SMC, and requirements elsewhere in the SMC. Proposals for constructing viewing platforms,  
29 associated access trails, and spur trails must be reviewed by a qualified professional and a critical areas study  
30 may be required.

# Exhibit 1

1 ~~(78)~~ Crossings. The use of existing crossings, including but not limited to utility corridors, road and railroad  
2 rights-of-way, across streams or buffers for public or private trails is preferred to new crossings, subject to  
3 the standards and requirements in the SMC. New stream crossings may be allowed and may encroach on the  
4 otherwise required stream buffer if:

5 (a) Bridges, bottomless culverts or other appropriate methods demonstrated to provide fisheries  
6 protection shall be used for stream crossings and the applicant shall demonstrate that such methods  
7 and their implementation will pose no harm to the stream habitat or inhibit migration of  
8 anadromous fish;

9 (b) All crossings are constructed during the summer low flow and are timed to avoid stream  
10 disturbance during periods when use is critical to resident or anadromous fish including salmonids;

11 (c) Crossings do not occur over spawning areas used by resident or anadromous fish including  
12 salmonids unless the City determines that no other reasonable crossing site exists;

13 (d) Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water  
14 mark;

15 (e) Crossings do not diminish the flood-carrying capacity of the stream;

16 (f) Underground utility crossings are laterally drilled and located at a depth of four feet below the  
17 maximum depth of scour for the base flood predicted by a civil engineer licensed by the state of  
18 Washington. Temporary bore pits to perform such crossings may be permitted within the stream  
19 buffer established in SMC [21A.50.330](#). Crossing of Type Ns streams when dry may be made with  
20 open cuts; and

21 ~~(g) Trail crossings shall use bridges and boardwalks consistent with the design requirements of the~~  
22 ~~Washington Department of Fish and Wildlife [WDFW, 2003, Design of Road Culverts for Fish Passage~~  
23 ~~as amended]; and~~

Comment [EM73]: Item 2-3

24 ~~(h)(e)~~ The number of crossings is minimized and consolidated to serve multiple purposes and  
25 properties whenever possible.

26 ~~(89)~~ Relocations. Stream relocations may be allowed only for:

27 (a) Type F, Np, and Ns streams as part of a public road, trail, or park project for which a public  
28 agency and utility exception is granted pursuant to SMC [21A.50.050](#); and

29 (b) Type ~~F~~, Np and Ns streams for the purpose of enhancing resources in the stream if:

Comment [EM74]: Item 2-6

30 (i) Appropriate floodplain protection measures are used; and

31 (ii) The relocation occurs on-site, except that relocation off-site may be allowed if the applicant  
32 demonstrates that any on-site relocation is impracticable, the applicant provides all necessary

# Exhibit 1

1 easements and waivers from affected property owners and the off-site location is in the same  
2 drainage sub-basin as the original stream.

3 (910) For any relocation allowed by this section, the applicant shall demonstrate, based on information  
4 provided by qualified professionals, including a civil engineer and a biologist, that:

- 5 (a) The equivalent base flood storage volume and function will be maintained;
- 6 (b) There will be no adverse impact to local groundwater;
- 7 (c) There will be no increase in velocity;
- 8 (d) There will be no interbasin transfer of water;
- 9 (e) There will be no increase in sediment load;
- 10 (f) Requirements set out in the mitigation plan are met;
- 11 (g) The relocation conforms to other applicable laws; and
- 12 (h) All work will be carried out under the direct supervision of a qualified biologist.

13 (4011) A stream channel may be stabilized if:

- 14 (a) Movement of the stream channel threatens existing residential or commercial structures, public  
15 facilities or improvements, unique natural resources or the only existing access to property;
- 16 (b) The stabilization is done in compliance with the requirements of SMC [21A.50.230](#); and
- 17 (c) Soft-bank stabilization techniques are utilized unless the applicant demonstrates that soft-bank  
18 techniques are not a reasonable alternative due to site-specific soil, geologic and/or hydrologic  
19 conditions.

20 (4412) Replacement of existing culverts to enhance stream habitat, not associated with any other  
21 development proposal, may be allowed if accomplished according to a plan for its design, implementation,  
22 maintenance, and monitoring prepared by qualified professionals, including a civil engineer and a biologist,  
23 and carried out under the direction of a qualified biologist.

24 (4213) Stream and habitat restoration or enhancement may be allowed if:

- 25 (a) The restoration is sponsored **or approved** by a public agency with a mandate to do such work;
- 26 (b) The restoration is unassociated with mitigation of a specific development proposal;
- 27 (c) The restoration is limited to placement of rock weirs, log controls, spawning gravel, and other  
28 specific habitat improvements for resident or anadromous fish including salmonids;

Comment [CdS75]: Item 5-16

# Exhibit 1

1 (d) The restoration only involves the use of hand labor and light equipment; or the use of helicopters  
2 and cranes that deliver supplies to the project site; provided, that they have no contact with critical  
3 areas or their buffers; ~~and~~

4 (e) The restoration is performed under the direction of qualified professionals; ~~and,~~

5 ~~(f) The restoration is part of a stream relocation plan consistent with 21A.50.340. Stream relocation,~~  
6 ~~if proposed, may be approved pursuant to 21A.50.340(9) as part of an approved restoration plan.~~

Comment [EM76]: Item 2-6

7 ~~(1314)~~ Roadside ditches that carry streams with salmonids may be maintained through the use of best  
8 management practices developed in consultation with relevant City, state, and federal agencies.

9 ~~(1415) Reconstruction, remodeling, or replacement of an existing structure upon another portion of an~~  
10 ~~existing impervious surface that was established pursuant to City ordinances and regulations may be allowed,~~  
11 ~~provided:~~

12 ~~(a) If within the buffer, the structure is located no closer to the stream than the existing structure;~~  
13 ~~and~~

14 ~~(b) The existing impervious surface within the buffer or stream is not expanded as a result of the~~  
15 ~~reconstruction or replacement. (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)~~

## 16 **21A.50.350 Streams – Mitigation requirements.**

17 When mitigation for stream or stream buffer impacts is required, mitigation shall meet the requirements  
18 listed in SMC [21A.50.145](#) in addition to the following supplementary requirements:

19 (1) Equivalent or Greater Functions. Mitigation for alterations to stream(s) and/or stream buffer(s) shall  
20 achieve equivalent or greater functions including, but not limited to:

21 (a) Habitat complexity, connectivity, and other biological functions;

22 (b) Seasonal hydrological dynamics, water storage capacity and water quality; and

23 (c) Geomorphic and habitat processes and functions.

24 (2) Mitigation Type and Location. Mitigation actions shall be in-kind and conducted within the same sub-  
25 basin and on the same site as the alteration, except when the following apply:

26 (a) There are no reasonable on-site opportunities for mitigation or on-site opportunities do not have  
27 a high likelihood of success due to development pressures, adjacent land uses, or on-site buffers or  
28 connectivity are inadequate;

29 (b) Off-site mitigation has a greater likelihood of providing equal or improved functions than the  
30 impacted stream; and

31 (c) Off-site locations ~~shall have been identified and evaluated in the following order of preference:~~

# Exhibit 1

1 (i) Within the same drainage subbasin;

2 (ii) Within the city limits;

3 (iii) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank  
4 sites within the city limits in accordance with the provisions of this section;

5 (iv) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank  
6 program sites within the WRIA 8 in accordance with the provisions of this section.  
7 be in the same sub-basin.

8 (3) Fee-In-Lieu Stream Mitigation Program. Fee-in-lieu mitigation may be authorized for streams, subject to  
9 the avoidance sequence requirements– and mitigation measures of this title, and the approval of a program  
10 by the city, to be used in the following order of preference:

11 (a) A city approved program that utilizes receiving mitigation sites within the city of Sammamish.

12 (b) The King County Mitigation Reserves Program, or other approved program that gives priority to  
13 sites within the same sub-basin and/or a pre-defined service area that includes the city of  
14 Sammamish.

15  
16 (3) Mitigation Timing. Where feasible, mitigation projects shall be completed prior to activities that will  
17 disturb streams. In all other cases, mitigation shall be completed immediately following disturbance and prior  
18 to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to  
19 reduce impacts to existing wildlife and flora.

20 (4) Restoration Required. Restoration shall be required when a stream or its buffer is altered in violation of  
21 law or without any specific permission or approval by the City. A mitigation plan for restoration shall conform  
22 to the requirements of this chapter and demonstrate that:

23 (a) The restoration will reliably and demonstrably improve the water quality and fish and wildlife  
24 habitat of the stream; ~~and~~

25 (b) The restoration will have no lasting significant adverse impact on any stream functions; ~~and~~

26 (c) On sites where non-native vegetation was cleared, restoration shall include installation of native  
27 vegetation with a density equal to or greater than the pre-altered site conditions.

Comment [CdS77]: Item 5-14

28 (5) Surface water management or flood control alterations shall not be considered enhancement unless  
29 other functions are simultaneously improved. (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

30 ~~21A.50.351 Ponds – Development standards.~~

31 ~~(1) Naturally Occurring Ponds – New Residence Setback and Tree Retention.~~

32 ~~(a) A 50-foot building setback for new residences shall be established from the ordinary high water~~  
33 ~~mark (OHWM) for naturally occurring ponds that are not otherwise regulated by the Sammamish~~  
34 ~~shoreline master program.~~

1 ~~(b) On lots abutting a pond or containing the 50-foot setback area, 25 percent of existing significant~~  
2 ~~trees shall be retained on site. Half of the significant trees to be retained shall be located within the~~  
3 ~~50-foot building setback area. Where half of the trees to be retained are not present within the~~  
4 ~~setback area, the remaining number may be retained elsewhere on site. (Ord. O2009-264 § 1 (Att.~~  
5 ~~A); Ord. O2005-193 § 1)~~

Comment [CdS78]: Item 5-17

6 ~~21A.50.352 Lake Sammamish buffer – Permitted alterations.~~  
7 ~~Repealed by Ord. O2009-264. (Ord. O2005-193 § 1)~~

8 **21A.50.355 Lake management areas – Special district overlay.**

9 (1) The purpose of lake management areas is to designate the Beaver Lake and Pine Lake watersheds as  
10 special management areas for total phosphorus loading control and to establish standard procedures for  
11 evaluating drainage plans and related materials for applications of development within the Beaver Lake and  
12 Pine Lake Watersheds (within the East Lake Sammamish drainage basin).

13 (2) The lake management areas special overlay district shall be designated on critical areas maps maintained  
14 by the department of community development.

15 ~~(3) Definitions. In addition to the definitions listed below, all definitions included in the King County Surface~~  
16 ~~Water Design Manual are hereby adopted by reference.~~

17 ~~(a) “AKART” means all known, available, and reasonable methods of prevention, control, and~~  
18 ~~treatment.~~

19 ~~(b) “Eutrophic” means a trophic status characterized by moderately high algal productivity, more~~  
20 ~~serious oxygen depletion in the bottom waters, some recreational use impairment, summer~~  
21 ~~chlorophyll a concentration greater than 10 micrograms/liter, a summer Secchi depth of less than~~  
22 ~~two meters, and a winter total phosphorus concentration greater than 20 micrograms/liter.~~

23 ~~(c) “Hypereutrophic” means a trophic status characterized by high algal productivity, intense algal~~  
24 ~~blooms, fish kills due to oxygen depletion in the bottom waters, frequent recreational use~~  
25 ~~impairment, summer chlorophyll a concentration greater than 10 micrograms/liter, a summer~~  
26 ~~Secchi depth generally less than two meters, and a winter total phosphorus concentration greater~~  
27 ~~than 30 micrograms/liter.~~

28 ~~(d) “Lake management plan” means the plan (and supporting documents as appropriate) describing~~  
29 ~~the lake management recommendations and requirements.~~

30 ~~(e) “Mesotrophic” means a trophic status characterized by moderate algal productivity, oxygen~~  
31 ~~depletion in the bottom waters, usually no recreational use impairment, summer chlorophyll a~~  
32 ~~concentration averaging four to 10 micrograms/liter, a summer Secchi depth of two to five meters,~~  
33 ~~and a winter total phosphorus concentration ranging from 10 to 20 micrograms/liter.~~

34 ~~(f) “Oligotrophic” means a trophic status characterized by low algal productivity, algal blooms are~~  
35 ~~rare, water clarity is high, all recreational uses unimpaired, summer chlorophyll a concentration~~

# Exhibit 1

1 average less than four micrograms/liter, a summer Secchi depth greater than five meters, and a  
2 winter total phosphorus concentration ranging from zero to 10 micrograms/liter.

3 (g) "Phosphorus" means elemental phosphorus and for the purposes of this section shall be  
4 measured as total phosphorus.

5 (h) "Phosphorus concentration" means the mass of phosphorus per liquid volume.

6 (i) "Phosphorus loading" means the total mass of phosphorus per time basis.

7 (j) "Total phosphorus" means the phosphorus concentration as determined by a state-certified  
8 analytical laboratory using EPA 365.3 or SM 4500 P-B, E or an equivalent method.

9 (k) "Trophic state index" means a classification system which uses algal biomass as the basis for  
10 classification which can be independently measured by chlorophyll a, Secchi depth, and total  
11 phosphorus concentration.

12 (l) "Trophic status" means a classification which defines lake quality by the degree of biological  
13 productivity.

Comment [CdS79]: Item 5-18

14 (43) The Beaver Lake watershed as generally identified in the Beaver Lake management plan, which is  
15 available at the City of Sammamish community development department, is a sensitive lake and is hereby  
16 designated a critical drainage area. This designation is:

17 (a) Existing whole-lake total phosphorus concentration for the combined Beaver Lake system is 23  
18 micrograms/liter. Beaver Lake 1 and Beaver Lake 2, individually, have whole-lake total phosphorus  
19 concentrations of 36 ( $\pm 2$ ) micrograms/liter and 20 ( $\pm 1$ ) micrograms/liter, respectively;

20 (b) Whole-lake total phosphorus concentration, chlorophyll a, and Secchi depth indicate that the  
21 Beaver Lake system is bordering on eutrophic conditions;

22 (c) Modeling of the Beaver Lake system's future trophic status indicates that the lake will become  
23 hypereutrophic with a whole-lake total phosphorus concentration predicted to be 36  
24 micrograms/liter without additional phosphorus removal via storm water treatment; and

25 (d) Maintaining existing trophic status is a management plan goal. To maintain existing trophic  
26 status, an 80 percent total phosphorus annual loading removal goal was established for new  
27 impervious surface development prior to storm water discharges to Beaver Lake.

28 (54) The Pine Lake watershed is generally identified in the City of Sammamish comprehensive plan (Figure IV-  
29 1 in the comprehensive plan or as updated). All appropriate Beaver Lake specific water quality regulations  
30 shall be extended to the Pine Lake drainage basin ~~as well~~.

31 (a) These ~~interim~~ regulations shall only be in effect until such time that a customized Pine Lake  
32 water quality strategy is developed and development regulations are adopted based on approved  
33 findings of the study.

# Exhibit 1

1 (b) An applicant for development within the Pine Lake drainage basin may apply for a variance from  
2 the standards specified in subsection (8) of this section if it can be proven that conditions are clearly  
3 different than at Beaver Lake.

4 ~~(65)~~ The standards specified in subsection (8) of this section shall apply to all development proposals located  
5 within the Beaver Lake and Pine Lake watersheds which require drainage review as specified in the adopted  
6 surface water design manual and Title 13 Surface Water Management, King County Surface Water Design  
7 Manual.

8 ~~(76)~~ Development proposals within the Beaver Lake or Pine Lake watersheds may be exempt from  
9 management plan requirements if they demonstrate to the satisfaction of the community development  
10 department that on-site surface and storm water runoff drainage does not in fact drain into the basin in  
11 question.

12 ~~(87)~~ Phosphorous Control Required.

13 (a) Applicability. Unless the conditions identified in subsection (6) of this section are documented to  
14 the satisfaction of the department, the following development proposals are subject to the  
15 conditions and standards contained subsections 7(b) through 7(d) below:

Comment [EM80]: Item 3-12

16 (i) For projects which that create greater than 5,000 square feet of new impervious surface  
17 subject to vehicular use in the Beaver Lake or Pine Lake watersheds, the following conditions  
18 shall apply, unless the conditions identified in subsection (6) of this section are documented to  
19 the satisfaction of the community development department; or

20 (ii) Projects that create greater than one acre of pollution generating pervious surface, as  
21 defined in the adopted surface water design manual and Title 13 Surface Water Management,  
22 in the Beaver Lake or Pine Lake watersheds.

Comment [EM81]: Item 3-12

23 ~~(ba)~~ The proposed storm water facilities shall be designed to remove 80 percent of all new total  
24 phosphorus loading on an annual basis due to new development (and associated storm water  
25 discharges) in the Beaver Lake or Pine Lake watersheds where feasible or utilize AKART if infeasible.

26 ~~(cb)~~ Currently, the AKART standard or interim best management practices for phosphorus-sensitive  
27 lakes can be fulfilled by achieving the 50% phosphorous removal standard from the adopted surface  
28 water design manual and Title 13 Surface Water Management, together with additional applicant  
29 proposed measures:

Comment [EM82]: Item 3-14

30 (i) For all development proposals subject to this section, the applicant shall demonstrate  
31 that a reduction of 80% total phosphorous is achievable through the use of engineering design  
32 computations.

Comment [EM83]: Item 3-14

34 (ii) As the adopted King County Surface Water Design Manual is updated and additional  
35 treatment options and designs for total phosphorous removal become available, new treatment  
36 systems may be approved by the city if the AKART standard for phosphorous removal can be

demonstrated using the Department of Ecology’s Technology Assessment Protocol – Ecology (TAPE) protocol).

Comment [EM84]: Item 3-13

(iii) Where soils are suitable, on-site infiltration of storm water runoff can be pursued through the variance process as an AKART alternative using methods described in the manual, as well as providing an organic soil layer consistent with the standards of the adopted surface water design manual and Title 13 Surface Water Management.

(iv) Development proposals using on-site infiltration, that do not comply with subsection 7(c)(iii), shall demonstrate that 80%, or better, phosphorus treatment can be expected with the designed on-site infiltration system, rather than by methods described in subsection (7)(c)(iii) of this section.

the following storm water treatment design criteria:

(i) A wetpond or combined detention/wetpond with a permanent pool volume equal to four and one half times the volume of runoff from the mean annual storm (VB/VR=4.5).

(A) Mandatory roof downspout infiltration, unless shown to be infeasible, and maximization of forest or native vegetation retention.

(B) Pond volume can be reduced by maximizing forest retention according to the following schedule:

Forest (%)	VB/VR ratio
25	4.25
30	4.00
40	3.50
50	3.25
60	3.00

(C) Forest retention areas shall be in tracts dedicated to the City. Buffers without trails can be counted in the percent forest figure.

(D) The VB/VR ratio is the volume of the wetpond basin divided by the volume of the runoff from the mean annual storm. The mean annual storm is equal to 0.46 inches at SeaTac. Runoff can be estimated using a runoff coefficient of 0.9 for impervious area and 0.25 for all other pervious area. Forested areas in tracts dedicated to the City need not be included in the calculation of pond sizing (i.e., zero new runoff volume assumed). If this method is used in other areas, and SeaTac

1 precipitation statistics underestimate the rainfall as judged by the isopluvial distribution of the two-  
2 year 24-hour precipitation, the mean annual rainfall should be adjusted upward.

3 (ii) Although current King County SWM designs are not complete for sand filtration, incorporation of  
4 sand filters into storm water treatment facility designs (i.e., treatment trains) can be pursued  
5 through the variance process to achieve additional total phosphorus removal. The proponent must  
6 demonstrate that equivalent or improved total phosphorus treatment can be expected with an  
7 alternative treatment system which incorporates sand filtration other than by methods described in  
8 subsection (8)(b)(i) of this section.

9 (iii) Where soils are suitable, on-site infiltration of storm water runoff can be pursued through  
10 the variance process as an AKART alternative. Soils are considered suitable for infiltration if at  
11 least two feet of soil exist where one of the following soil conditions are met:

12 (A) The cation exchange capacity of the soil equals or is greater than five milliequivalents;

13 (B) The organic content of the soil is equal to or greater than five percent;

14 (C) The grain size distribution of site soils is equivalent to not more than 25 percent gravel  
15 by weight (75 percent passing the No. 4 sieve) and of that passing the No. 4 sieve, either  
16 (1) 50 percent minimum passes the No. 40 sieve and two percent minimum passes the  
17 No. 100 sieve, or (2) 25 percent minimum passes the No. 40 sieve and five percent  
18 minimum passes the No. 200 sieve; and

19 (D) The infiltration rate is 2.4 inches/hour or less.

20 Additionally, the proponent must demonstrate that equivalent or better phosphorus  
21 treatment can be expected with on-site infiltration than by methods described in subsection  
22 (8) of this section.

23 (iv) As the King County Surface Water Design Manual is updated and additional treatment  
24 options and designs for total phosphorus removal become available, alternative treatment  
25 systems may be utilized if the AKART standard for phosphorus removal can be demonstrated.

26 (de) Hydrologic analysis shall be determined using a continuous hydrologic model such as the  
27 Hydrologic Simulation Program – Fortran (HSPF) ~~or~~ the King County Runoff Time Series Program  
28 (KCRTS), ~~the Santa Barbara Urban Hydrograph, or the VB/VR methodology.~~ These methodologies  
29 may be revised or superseded by other methodologies for achieving the same performance goal as  
30 stipulated by future revision to the Surface Water Design Manual. (Ord. O2005-193 § 1)

31 ~~21A.50.360 Critical areas mitigation fee – Creation of fund.~~

32 ~~There is hereby created a critical areas mitigation fund. This fund shall be administered by the City's finance~~  
33 ~~director. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

34 ~~21A.50.370 Critical areas mitigation fee – Source of funds.~~

1 All monies received from penalties resulting from the violation of rules and laws regulating development and  
2 activities within critical areas shall be deposited into the fund. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

3 **~~21A.50.380 Critical areas mitigation fee — Use of funds.~~**

4 ~~Monies from the fund shall only be used for paying the cost of enforcing and implementing critical area laws  
5 and rules. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

6 **~~21A.50.390 Critical areas mitigation fee — Investment of funds.~~**

7 ~~Monies in the fund not needed for immediate expenditure shall be deposited in a separate investment fund  
8 pursuant to RCW 36.29.020. The finance director shall be designated as the investment fund director. (Ord.  
9 O2005-193 § 1; Ord. O99-29 § 1)~~

10 **~~21A.50.400 Sunset provisions.~~**

11 ~~The provisions contained in SMC 21A.50.290, Wetlands — Development standards, 21A.50.310(6)(a), wetland  
12 mitigation ratios, and 21A.50.330, Streams — Development standards, shall revert to those in effect prior to  
13 January 3, 2006, 84 months following the January 3, 2006, effective date of the ordinance codified in this  
14 chapter unless renewed or revised. (Ord. O2011-315 § 1; Ord. O2009-274 § 1 (Att. A); Ord. O2005-193 § 1)~~

15

Council Review Draft

Chapter 21A.15  
TECHNICAL TERMS AND LAND USE DEFINITIONS

**Please Note:** The city has selected relevant definitions from the definitions section; for brevity, not all definitions are included here. The complete code is available at:  
<http://www.codepublishing.com/wa/sammamish/>

**21A.15.050 AKART.**

**"AKART" means all known, available, and reasonable methods of prevention, control, and treatment.**

Comment [CdS85]: Item 5-18

**21A.15.056 Alteration.**

Any human activity that results or is likely to result in an impact upon the existing condition of a critical area is an "alteration" that is subject to specific limitations as specified for each critical area. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants, except storm water, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, ~~pruning~~, topping, ~~trimming~~, relocating or removing vegetation or any other human activity that results or is likely to result in an impact to existent vegetation, hydrology, fish or wildlife, or fish or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities. (Ord. O2005-193 § 2; Ord. O2005-172 § 2; Ord. O99-29 § 1. Formerly 21A.50.200)

**21A.15.062 Anadromous fish.**

"Anadromous fish" are those that live part or the majority of their lives in saltwater, but return to freshwater to spawn. (Ord. O2005-172 § 2)

**21A.15.080 Base flood.**

"Base flood" means a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "100-year flood." (Ord. O2003-132 § 10)

**21A.15.085 Base flood elevation.**

"Base flood elevation" means the water surface elevation of the base flood in relation to the National Geodetic Vertical Datum of 1929. (Ord. O2003-132 § 10)

**21A.15.098 Best available science.**

"Best available science" means the process used and information developed consistent with requirements in RCW 36.70A.172 and WAC 365-195-900 through 365-195-925. (Ord. O2005-172 § 2)

**21A.15.110 Biologist.**

"Biologist" means a person who has earned at least a Bachelor of Science degree in the biological sciences from an accredited college or university or who has equivalent educational training and experience. (Ord. O2003-132 § 10)

**21A.15.122 Buffer.**

# Exhibit 1

1 "Buffer" means a designated area contiguous to a steep slope or landslide hazard area intended to protect  
2 slope stability, attenuation of surface water flows and landslide hazards, or a designated area contiguous to a  
3 habitat conservation area, stream or wetland intended to protect the habitat, stream or wetland and be an  
4 integral part of the habitat, stream or wetland ecosystem. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

5 **21A.15.195 Clearing.**

6 "Clearing" means the limbing, pruning, trimming, topping, cutting or removal of vegetation or other organic  
7 plant matter by physical, mechanical, chemical or other means. (Ord. O2003-132 § 10)

8 **21A.15.253 Critical aquifer recharge area.**

9 "Critical aquifer recharge areas" means those areas in the City of Sammamish with a critical recharging effect  
10 on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic  
11 conditions associated with infiltration rates that create a high potential for contamination of groundwater  
12 resources or contribute significantly to the replenishment of groundwater. CARAs shall be classified based on  
13 the following criteria:

14 (1) Class 1 CARAs include those areas located within the mapped one- or five-year capture zone of a  
15 wellhead protection area.

16 (2) Class 2 CARAs include those areas located within the mapped 10-year capture zone of a wellhead  
17 protection area.

18 (3) Class 3 CARAs include those areas outside wellhead protection areas that are identified as high aquifer  
19 recharge potential areas based on characteristics of surficial geology and soil types. (Ord. O2005-193 § 2)

20 **21A.15.254 Critical areas.**

21 "Critical areas" means those areas in the City that are erosion hazard areas, frequently flooded areas,  
22 landslide hazard areas, seismic hazard areas, critical aquifer recharge areas, wetlands, streams, and fish and  
23 wildlife habitat conservation areas. (Ord. O2005-193 § 2)

24 **21A.15.255 Critical drainage area.**

25 "Critical drainage area" means an area that has been formally determined by the King County surface water  
26 management department to require more restrictive regulation than countywide standards afford in order to  
27 mitigate severe flooding, drainage, erosion, or sedimentation problems that result from the cumulative impacts  
28 of development and urbanization. (Ord. O2003-132 § 10)

29 **21A.15.XXX Development.** "Development" means the construction or exterior expansion of structures or  
30 buildings; clearing or grading; paving, landscaping, or placing of obstructions; and any project of a permanent  
31 or temporary nature exterior to a building.

Comment [EM86]: Item 4-15

32 **21A.15.310 Development proposal.**

33 "Development proposal" means any activities requiring a permit or other approval from the City of Sammamish  
34 relative to the use or development of land. (Ord. O2003-132 § 10)

35

# Exhibit 1

1 **21A.15.365 Dwelling unit, single detached.**

2 "Dwelling unit, single detached" means a detached building containing one dwelling unit. (Ord. O2003-132 §  
3 10)

4 **21A.15.400 Enhancement.**

5 "Enhancement" means an action that increases the functions and values of a stream, wetland, or other  
6 sensitive area or buffer. (Ord. O2003-132 § 10)

7 **21A.15.410 Erosion.**

8 "Erosion" means the process by which soil particles are mobilized and transported by natural agents such as  
9 wind, rainsplash, frost action or surface water flow. (Ord. O2003-132 § 10)

10 **21A.15.415 Erosion hazard areas.**

11 "Erosion hazard areas" means those areas in the City underlain by soils that are subject to severe erosion  
12 when disturbed. Such soils include, but are not limited to, those classified as having a severe or very severe  
13 erosion hazard according to the USDA Soil Conservation Service, the 1973 King County Soils Survey or any  
14 subsequent revisions or addition by or to these sources. These soils include the following when they occur on  
15 slopes 15 percent or steeper:

- 16 (1) The Alderwood gravelly sandy loam (AgD);  
17 (2) The Alderwood and Kitsap soils (AkF);  
18 (3) The Beausite gravelly sandy loam (BeD and BeF);  
19 (4) The Everett gravelly sandy loam (EvD);  
20 (5) The Kitsap silt loam (KpD);  
21 (6) The Ovall gravelly loam (OvD and OvF);  
22 (7) The Ragnar fine sandy loam (RaD); and  
23 (8) The Ragnar-Indianola Association (RdE). (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

24 **21A.15.4XX Erosion Hazard Near Sensitive Water Body Overlay.** The Erosion Hazard Near Sensitive  
25 Water Body overlay means an area within the city where sloped areas posing erosion hazards, or  
26 contributing to erosion hazards, that drain directly to lakes or streams of high resource value that are  
27 particularly sensitive to the impacts of increased erosion and the resulting sediment loads from  
28 development. The department of community development shall maintain a map of the boundaries of the  
29 erosion hazard near sensitive water bodies overlay district.

Comment [EM87]: Item 4-15

30  
31 The Erosion Hazard Near Sensitive Water Body overlay is divided into two areas:

32 (a) The no-disturbance area. The no-disturbance area shall be established on the sloped portion of the  
33 special district overlay to prevent damage from erosion. The upslope boundary of the no-disturbance  
34 area lies at the first obvious break in slope from the upland plateau over onto the valley walls. For  
35 the purposes of locating the first obvious break in slope, the first obvious break shall generally be

# Exhibit 1

1 located at the top of the erosion hazard area associated with the slope. The downslope boundary of  
2 the no-disturbance area is the extent of those areas designated as erosion or landslide hazard areas.  
3 The department shall maintain maps, supported by LIDAR (Light Detection and Ranging) data or  
4 other suitable technology, of the approximate location of the no-disturbance areas, which shall be  
5 subject to field verification for new development proposals.

Comment [EM88]: Item 4-3

6 (b) Properties draining to the no-disturbance area. Properties draining to the no-disturbance area are  
7 within the Erosion Hazard near Sensitive Water body overlay that drain to the no-disturbance area.

## 8 **21A.15.420 Eutrophic.**

9 "Eutrophic" means a trophic status characterized by moderately high algal productivity, more serious oxygen  
10 depletion in the bottom waters, some recreational use impairment, summer chlorophyll a concentration greater  
11 than 10 micrograms/liter, a summer Secchi depth of less than two meters, and a winter total phosphorus  
12 concentration greater than 20 micrograms/liter.

Comment [CdS89]: Item 5-18

## 13 **21A.15.XXX Feasible.**

14 "Feasible" means that an action, such as a development project, mitigation, or preservation requirement,  
15 meets all of the following conditions:

16 (a) The action can be accomplished with technologies and methods that have been used in the past in  
17 similar circumstances, or studies or tests have demonstrated in similar circumstances that such  
18 approaches are currently available and likely to achieve the intended results;

19 (b) The action provides a reasonable likelihood of achieving its intended purpose; and

20 (c) The action does not physically preclude achieving the project's primary intended legal use. In cases  
21 where these guidelines require certain actions unless they are infeasible, the burden of proving  
22 infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may  
23 weigh the action's relative public costs and public benefits, considered in the short- and long-term  
24 time frames.

Comment [EM90]: Item 2-13

## 25 **21A.15.467 Fish and wildlife habitat corridors.**

26 "Fish and wildlife habitat corridors" means those corridors set aside and protected for preserving connections  
27 between habitats on development proposal sites that contain Type F or Np streams and/or wetlands with a  
28 high habitat score greater than or equal to 29 on the Washington State Wetland Rating System for Western  
29 Washington (Department of Ecology 2004 or as revised) that are located within 200 feet of an on-site or off-  
30 site Type F or Np stream and/or wetland with a high habitat score greater than or equal to 29 on the  
31 Washington State Wetland Rating System for Western Washington. Fish and wildlife habitat corridors do not  
32 parallel Type Np streams, except as required to provide a connection between two features as described  
33 above.

## 35 **21A.15.468 Fish and wildlife habitat conservation areas.**

36 "Fish and wildlife habitat conservation areas" means those areas that are essential for the preservation of  
37 critical habitat and species. All areas within the City of Sammamish meeting one or more of the following  
38 criteria are designated wildlife habitat conservation areas:

39 (1) Areas with which state or federally designated endangered, threatened, and sensitive species have a  
40 primary association.

# Exhibit 1

1 (a) Federally designated endangered and threatened species are those fish and wildlife species  
2 identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in  
3 danger of extinction or are threatened to become endangered. The U.S. Fish and Wildlife Service and  
4 the National Marine Fisheries Service should be consulted as necessary for current listing status;

5 (b) State-designated endangered, threatened, and sensitive species are those fish and wildlife species  
6 native to the coastal region of the Pacific Northwest identified by the State Department of Fish and  
7 Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and  
8 -are likely to become endangered or threatened in a significant portion of their range within the state  
9 without cooperative management or removal of threats. State-designated endangered, threatened, and  
10 sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC  
11 232-12-011 (state threatened and sensitive species). The State Department of Fish and Wildlife  
12 maintains the most current listing and should be consulted as necessary for current listing status;

13 (2) ~~Wetlands, streams, and lakes and naturally occurring ponds;~~

14 (3) State natural area preserves and natural resource conservation areas. Natural area preserves and natural  
15 resource conservation areas are defined, established, and managed by the State Department of Natural  
16 Resources; and

17 (4) ~~Fish and Wildlife habitat corridors as defined in 21A.15.467 for preserving connections between habitats  
18 along the designated wildlife habitat network. (Ord. O2005-193 § 2)~~

Comment [EM91]: Item 2-13

19 **21A.15.470 Flood fringe.**

20 "Flood fringe" means that portion of the floodplain outside of the zero-rise floodway that is covered by  
21 floodwaters during the base flood, generally associated with standing water rather than rapidly flowing water.  
22 (Ord. O2003-132 § 10)

23 **21A.15.475 Flood hazard areas.**

24 "Flood hazard areas" means those areas in the City of Sammamish subject to inundation by the base flood  
25 and those areas subject to risk from channel relocation or stream meander including, but not limited to,  
26 streams, lakes, wetlands, and closed depressions. (Ord. O2003-132 § 10)

27 **21A.15.480 Flood insurance rate map.**

28 "Flood insurance rate map" means the official map on which the Federal Insurance Administration has  
29 delineated some areas of flood hazard. (Ord. O2003-132 § 10)

30 **21A.15.485 Flood insurance study for King County.**

31 "Flood insurance study for King County" means the official report provided by the Federal Insurance  
32 Administration that includes flood profiles and the flood insurance rate map. (Ord. O2003-132 § 10)

33 **21A.15.490 Flood protection elevation.**

34 "Flood protection elevation" means an elevation that is one foot above the base flood elevation. (Ord. O2003-  
35 132 § 10)

# Exhibit 1

1 **21A.15.495 Floodplain.**

2 "Floodplain" means the total area subject to inundation by the base flood. (Ord. O2003-132 § 10)

3 **21A.15.500 Floodproofing.**

4 "Floodproofing" means adaptations that will make a structure that is below the flood protection elevation  
5 substantially impermeable to the passage of water and resistant to hydrostatic and hydrodynamic loads  
6 including the impacts of buoyancy. (Ord. O2003-132 § 10)

7 **21A.15.505 Floodway, zero-rise.**

8 "Floodway, zero-rise" means the channel of a stream and that portion of the adjoining floodplain which is  
9 necessary to contain and discharge the base flood flow without any measurable increase in flood height. A  
10 measurable increase in base flood height means a calculated upward rise in the base flood elevation, equal to  
11 or greater than .01 foot, resulting from a comparison of existing conditions and changed conditions directly  
12 attributable to development in the floodplain. This definition is broader than that of the FEMA floodway, but  
13 always includes the FEMA floodway. The boundaries of the 100-year floodplain, as shown on the flood  
14 insurance study for King County, are considered the boundaries of the zero-rise floodway unless otherwise  
15 delineated by a sensitive area special study. (Ord. O2003-132 § 10)

16 **21A.15.532 Frequently flooded areas.**

17 "Frequently flooded areas" means those lands in the City in the floodplain subject to a one percent or greater  
18 chance of flooding in any given year and those lands that provide important flood storage, conveyance, and  
19 attenuation functions, as determined by the City in accordance with WAC 365-190-080(3). Frequently flooded  
20 areas perform important hydrologic functions and may present a risk to persons and property. Frequently  
21 flooded areas include all areas of special flood hazards within the jurisdiction of the City of Sammamish. (Ord.  
22 O2005-193 § 2)

23 **21A.15.545 Geologist.**

24 "Geologist" ~~means a professional geologist who holds a current geologist license from the Washington state~~  
25 ~~Geologist Licensing Board means a person who has earned at least a Bachelor of Science degree in the~~  
26 ~~geological sciences from an accredited college or university or who has equivalent educational training and at~~  
27 ~~least four years of professional experience. (Ord. O2003-132 § 10)~~

Comment [CdS92]: Item 4-14

Comment [CdS93]: Item 4-13

28 **21A.15.550 Geotechnical engineer.**

29 "Geotechnical engineer" means a practicing geotechnical/civil engineer licensed as a professional civil  
30 engineer by the state of Washington who has at least four years of professional employment as a geotechnical  
31 engineer. (Ord. O2003-132 § 10)

32 **21A.15.575 Hypereutrophic.**

33 "Hypereutrophic" means a trophic status characterized by high algal productivity, intense algal blooms, fish  
34 kills due to oxygen depletion in the bottom waters, frequent recreational use impairment, summer chlorophyll a  
35 concentration greater than 10 micrograms/liter, a summer Secchi depth generally less than two meters, and a  
36 winter total phosphorus concentration greater than 30 micrograms/liter.

Comment [CdS94]: Item 5-18

37 **21A.15.620 Lake Management Plan.**

# Exhibit 1

1 "Lake management plan" means the plan (and supporting documents as appropriate) describing the lake  
2 management recommendations and requirements.

Comment [CdS95]: Item 5-18

3 **21A.15.670 Landscaping.**

4 "Landscaping" means live vegetative materials required for a development. Said materials provided along the  
5 boundaries of a development site are referred to as perimeter landscaping. (Ord. O2003-132 § 10)

6 **21A.15.675 Landslide.**

7 "Landslide" means episodic downslope movement of a mass including, but not limited to, soil, rock or snow.  
8 (Ord. O2003-132 § 10)

9 **21A.15.680 Landslide hazard areas.**

10 "Landslide hazard areas" means those areas in the City of Sammamish potentially subject to risk of mass  
11 movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically  
12 susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope  
13 aspect, geologic structure, groundwater, or other factors. Landslide hazard areas include the following:

14 (1) Areas of historic failures, such as:

15 (a) Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation  
16 Service as having a "severe" limitation for building site development;

17 (b) Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by  
18 the U.S. Geological Survey or Department of Natural Resources;

19 (2) Areas that have shown movement during the Holocene epoch, from 10,000 years ago to the present, or  
20 which are underlain by mass wastage debris from that epoch;

21 (3) Any area with all three of the following characteristics:

22 (a) Slopes steeper than 15 percent; and

23 (b) Hillside intersecting geologic contacts with a relatively permeable sediment overlying a relatively  
24 impermeable sediment or bedrock; and

25 (c) Springs or groundwater seepage;

26 (4) Areas with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas  
27 composed of consolidated rock. A slope is delineated by establishing its toe and top, as defined in SMC  
28 21A.15.1230, and measured by averaging the inclination over at least 10 feet of vertical relief;

Comment [CdS96]: Item 4-12

29 (5) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and  
30 fault planes) in subsurface materials;

31 (6) Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking;

# Exhibit 1

1 (7) Areas potentially unstable because of rapid stream incision, stream bank erosion or undercutting by wave  
2 action; and

3 (8) Landslide hazard areas do not include those areas composed of slopes greater than 40 percent that were  
4 created from a previously non-landslide hazard area through legal grading activity and that are confirmed to be  
5 stable by a qualified professional. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

6 **21A.15.XXX Maintenance.** "Maintenance" means those usual acts to prevent a decline, lapse or cessation  
7 from a lawfully established condition or use. Maintenance may include, but is not limited to, pruning, plant  
8 material replaced with alternate plant material, hardscape replaced with alternate hardscape, hardscape  
9 replaced with plant material.

Comment [EM97]: Item 2-14

10 **21A.15.720 Mesotrophic.**

11 "Mesotrophic" means a trophic status characterized by moderate algal productivity, oxygen depletion in the  
12 bottom waters, usually no recreational use impairment, summer chlorophyll a concentration averaging four to  
13 10 micrograms/liter, a summer Secchi depth of two to five meters, and a winter total phosphorus concentration  
14 ranging from 10 to 20 micrograms/liter.

Comment [CdS98]: Item 5-18

15 **21A.15.XXX Microclimate.** "Microclimate" means a climatic condition in a relatively small area, within a few  
16 feet above and below the Earth's surface and within canopies of vegetation. Microclimates are affected by  
17 such factors as temperature, humidity, wind and turbulence, dew, frost, heat balance, evaporation, the nature  
18 of the soil and vegetation, the local topography, latitude, elevation, and season. Weather and climate are  
19 sometimes influenced by microclimatic conditions, especially by variations in surface characteristics.

20 **21A.15.751 Mitigation bank.**

21 "Mitigation bank" means a property that has been protected in perpetuity, and approved by appropriate City,  
22 state, and federal agencies expressly for the purpose of providing compensatory mitigation in advance of  
23 authorized impacts through restoration, creation, and/or enhancement of wetlands, and in exceptional  
24 circumstances, preservation of adjacent wetlands, wetland buffers, and/or other aquatic resources. (Ord.  
25 O2003-132 § 10)

26 **21A.15.752 Mitigation banking.**

27 "Mitigation banking" means a system for providing compensatory mitigation in advance of authorized wetland  
28 impacts of development in the City in which credits are generated through restoration, creation, and/or  
29 enhancement of wetlands, and in exceptional circumstances, preservation of adjacent wetlands, wetland  
30 buffers, and/or other aquatic resources. (Ord. O2003-132 § 10)

31 **21A.15.765 Monitoring.**

32 "Monitoring" means evaluating the impacts of development proposals on biologic, hydrologic, and geologic  
33 systems and assessing the performance of required mitigation through the collection and analysis of data for  
34 the purpose of understanding and documenting changes in natural ecosystems, functions and features  
35 including, but not limited to, gathering baseline data. (Ord. O2003-132 § 10)

36 **21A.15.790 Native vegetation.**

# Exhibit 1

1 "Native vegetation" means vegetation comprised of plant species, other than noxious weeds, which are  
2 indigenous to the coastal region of the Pacific Northwest and that reasonably could have been expected to  
3 naturally occur on the site. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

4 ~~21A.15.794 Naturalized species.~~

5 ~~"Naturalized species" means non-native species of vegetation that are adaptable to the climatic conditions of~~  
6 ~~the coastal region of the Pacific Northwest. (Ord. O2011-300 § 1 (Att. A); Ord. O2003-132 § 10. Formerly~~  
7 ~~21A.15.795)~~

Comment [EM99]: Item 3-20

8 ~~21A.15.795 Naturally occurring ponds.~~

9 ~~See "Ponds, naturally occurring," SMC 21A.15.898. (Ord. O2011-300 § 1 (Att. A); Ord. O2005-193 § 2.~~  
10 ~~Formerly 21A.15.796)~~

Comment [CdS100]: Item 5-17

11 ~~21A.15.810 Oligotrophic.~~

12 ~~"Oligotrophic" means a trophic status characterized by low algal productivity, algal blooms are rare, water~~  
13 ~~clarity is high, all recreational uses unimpaired, summer chlorophyll a concentration average less than four~~  
14 ~~micrograms/liter, a summer Secchi depth greater than five meters, and a winter total phosphorus~~  
15 ~~concentration ranging from zero to 10 micrograms/liter.~~

Comment [CdS101]: Item 5-18

16 **21A.15.825 Ordinary high water mark.**

17 "Ordinary high water mark" means the mark found by examining the bed and banks of a stream, lake, or tidal  
18 water and ascertaining where the presence and action of waters are so common and long maintained in  
19 ordinary years as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any  
20 area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In any  
21 area where neither can be found, the top of the channel bank shall substitute. In braided channels and alluvial  
22 fans, the ordinary high water mark or line of mean high water shall be measured so as to include the entire  
23 stream feature. (Ord. O2003-132 § 10)

24 ~~21A.15.850 Phosphorus.~~

25 ~~"Phosphorus" means elemental phosphorus and for the purposes of this section shall be measured as total~~  
26 ~~phosphorus.~~

Comment [CdS102]: Item 5-18

27 ~~21A.15.855 Phosphorus concentration.~~

28 ~~"Phosphorus concentration" means the mass of phosphorus per liquid volume.~~

Comment [CdS103]: Item 5-18

29 ~~21A.15.860 Phosphorus loading.~~

30 ~~"Phosphorus loading" means the total mass of phosphorus per time basis.~~

Comment [CdS104]: Item 5-18

31 ~~21A.15.898 Ponds, naturally occurring.~~

32 ~~"Ponds, naturally occurring" means those surface water bodies under 20 acres and their submerged aquatic~~  
33 ~~beds that provide fish or wildlife habitat, including those manmade ponds intentionally created in order to~~  
34 ~~mitigate critical area impacts. Naturally occurring ponds do not include ponds deliberately designed and~~  
35 ~~created from dry sites for other reasons such as canals, detention facilities, wastewater treatment facilities,~~

Comment [EM105]: Item 3-20

# Exhibit 1

1 ~~farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were~~  
2 ~~intentionally created for mitigation. (Ord. O2005-193 § 2)~~

## 3 **21A.15.942 Qualified professional.**

4 "Qualified professional" means a person with experience and training in the applicable field or critical area. A  
5 qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering,  
6 environmental studies, fisheries, geomorphology or a related field, and two years of related work experience.

7 (1) A qualified professional for watercourses, wetlands, and wildlife habitat conservation areas must have a  
8 degree in biology or a related field and relevant professional experience.

9 (2) A qualified professional for preparing geotechnical reports and geotechnical design recommendations must  
10 be a professional geotechnical engineer or geologist licensed in the state of Washington. Identification of  
11 geologic hazards may be performed by geologists or other geology professionals with experience identifying  
12 geologic hazards.

13 (3) A qualified professional for preparing critical aquifer recharge reports must be a professional  
14 hydrogeologist or geologist licensed in the state of Washington.

## 15 **21A.15.1000 Restoration.**

16 "Restoration" means returning a stream, wetland, other sensitive area or any associated buffer to a state in  
17 which its stability and functions approach its unaltered state as closely as possible. (Ord. O2003-132 § 10)

## 18 **21A.15.XXXX Riparian.**

Comment [EM106]: Item 3-19c

19 "Riparian" means the area adjacent to flowing or standing freshwater aquatic systems. Riparian habitat  
20 encompasses the area beginning at the ordinary high water mark and extends to that portion of the terrestrial  
21 landscape that is influenced by, or that directly influences, the aquatic ecosystem. In riparian systems, the  
22 vegetation, water tables, soils, microclimate, and wildlife inhabitants of terrestrial ecosystems are often  
23 influenced by perennial or intermittent water. Simultaneously, adjacent vegetation, nutrient and sediment  
24 loading, terrestrial wildlife, as well as organic and inorganic debris influence the biological and physical  
25 properties of the aquatic ecosystem. Riparian habitat includes the entire extent of the floodplain and riparian  
26 areas of wetlands that are directly connected to stream courses or other freshwater.

## 27 **21A.15.1015 Salmonid.**

28 "Salmonid" means a member of the fish family Salmonidae, including:

29 (1) Chinook, coho, chum, sockeye and pink salmon;

30 (2) Rainbow, steelhead and cutthroat salmon;

31 (3) Brown trout;

32 (4) Brook and dolly varden char;

33 (5) Kokanee; and

# Exhibit 1

1 (6) Whitefish. (Ord. O2003-132 § 10)

2 **21A.15.1045 Seismic hazard areas.**

3 “Seismic hazard areas” means ~~those areas mapped as moderate to high and high liquefaction susceptibility~~  
4 ~~and peat deposits on the Liquefaction Susceptibility Map of King County, Washington, Washington Division of~~  
5 ~~Geology and Earth Sciences, OFR 2004-20, Palmer et al., September, 2004 as revised, those areas in the City~~  
6 ~~subject to severe risk of earthquake damage as a result of soil liquefaction in areas underlain by cohesionless~~  
7 ~~soils of low density and usually in association with a shallow groundwater table or of other seismically induced~~  
8 ~~settlement. (Ord. O2003-132 § 10)~~

Comment [EM107]: Item 1-4

9 **21A.15.1070 Setback.**

10 “Setback” means the minimum required distance between a structure and a specified line such as a lot,  
11 easement or buffer line that is required to remain free of structures. (Ord. O2003-132 § 10)

12 **21A.15.1230 Steep slope hazard areas.**

13 “Steep slope hazard areas” means those landslide hazard areas in the City on slopes 40 percent or steeper  
14 within a vertical elevation change of at least 10 feet. A slope is delineated by establishing its toe and top and is  
15 measured by averaging the inclination over at least 10 feet of vertical relief. For the purpose of this definition:

16 (1) The toe of a slope is a distinct topographic break in slope that separates slopes inclined at less than 40  
17 percent from slopes 40 percent or steeper. Where no distinct break exists, the toe of a steep slope is the  
18 lowermost limit of the area where the ground surface drops 10 feet or more vertically within a horizontal  
19 distance of 25 feet; and

20 (2) The top of a slope is a distinct, topographic break in slope that separates slopes inclined at less than 40  
21 percent from slopes 40 percent or steeper. Where no distinct break exists, the top of a steep slope is the  
22 uppermost limit of the area where the ground surface drops 10 feet or more vertically within a horizontal  
23 distance of 25 feet. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

24 ~~(3) A distinct topographic break occurs when the change in gradient is less than 5 feet vertically within a~~  
25 ~~horizontal distance of 25 feet.~~

Comment [CdS108]: Item 4-12

26 **21A.15.1235 Stream functions.**

27 “Stream functions” means natural processes performed by streams including functions that are important in  
28 facilitating food chain production, providing habitat for nesting, rearing, and resting sites for aquatic, terrestrial,  
29 and avian species, maintaining the availability and quality of water, such as purifying water, acting as recharge  
30 and discharge areas for groundwater aquifers, moderating surface and storm water flows and maintaining the  
31 free flowing conveyance of water, sediments, and other organic matter. (Ord. O2003-132 § 10)

32 **21A.15.1240 Streams.**

33 “Streams” means those areas in the City where surface waters produce a defined channel or bed, not  
34 including irrigation ditches, canals, storm or storm water runoff conveyance devices or other entirely artificial  
35 watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to  
36 construction of such watercourses. For the purpose of this definition, a defined channel or bed is an area that  
37 demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels,

# Exhibit 1

1 gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-  
2 round. For the purpose of defining the following categories of streams, normal rainfall is rainfall that is at or  
3 near the mean of the accumulated annual rainfall record, based upon the water year for King County as  
4 recorded at the Seattle-Tacoma International Airport.

5 (1) Streams shall be classified according to the following criteria:

6 (a) Type S streams are all streams inventoried as "shorelines of the state" under the City's shoreline  
7 master program. No Type S streams have been identified in the City as of September 1, 2005.

8 (b) Type F streams are those streams that are used by salmonids, have the potential to support  
9 salmonid uses, or that have been identified as being of special significance. Streams of special  
10 significance are those perennial reaches designated by the City based on historic fish presence and/or  
11 the probability of restoration of the following:

12 (i) George Davis Creek;

13 (ii) Ebright Creek;

14 (iii) Pine Lake Creek; and

15 (iv) Laughing Jacobs Creek, below Laughing Jacobs Lake.

16 (c) Type Np streams which are perennial during a year of normal rainfall and do not have the potential to  
17 be used by salmonids. Type Np streams include the intermittent dry portions of the perennial channel  
18 below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified  
19 with simple, nontechnical observations, then the point of perennial flow should be determined using the  
20 best professional judgment of a qualified professional.

21 (d) Type Ns streams which are seasonal or ephemeral during a year of normal rainfall and do not have  
22 the potential to be used by salmonids.

23 (2) For the purposes of this definition, "used by salmonids" and "potential to support salmonid uses" is  
24 presumed for:

25 (a) Streams where naturally reoccurring use by salmonid populations has been documented by a  
26 government agency;

27 (b) Streams that are fish passable by salmonid populations from Lake Sammamish, as determined by a  
28 qualified professional based on review of stream flow, gradient and barriers and criteria for fish  
29 passability established by the Washington Department of Fish and Wildlife; and

30 (c) Streams that are planned for restoration in a six-year capital improvement plan adopted by a  
31 government agency that will result in a fish passable connection to Lake Sammamish. (Ord. O2005-193  
32 § 2; Ord. O2003-132 § 10)

# Exhibit 1

1 **21A.15.1265 Submerged land.**

2 "Submerged land" means any land at or below the ordinary high water mark. (Ord. O2003-132 § 10)

3 ~~21A.15.1275 Total phosphorus.~~

4 ~~"Total phosphorus" means the phosphorus concentration as determined by a state-certified analytical~~  
5 ~~laboratory using EPA 365.3 or SM 4500-P-B, E or an equivalent method.~~

Comment [CdS109]: Item 5-18

6 **21A.15.1285 Trails.**

7 "Trails" means manmade pathways designed and intended for use by pedestrians, bicyclists, equestrians,  
8 and/or recreational users. Trails may be paved or unpaved, and may be intended and constructed for  
9 transportation, recreation, and nature contact and enjoyment. Types of trails are described and defined in the  
10 park and recreation plan, trails, bikeways and paths plan, or elsewhere in the city comprehensive plan. (Ord.  
11 O2005-172 § 2; Ord. O2003-132 § 10)

12 ~~21A.15.1295 Trophic state index.~~

13 ~~"Trophic state index" means a classification system which uses algal biomass as the basis for classification~~  
14 ~~which can be independently measured by chlorophyll a, Secchi depth, and total phosphorus concentration.~~

Comment [CdS110]: Item 5-18

15 ~~21A.15.1300 Trophic status.~~

16 ~~"Trophic status" means a classification which defines lake quality by the degree of biological productivity.~~

Comment [CdS111]: Item 5-18

17 ~~21A.15.1390 Wet meadows, grazed.~~

18 ~~"Wet meadows, grazed" means palustrine emergent wetlands typically having up to six inches of standing~~  
19 ~~water during the wet season and dominated under normal conditions by meadow emergents such as reed~~  
20 ~~canary grass, spike rushes, bulrushes, sedges and rushes. During the growing season, the soil is often~~  
21 ~~saturated but not covered with water. These meadows have been frequently used for livestock activities. (Ord.~~  
22 ~~O2003-132 § 10)~~

Comment [EM112]: Item 3-20

23 **21A.15.1395 Wetland edge.**

24 "Wetland edge" means the line delineating the outer edge of a wetland, consistent with the Washington State  
25 Wetlands and Delineation Manual (1997, as amended). (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

26 ~~21A.15.1400 Wetland, forested.~~

27 ~~"Wetland, forested" means a wetland that is characterized by woody vegetation at least 20 feet tall. (Ord.~~  
28 ~~O2003-132 § 10)~~

Comment [EM113]: Item 3-20

29 **21A.15.1405 Wetland functions.**

30 "Wetland functions" means natural processes performed by wetlands including functions that are important in  
31 facilitating food chain production, providing habitat for nesting, rearing, and resting sites for aquatic, terrestrial,  
32 and avian species, maintaining the availability and quality of water, acting as recharge and discharge areas for  
33 groundwater aquifers and moderating surface and storm water flows, as well as performing other functions  
34 including, but not limited to, those set forth in 33 CFR 320.4(b)(2), 1988. (Ord. O2003-132 § 10)

35 **21A.15.1410 Wetland, isolated.**

# Exhibit 1

1 "Wetland, isolated" means a wetland that is hydrologically isolated from other wetlands or streams, does not  
2 have permanent open water, and is determined to be of low function. (Ord. O2005-193 § 2; Ord. O2003-132 §  
3 10)

## 4 **21A.15.1415 Wetlands.**

5 "Wetlands" are those areas in the City of Sammamish designated in accordance with the federal 1987 Wetland  
6 Delineation Manual (Environmental Laboratory, 1987) and the United States Army Corps of Engineers  
7 (USACE) Interim Regional Supplement for Western Mountains, Valleys, and Coast Region (USACE,  
8 2010), Washington State Wetlands Identification and Delineation Manual (1997, as amended). Wetlands are  
9 areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to  
10 support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life  
11 in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands  
12 do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to,  
13 irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities,  
14 farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally  
15 created as a result of the construction of a road, street, or highway. Wetlands may include those artificial  
16 wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

Comment [EM114]: Item 3-1

17 Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington  
18 (Department of Ecology, 2004, or as revised). This document contains the definitions, methods and a rating  
19 form for determining the categorization of wetlands described below:

20 (1) Category 1. Category 1 wetlands include those that receive a score of greater than or equal to 70 based on  
21 functions, or those that are rated Category 1 based on special characteristics as defined in the rating form.

22 (2) Category 2. Category 2 wetlands include those that receive a score of 51 through 69 based on functions, or  
23 those that are rated Category 2 based on special characteristics as defined in the rating form.

24 (3) Category 3. Category 3 wetlands include those that receive a score of 30 through 50 based on functions.

25 (4) Category 4. Category 4 wetlands score less than 30 points based on functions. (Ord. O2005-193 § 2; Ord.  
26 O2003-132 § 10)

27

28

29

## **Chapter 21A.70 NONCONFORMANCE, TEMPORARY USES, AND RE-USE OF FACILITIES**

### 30 **21A.70.020 Nonconformance – Applicability.**

31 (1) All nonconformances except nonconforming uses and improvements related to the provisions of SMC  
32 21A.50, shall be subject to the provisions of this chapter.

Comment [EM115]: Item 2-14

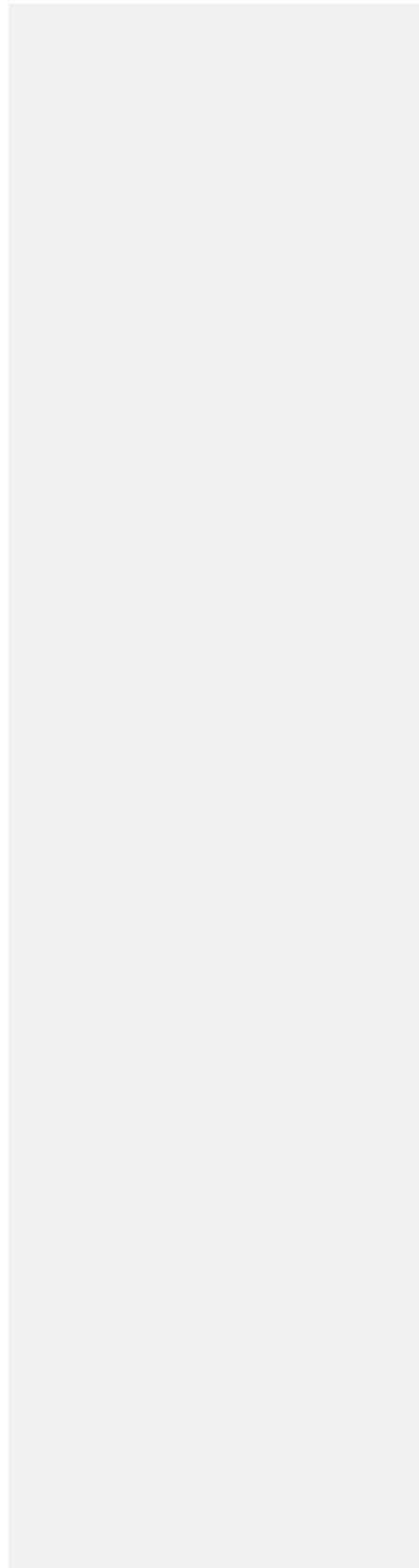
33 (2) The provisions of this chapter do not supersede or relieve a property owner from compliance with:

34 (a) The requirements of the Uniform Building and Fire Codes; or

1  
2

(b) The provisions of this code beyond the specific nonconformance addressed by this chapter. (Ord. O99-29 § 1)

Council Review Draft





**DECISION TABLE**

**Proposed Amendments to the “Council Review Draft” ECA code**

This table is intended to assist the City Council in their deliberations on the proposed amendments to the “Council Review Draft” Environmentally Critical Areas regulations. This table is organized intentionally to allow for the Council to make decisions starting at item 1 and continuing sequentially through the table. The table begins by listing amendments identified by the City Council during their review, and public and / or agency comments that support those amendments are noted. The table then lists amendments proposed in public and / or agency comments. This table attempts to list all amendments proposed, but does not attempt to list all comments submitted. Staff comments have been provided for selected items.

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<b>Potential Amendments Identified by the City Council</b>					
1. <b>Identification of “Wetlands of Local Significance”:</b> Identify Category I Bog wetlands as “Wetlands of Local Significance” and provide for additional protection.	Gerend			Staff has identified 12 wetlands meeting this definition. Additional direction on the amount of proposed protection is requested.	Tabled for discussion on July 2 <sup>nd</sup> .
2. <b>Critical Aquifer Recharge Areas:</b> An amendment to prohibit the use of “vertical” geothermal wells within Class 1 and 2 Critical Aquifer Recharge Areas. <ul style="list-style-type: none"> <li>a. Open loop geothermal wells that could be used to recirculate water or groundwater prohibited in all CARA areas</li> <li>b. Closed loop horizontal and vertical geothermal wells used to recirculate a chemical heat transfer fluid <u>other than potable water</u> prohibited in all CARA areas.</li> <li>c. Closed loop vertical geothermal wells used to recirculate <u>potable water</u> for heat exchange prohibited in all Class 1 &amp; 2 CARA</li> </ul>	Whitten		Agency Comment #CC018		Amendment (entire) approved 7-0

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<p>areas</p> <ul style="list-style-type: none"> <li>d. Closed loop (vertical geothermal wells allowed in Class 3 CARA areas, if they comply with WAC 173-160.</li> <li>e. City tracking of closed loop geothermal wells in Class 3 zones</li> <li>f. Allow horizontal heat exchange systems in all CARA areas.</li> </ul>					
<p>3. <b>Site Specific Stream Buffer Location:</b> Site specific stream buffer location, originally considered by the Planning Commission as item 2-10</p>	Gerend	Public Comment #CC026, #CC004		The Planning Commission did not recommend this amendment. Best Available Science does not support this type of approach to stream protection and there is no recognized system available for implementation.	Amendment failed 1-6
<p>4. <b>Stream and Wetland Fee-in-Lieu mitigation:</b> Modify the fee-in-lieu mitigation program to:</p> <ul style="list-style-type: none"> <li>a. Limit the use of fee-in-lieu mitigation for streams and wetlands to city capital projects and single family homes. Fee-in-lieu mitigation would be prohibited for subdivisions and non-residential development.</li> <li>b. Require that fee-in-lieu mitigation only be allowed if in the same sub-basin as the altered wetland or stream.</li> </ul>	Whitten			<ul style="list-style-type: none"> <li>a. The proposed limitations may limit the value of this tool in some cases.</li> </ul>	<p>Amendment 4a was modified to exclude the Town Center – approved 5-1</p> <p>Amendment 4b was withdrawn</p>
<ul style="list-style-type: none"> <li>c. Set up a Sammamish fee-in-lieu mitigation program</li> <li>d. Prioritize fee-in-lieu mitigation sites to expand the habitat for Lake Sammamish</li> </ul>	Gerend			<ul style="list-style-type: none"> <li>c. The staff explored the option of a city operated pilot program as part of the Planning</li> </ul>	<p>Amendment 4c was withdrawn</p> <p>Amendment 4d was modified to require</p>

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
kokanee or provide for expanded educational opportunities				Commission process – this program would be costly to operate. d. Council direction to prioritize sites could be discussed in an inter-local agreement with King County	mitigation in the same sub-basin first, then allow fee-in-lieu, and mitigate for habitat and education opportunities – approved 6-0
<p>5. <b><u>Allowances for Existing Urban Development and Other Uses:</u></b> Modify the Council Review Draft to include the following change(s):</p> <p>a. Amend the code to replace the term “building” with “single family dwelling units”.</p> <p>b. If “a” is not adopted, allowances would only be provided for expansions to existing single family residences</p>	Vance	Public Comment #CC004	Agency Comment #CC035	<p>These amendments would return to the adopted SMP policy</p> <p>a. This amendment will result in single family dwelling units creating the “shadow” and benefitting from “shadows”</p> <p>b. This amendment will result in only single family dwelling units benefitting from the “shadow”</p>	<p>Amendment 5a was modified to include accessory dwelling units with single family dwelling units. Commercial zones retain the “building” term. Approved 5-2</p> <p>Amendment 5b was withdrawn</p>
<p>6. <b><u>Isolated / Small Wetland Flexibilities – Pilot Program:</u></b></p> <p>a. Adopt a pilot program allowing for the alteration of up to 3 isolated wetlands associated with single family home construction</p> <p>b. Applies to Category III or Category IV isolated wetlands with an area of 4,000 square feet, and a low habitat score (&lt;15 habitat score)</p>	Valderrama - Aramayo		Agency Comment #CC035	a. and b. Staff observes that Ecology is likely more amenable to a pilot program that would apply only to hydrologically isolated wetlands that are under 2,500 square feet in size, and that have a 15 point or less habitat score and a 35 point or less	<p>Amendment 6a &amp; 6b approved 5-2</p> <p>Amendments 6c through 6f were withdrawn</p>

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<ul style="list-style-type: none"> <li>c. Require all pilot projects to be responsible for monitoring and city management expenses related to the program.</li> <li>d. Require a bond or other financial surety to ensure successful implementation of pilot projects.</li> <li>e. Require that the applicant / developer indemnify and hold the city harmless for the consequences of a pilot program</li> <li>f. Provide for mitigation by:               <ul style="list-style-type: none"> <li>i. Participating in the King County fee-in-lieu mitigation program (prioritization given to in-City mitigation through interlocal with King County), or</li> <li>ii. Allowing on-site relocation of the wetland and associated wetland mitigation.</li> </ul> </li> </ul>				<p>total score (would include Category IV and low function Category III wetlands.)</p> <ul style="list-style-type: none"> <li>c. The current code includes language to this effect, which is unchanged in the Council Review Draft</li> <li>d. and e. Staff understands that obtaining a financial surety for a period of more than 5 years may not be possible for many developers</li> </ul>	
<p>7. <b>Isolated / Small Wetland Flexibilities:</b> Modify the Council Review Draft to incorporate provisions:</p> <ul style="list-style-type: none"> <li>a. A water quality / hydrology component in identifying which isolated wetlands would qualify for additional flexibility.</li> <li>b. Prohibit the exemption of wetlands within the Lake Management Areas of Beaver and Pine Lake.</li> </ul>	Whitten		Agency Comment #CC035	Please see Staff comments on item #6a. & b. above Staff notes that this may prevent a known proponent for this amendment from qualifying for the pilot program (there may be other factors that will prevent their qualification too).	Amendment failed 3-4
<p>8. <b>Erosion Hazard near Sensitive Water Body (Non-Pilot Program Amendments):</b> Modify the Council Review Draft to allow single family homes to increase their impervious surface / footprint by up to 400 square feet</p>	Whitten			Note that the 200 square foot area is the size currently approved by the Department of Ecology in the adopted Shoreline	Amendment approved 7-0

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
				Master Program	
<p>9. <b>Erosion Hazard near Sensitive Water Body – Pilot Program:</b> Modify the Council Review Draft to incorporate the following:</p> <ul style="list-style-type: none"> <li>a. Do not adopt the pilot program for subdivision / development in the no-disturbance area</li> <li>b. As a component of the 2015 Comprehensive Plan Re-write process, undertake a zoning study that would consider a re-zone all properties in the no-disturbance area to R-1.</li> <li>c. Allow for subdivision of R-1 zoned properties in the no-disturbance area, provided:               <ul style="list-style-type: none"> <li>i. Storm mitigation is installed.</li> <li>ii. Clustering to minimize impervious surfaces and clearing / grading within the no-disturbance area.</li> <li>iii. Limit onsite impervious surface to avoid additional drainage discharge.</li> </ul> </li> <li>d. Grandfather current zoned “lot yield” and allow sale of density transfer of development right (TDR) units as an alternative to subdivision at R-1 density. Increase TDR receiving areas elsewhere in Sammamish such as the commercial zones.</li> </ul>	Vance	Public Comment #CC070	Agency comment #CC035	Staff understands that Councilmember Vance intends these amendments to be a “package”	Amendment 9 failed 3-4
<p>10. <b>Erosion Hazard near Sensitive Water Body – Revised Pilot Program:</b> A revised pilot program would not be based on the Planning Commission recommended Item 4-15g (Carson proposal) nor the Item 4-15f (Osgood proposal)</p>					

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
a. Retain re-organization of code and item 4-15e (Kapella) (page 23 line 18 through page 27 line 19, Council Review Draft)					
b. Framework” elements of a pilot program: <ul style="list-style-type: none"> <li>i. Pilot program general provisions and administration (page 27 line 23 through 31 and page 29 line 33 through page 30 line 16, Council Review Draft)</li> <li>ii. Seasonal temporary and erosion sediment control restrictions (page 30 line 17 through page 31 line 29, Council Review Draft)</li> <li>iii. Installation of drainage system before lots (page 31 line 30 through page 32 line 6, Council Review Draft)</li> <li>iv. Post development phosphorous control (page 32 line 7 through line 11, Council Review Draft)</li> <li>v. Construction monitoring protocols (page 32 line 12 through page 33 line 7, Council Review Draft)</li> <li>vi. Pilot program evaluation (page 33 line 8 through 11, Council Review Draft)</li> </ul>		vi. Public Comment #CC070			
<b>Scale and scope elements</b> <ul style="list-style-type: none"> <li>c. Prohibit pilot program projects in the Ebright Creek, Pine Lake Creek, “mid-Monohon” and Zaccuse Creek sub-basins (reflected on reference map)</li> <li>d. Limit the number of pilot program projects to 6 proposed projects</li> <li>e. Specify how many projects of each type of</li> </ul>	Gerend / Valderrama-Aramayo / Vance  Whitten	d. Public Comment #CC070, #CC079 e. Public Comment #CC062,			

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<p>design would be allowed under the pilot program (e.g. tightline, LID, man-made conveyance)</p> <ul style="list-style-type: none"> <li>f. Limit the total pilot project area to 10-30 acres</li> <li>g. Limit the number of lots to an R-1 density, using a net density calculation</li> <li>h. Limit the total number of lots to 10</li> </ul>		#CC070			
<p><b>Stormwater elements</b></p> <ul style="list-style-type: none"> <li>i. Allow stormwater discharge via a tightline to Lake Sammamish</li> <li>j. Allow stormwater discharge via a “man-made” conveyance</li> <li>k. Storm water quality should meet the 80% phosphorous removal goal under the AKART standard, with a minimum of 60% removal required</li> <li>l. Limit the stormwater volume leaving the site post-development, to a percentage of the stormwater volume leaving the site pre-development</li> <li>m. Design drainage systems to accommodate the 200-year storm</li> <li>n. Require level 3 flow control where not otherwise required</li> <li>o. Require energy dissipaters for any tightline design and meet Department of Ecology standards</li> <li>p. Prohibit infiltration, except where located downslope of all erosion hazard areas.</li> </ul>	Whitten / Vance				
<p><b>Elements that minimize disturbance</b></p> <ul style="list-style-type: none"> <li>q. Lots shall be clustered to the maximum</li> </ul>					

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<p>extent feasible to minimize site grading in the no-disturbance area</p> <ul style="list-style-type: none"> <li>r. Limit the amount of site clearing per lot to 50% of the lot area</li> <li>s. Require 50% open space</li> <li>t. Require re-forestation of open space and developed lots post construction</li> <li>u. Limit the area of each lot (10,000 square feet)</li> <li>v. Require that the developer incorporate two substantive Low Impact Development design items into the plat design from the following menu:               <ul style="list-style-type: none"> <li>i. Minimal site disturbance (&lt;50%) on created lots</li> <li>ii. 50% of the lots developed with green roofs</li> <li>iii. 50% of the lots developed with rain-water harvesting for bathrooms and laundry</li> <li>iv. Minimal foundation excavation</li> <li>v. Additional soil amendments</li> </ul> </li> <li>w. Limit the amount of impervious surface on the gross lot area (10-30%)</li> </ul>		<p>w. Public Comment #CC070</p>			
<p><b>Monitoring / Bonding Elements</b></p> <ul style="list-style-type: none"> <li>x. Require all pilot projects to be responsible for monitoring and city management expenses related to the program.</li> <li>y. Require a bond or other financial surety to ensure successful implementation of pilot projects.</li> <li>z. Require that the applicant / developer</li> </ul>	<p>Valderrama – Aramayo</p> <p>Whitten</p>	<p>z. Related to Public Comment #CC070</p>		<p>x. The current code includes language to this effect, which is unchanged in the Council Review Draft</p> <p>y. and z. Staff understands that obtaining a financial surety for a period of</p>	

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
indemnify and hold the city harmless for the consequences of a pilot program				more than 5 years may not be possible for many developers	
<b>Project Selection</b> aa. Select properties for the pilot program based upon criteria: i. Evaluation of topography, ii. Presence of bodies of water iii. Overall chances of a successful project iv. Submissions for pilot project sites would be provided in a defined time frame Sites selected by a panel or other mechanism	Whitten				
<b>Additional Elements</b> bb. Pilot projects shall maintain adequate base flow to adjacent streams by setting aside open space and limiting impervious surface, in amounts determined on a case-by-case basis		bb. Public Comment #CC079			
cc. Designate an open space requirement to allow groundwater recharge to adequately sustain wetlands and streams, on a case-by-case basis dd. Limit subdivision and development projects to those that can directly discharge to Lake Sammamish via tightline or existing man made conveyance.		Public Comment #CC062			
ee. Retain the property specific overlay map as it was in the King County Code and the Surface Water Design Manual, identifying by parcel number all properties subject to		Public Comment #CC064		ee. The Council Review Draft does not reflect a change to the bounds of the EHNSWB overlay.	

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
overlay provisions ff. No exemptions or variances from the overlay should be approved by the city for buildings or impervious surfaces whether public or private gg. Require tree retention in the overlay					
hh. If geologic conditions permit, stormwater should be harvested on site to contribute to the important aquifer recharge function ii. Expand performance bond requirements (or other financial surety), to include financial protection for public investments as well as resource restoration jj. Monitoring of the pilot project should be required kk. No additional pilot programs until the performance of the first pilot program can be evaluated ll. Adopt the Low Impact Development approach for pilot program projects (page 28 line 8 through 27, Council Review Draft)		Public Comment #CC070  ll. Public Comment #CC079		ll. Staff recommends that the Council take separate action on this particular design approach	
<b>Amendments identified by Public Agency comments</b>					
11. <b>Department of Ecology recommended amendments:</b> The Department of Ecology has recommended the Council adopt the following amendments: a. Revise the wetland definition such that the wetland rating information would be located in 21A.50 b. Revise the isolated wetland definition to note that the determination of hydrologically isolated status is made by			Agency Comment #CC035	c. This proposed	

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<p>the United States Army Corps of Engineers</p> <ul style="list-style-type: none"> <li>c. Revise the proposed language for isolated wetlands flexibilities to delete the reference to qualified professional being able to determine whether or not a wetland is hydrologically isolated. Ecology states that only the US Army Corps of Engineers can make this determination.</li> <li>d. Eliminate the allowance for a reduced wetland buffer of 15 feet for Category III and IV wetlands</li> <li>e. Wetland buffer averaging / reduction should be limited to a 25% reduction in buffer width</li> <li>f. Ecology recommends that allowed stormwater management activities in wetlands and buffers be consistent with Appendix I-D: Guidelines for Wetlands when Managing Stormwater from Stormwater Management Manual for Western Washington, Volume I, August 2012, Publication #12-10-030</li> <li>g. Ecology recommends that the city clarify the existing permitted alteration language related to allowing trails in the outer 25% of wetland buffers</li> <li>h. Ecology recommends that the City expand the allowed wetland restoration provision to be more inclusive rather than restricted to public agency sponsorship in order to reduce barriers to restoration</li> <li>i. Ecology recommends that the City revise</li> </ul>		<ul style="list-style-type: none"> <li>e. Public Comment #CC047</li> </ul>		<p>amendment would clarify that only the United States Army Corps of Engineers has jurisdiction to determine isolated wetland status.</p> <ul style="list-style-type: none"> <li>d. Staff observes that Ecology may be amenable to code language to allow reduction of the buffer to no less than 25-feet and reduction of the 15-foot building setback to 5-feet only for Category III or IV wetlands that are under 4,000 square feet in size that have a 15 point or less habitat score and a total score of 35 points, in addition to other proposed criteria including required mitigation.</li> <li>e. and g. The Council Review Draft does not include a change to the existing language.</li> </ul>	

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<p>the provisions for wetland restoration in order to allow temporary impacts to wetlands for restoration</p> <p>j. Ecology recommends that the City update a citation to the appropriate State documents on wetland mitigation</p> <p>k. Ecology recommends that the city allow for smaller trees in re-vegetating / reforestation portions of the wetland management overlay</p> <p>l. Ecology recommends SMC 21A.50.145 to clarify that mitigation monitoring may extend for up to 10 years in certain circumstances</p>				<p>l. The Council Review Draft does not include a change to the existing language.</p>	
<b>Amendments identified by Public comments</b>					
<p>12. <u>Amend the definition of “development proposal”</u>: Consider an amendment to the definition to read as follows: “21A.15.310 <i>Development proposal. “Development proposal” means any activities requiring means any activities requiring is a permit or other approval from the City of Sammamish required to proceed with activities relative to the use or development of land.</i>”</p>		<p>Verbal Comment from Reid Brockway</p>		<p>These amendments were not recommended by the Planning Commission. Staff and the city attorney discussed the amendments as well. Due to concerns about the potential unintended effects of the changes, they have not been incorporated in the Council Review Draft ECA code.</p>	
<p>13. <u>Clarify the “lead in language” at the start of SMC 21A.50.260, 290, 300, 340, and 350</u>: Amendments intended to clarify that projects governed by SMC 21A.50.060 are not subject to these standards as well.</p>		<p>Verbal Comment from Reid Brockway</p>		<p>These amendments were not recommended by the Planning Commission. Staff and the city attorney discussed the amendments as well. Due to concerns</p>	

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
				about the potential unintended effects of the changes, they have not been incorporated in the Council Review Draft ECA code.	
<p>14. Amend the definition of Fish and Wildlife habitat corridor (SMC 21A.15.467): Amend the last sentence of this definition to read <i>“Fish and wildlife habitat corridors do not <del>parallel</del> Type Np increase streams buffers, except as required to provide a connection between two features as described above.”</i></p>		Verbal Comment from Reid Brockway			
<p>15. Citizens for Sammamish 2-6-13 C4S markup:</p> <ul style="list-style-type: none"> <li>a. Allowances for Existing development and other uses: <ul style="list-style-type: none"> <li>i. Amendments related to the term building / single family detached unit (replacing the term “single detached dwelling unit” with the term “building”)</li> <li>ii. Proposed amendments related to wetland and stream buffer delineation</li> <li>iii. Amend the provisions of SMC 21A.50.060(6)(a) to as follows: “Replacement may be allowed in a different location not meeting current regulations if a determination is made by the City that the new location results in <del>less no greater</del> impact to environmental critical area functions and values than replacement in the existing footprint.”</li> </ul> </li> <li>b. Amend the language related to Reasonable Use Exceptions, to read: “(a) The director</li> </ul>		Public Comment #CC004		<ul style="list-style-type: none"> <li>a. These amendments were not recommended by the Planning Commission and are generally not consistent with Best Available Science</li> <li>b., c., d., and e. Staff recommends retaining current code language that allows for greater flexibility and tailoring of requirements to meet</li> </ul>	<ul style="list-style-type: none"> <li>a.i. This item has previously been considered (item 5)</li> <li>a.ii. This item has previously been considered (item 3)</li> <li>a.iii. This topic has previously been discussed (item 5)</li> </ul>



Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<p>district”</p> <ul style="list-style-type: none"> <li>ii. Require “justifiable cause” for requiring additional studies in the erosion hazard area</li> <li>g. Amend the erosion hazard near sensitive water body overlay to:               <ul style="list-style-type: none"> <li>i. Replace the term “no disturbance area” with the term “special overlay district”</li> <li>ii. Reduce the size of temporary water quality treatment facilities to only handle stormwater generated in the dry season</li> <li>iii. Require annual reporting to the Council on the pilot program</li> </ul> </li> <li>h. Amend the Wetlands – Development Flexibilities section to delete section (a) which reads: “The total area of wetland alterations shall be limited to 2,500 square feet; and”</li> <li>i. Amend the fish and wildlife habitat corridors to require that the director modify wildlife habitat corridor widths on sites where development already exists</li> <li>j. Amend the stream buffers to:               <ul style="list-style-type: none"> <li>i. Type F stream – 50 foot buffer</li> <li>ii. Type Np stream – 20 foot buffer</li> <li>iii. Type Ns stream – 15 foot buffer</li> </ul> </li> <li>k. Amend the stream – mitigation requirements (SMC 21A.50.350) to note that restoration is required, when a stream is altered without required specific</li> </ul>				<ul style="list-style-type: none"> <li>i. Staff recommends retaining current code language that allows for greater flexibility and tailoring of requirements to meet individual circumstances.</li> <li>j. This amendment is not supported by Best Available Science</li> <li>k., l., m. Staff recommends retaining current code language that allows for greater flexibility and tailoring of requirements to meet individual circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>h. This item has previously been considered (item 7)</li> </ul>

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<p>permission or approval by the city.</p> <ul style="list-style-type: none"> <li>I. Amend the definition of “Alteration” to exclude maintenance of existing improvements.</li> <li>m. Amend the definition of “Steep Slope hazard areas” to delete subsection 3, which identifies the location of a distinct topographic break</li> </ul>					
<p>16. <u>Proposed amendment to the Landslide hazard area regulations:</u></p> <ul style="list-style-type: none"> <li>a. The City shall approve proposals in a geologically hazardous area as appropriate based upon the effective mitigation of risks posed to property, health and safety, in accordance with WAC 365-190-120. The objective of mitigation measures shall be to render a site containing a geologically hazardous site as safe as one not containing such hazard. Avoidance sequencing of 21A.50.135 does not apply.</li> <li>b. Subject to the conditions and requirements of 21A.50.260 (2), for slopes with a vertical elevation change up to 30 ft, the buffer may be reduced to a minimum of 10ft and the building setback may be reduced to a minimum of 5 ft.</li> </ul>		<p>Public Comment #CC078</p>		<ul style="list-style-type: none"> <li>a. Staff does not recommend this amendment, and instead recommends retaining current code language that allows for greater flexibility and tailoring of requirements to meet individual circumstances</li> <li>b. These amendments were not recommended by the Planning Commission and is not recommended is not supported by Best Available Science</li> </ul>	
<p>17. <u>Proposed amendments to the fee-in-lieu mitigation requirements.</u></p> <ul style="list-style-type: none"> <li>a. Prioritize off-site mitigation if applicant or qualified professional determines that on-site mitigation is not feasible <u>and</u> off-site mitigation will achieve equivalent or</li> </ul>		<p>Public Comment #CC009</p>		<ul style="list-style-type: none"> <li>a. Staff recommends that the city retain current codes and authority to review and confirm</li> </ul>	<ul style="list-style-type: none"> <li>a. This item has previously been considered (item 4)</li> </ul>

Exhibit 2

Topic	Councilmember Amendment	Public Comment	Agency Comment	Staff Comment	Council Action
<p>greater environmental benefit. This amendment eliminates the city’s review of the these findings.</p> <ul style="list-style-type: none"> <li>b. Clarify that fee-in-lieu mitigation is within the bounds of a state and/or federally approved fee-in-lieu mitigation program</li> <li>c. Allow for fee-in-lieu mitigation in a state and/or federally approved fee-in-lieu mitigation program, even if the mitigation site is located outside of Sammamish and the WRIA 8 watershed.</li> </ul>				<p>critical area report findings</p> <ul style="list-style-type: none"> <li>c. This proposed amendment will allow applicants to participate in fee-in-lieu mitigation programs that do not directly benefit Sammamish or the watershed.</li> </ul>	<ul style="list-style-type: none"> <li>b. This item has previously been considered (item 4)</li> <li>c. This item has previously been considered (item 5)</li> </ul>





# City Council Agenda Bill

**Meeting Date:** July 2, 2013

**Date Submitted:** June 26, 2013

**Originating Department:** Community Development

**Clearances:**

<input checked="" type="checkbox"/> City Manager	<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Attorney	<input type="checkbox"/> Finance & IT	<input type="checkbox"/> Police
<input type="checkbox"/> Admin Services	<input type="checkbox"/> Fire	<input type="checkbox"/> Public Works

**Subject:** Resolution: Related to the Use of the Land Conservation and Local Infrastructure Program (LCLIP)

**Action Required:** Adopt resolution

**Exhibits:**

1. Proposed Resolution
2. Key Findings PowerPoint slides from Community Attributes, Inc.
3. PowerPoint presentation from King County

**Budget:** N/A

**Summary Statement:**

A resolution is proposed to authorize the City Manager to bring forth an LCLIP proposal for City Council consideration upon making certain findings. A feasibility analysis shows that creating an LCLIP district in Sammamish is feasible and would generate new revenue for infrastructure. A shared strategy approach, achieved through an updated Inter-Local Agreement (ILA) with King County may yield the best outcome. Under a scenario using the 75 TDRs authorized under the current ILA, the projected revenue coming to Sammamish is \$3 million. An analysis of the traffic impacts associated with TDRs from was done for the Town Center plan, and no Level of Service failures or other significant impacts are projected.

**Background:**

In 2011, Sammamish and King County executed an Interlocal Agreement that sets forth an inter-jurisdictional Transfer of Development Right (TDR) program that provides for 75 TDR credits from King County Rural Areas that are in close proximity to the City to be used for increased development capacity in the Sammamish Town Center area. An analysis of the traffic and other impacts associated with accepting TDRs from King County was completed in the Town Center planning process. No Level of Service failures or other significant impacts are projected from implementing the TDR program.

In 2011, the Washington State Legislature created the framework for a regional TDR mechanism by adopting ESSB 5253, the Landscape Conservation and Local Infrastructure Program (LCLIP), codified as RCW 39.108. LCLIP creates a mechanism for cities and counties to enact regional TDR partnerships for rural and resource land conservation that also create new financial tools to help pay for necessary infrastructure to support new urban development.



## City Council Agenda Bill

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The Puget Sound Regional Council (PSRC) was authorized under the LCLIP legislation to allocate TDRs to jurisdictions like Sammamish that are eligible to use the LCLIP tool. Under the PSRC allocation, Sammamish can accept up to 215 TDRs from unincorporated rural forest and farming areas. Under the existing ILA, Sammamish has agreed to accept 75 TDR credits from King County, which represents 35% of Sammamish's allocation under the LCLIP program.

To test the financial feasibility of the LCLIP tool in Sammamish, King County provided \$15,000 of United States Environmental Protection Agency Sound Ecosystem Restoration and Protection Cooperative Agreement grant funds to Sammamish to pay for a feasibility study, conducted by Community Attributes, Inc. The study shows that the LCLIP tool would generate additional revenue for infrastructure, and that the projected amounts depend on several factors and choices. Also, revenues likely can be maximized through a 'shared strategy' approach with King County through an updated ILA. Finally, LCLIP revenues are likely more appropriate for pay-as-you-go financing rather than bonding.

Staff has proposed a resolution authorizing the City Manager to bring forth a proposal for City Council consideration to utilize the LCLIP financial tool, when the City Manager makes the following findings:

- a. Sufficient development applications have proposed or are using the TDR incentives in peer city TDR programs or in the Sammamish Town Center TDR Receiving Area that confirm regional market interest in TDR.
- b. Analysis of the use of TDR credits confirms that the likelihood of meeting the threshold requirements for TDR use in a LCLIP district is reasonably high.
- c. Infrastructure projects have been identified that qualify under the LCLIP program.
- d. A district can be created that maximizes the projected LCLIP revenue to pay for infrastructure projects while meeting the requirements of the LCLIP legislation.
- e. As needed, a shared strategy approach with King County or another partner agency should be included in the proposal.

**Financial Impact:**

No impact from adoption of the proposed resolution.

**Recommended Motion:**

Approve the proposed resolution that authorizes the City Manager to propose an LCLIP district based on identified findings.

**CITY OF SAMMAMISH  
WASHINGTON  
RESOLUTION NO. R2013-XXX**

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**A RESOLUTION OF THE SAMMAMISH CITY COUNCIL  
RELATED TO USE OF THE LAND CONSERVATION AND LOCAL  
INFRASTRUCTURE PROGRAM**

WHEREAS, Sammamish Municipal Code (SMC) Title 21A.80 establishes procedures for Transfer of Development Rights (TDR); and

WHEREAS, in 2011 Sammamish and King County executed an Interlocal Agreement that sets forth an inter-jurisdictional Transfer of Development Right (TDR) program that provides for 75 TDR credits from King County Rural Areas that are in close proximity to the City to be used for increased development capacity in the Sammamish Town Center area; and

WHEREAS, the 2011 Washington State Legislature created the framework for a regional TDR mechanism by adopting ESSB 5253, the Landscape Conservation and Local Infrastructure Program (“LCLIP”), codified as RCW 39.108; and

WHEREAS, RCW 39.108 creates a mechanism for cities and counties to enact regional TDR partnerships for rural and resource land conservation that also create new financial tools to help pay for necessary infrastructure to support new urban development; and

WHEREAS, LCLIP is a financial tool that allows cities to implement a form of Tax Increment Financing (TIF) through an inter-jurisdictional TDR program, and thereby receive additional tax revenue to help pay for infrastructure improvements and amenities; and

WHEREAS, under RCW 39.108, the Puget Sound Regional Council determined the City of Sammamish’s Receiving City Allocated Share is 215 TDR Credits, with a minimum acceptance of 43 TDR Credits to utilize the LCLIP tool; and

WHEREAS, to test the financial feasibility of the LCLIP tool in Sammamish, King County provided \$15,000 of United States Environmental Protection Agency Sound Ecosystem Restoration and Protection Cooperative Agreement grant funds to Sammamish to pay for a consultant study; and

WHEREAS, the consultant study has been completed and the results show that the LCLIP tool would be useful to generate additional revenue for such infrastructure and amenities, and that the projected benefits of the LCLIP tool depend on a variety of factors and choices;

WHEREAS, it is in the interest of Sammamish to have a variety of financial tools available to address infrastructure funding needs and opportunities.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, RESOLVES AS FOLLOWS:**

Section 1. Authorization of City Manager. The City Council authorizes the City Manager to bring forth a proposal for City Council consideration to utilize the LCLIP financial tool when the City Manager makes the following findings:

- a. Sufficient development applications have proposed or are using the TDR incentives in peer city TDR programs or in the Sammamish Town Center TDR Receiving Area that confirm regional market interest in TDR.
- b. Analysis of the use of TDR credits confirms that the likelihood of meeting the threshold requirements for TDR use in a LCLIP district is reasonably high.
- c. Infrastructure projects have been identified that qualify under the LCLIP program.
- d. A district can be created that maximizes the projected LCLIP revenue to pay for infrastructure projects while meeting the requirements of the LCLIP legislation.
- e. As needed, a shared strategy approach with King County or another partner agency should be included in the proposal.

Section 2. Effective Date. This resolution is effective immediately upon adoption.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Resolution, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Resolution be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 2<sup>nd</sup> DAY OF JULY, 2013**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Thomas T. Odell

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

\_\_\_\_\_  
Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney

Filed with the City Clerk:

Passed by the City Council:

Resolution Number: R2013-XXX

# LCLIP

## Program Evaluation and Feasibility Analysis Key Findings

Prepared by Community Attributes for the City of Sammamish  
July 2, 2013



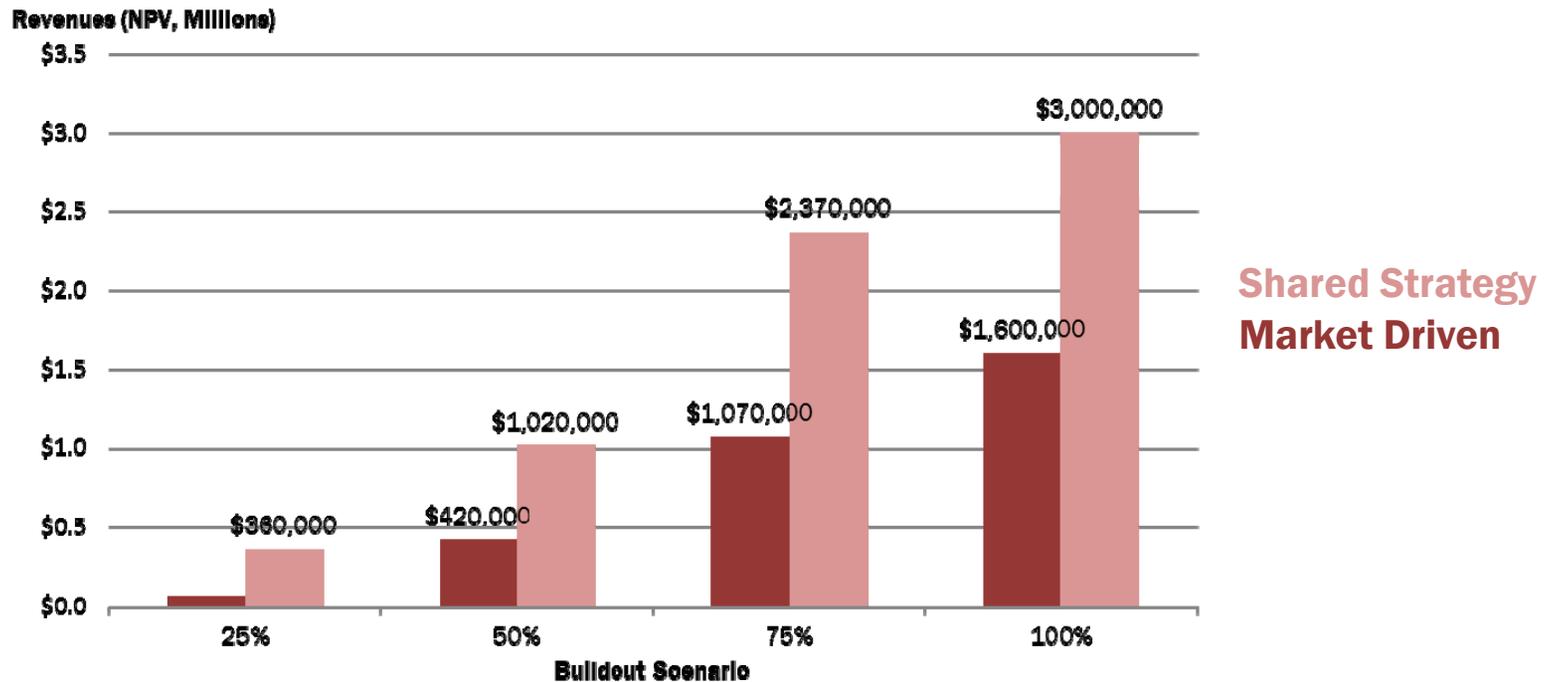
# KEY FINDINGS

- Accepting 75 of the City’s allocated TDRs could generate up to \$3.0M in new revenues (NPV) for the City
- Sammamish has already agreed to accept at least 75 TDR credits from the County per an existing inter-local agreement (ILA)
  - *New development from TDR already accounted for in transportation model*
- Considering “shared strategy” measures with King County through a new ILA would improve likely outcome
- LCLIP revenues may be more appropriate for pay-as-you-go financing rather than bonding

# PROJECTED REVENUES

- Using scenario based on the 75 TDRs already authorized in the adopted ILA, revenues from a shared strategy with King County are projected to exceed those from a market approach

Exhibit 1. LCLIP Minimum Allocation Revenue Scenarios Comparison, City of Sammamish, 2013

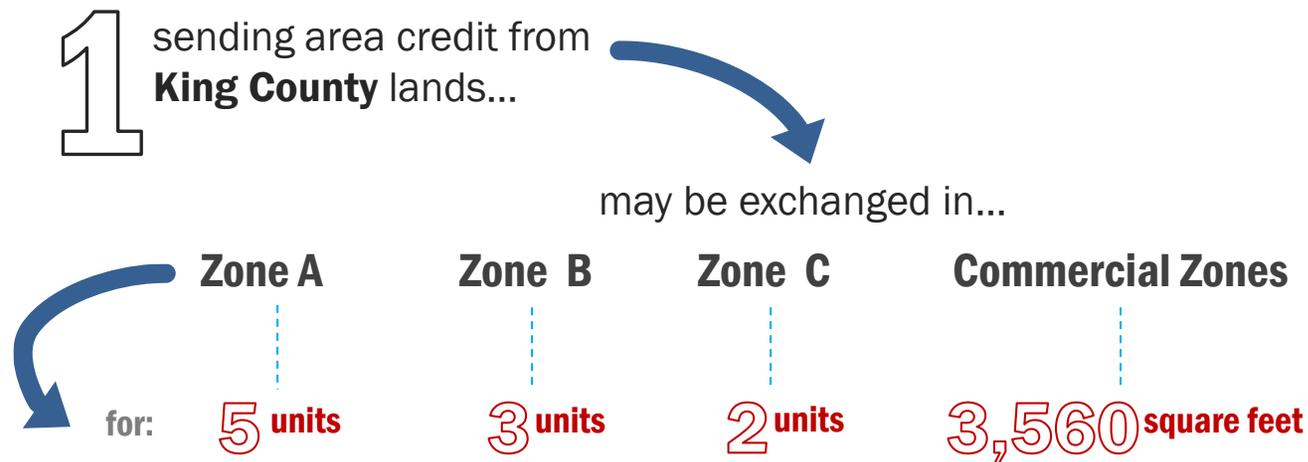




# TDR IN SAMMAMISH

- The City has already accepted 75 TDR credits through an existing inter-local agreement with the County
- The existing Sammamish TDR program includes adopted exchange rates for King County lands

Exhibit 3. TDR Exchange Rates, City of Sammamish, 2013



# IMPLEMENTATION CONSIDERATIONS

- Using the revenue stream from LCLIP on a “**pay-as-you-go**” basis versus debt financing minimizes risk to the City
- A shared strategy ILA that allows Sammamish and King County to work together on LCLIP is recommended
- Monitor peer cities that are gaining experience with TDR and make adjustments as needed

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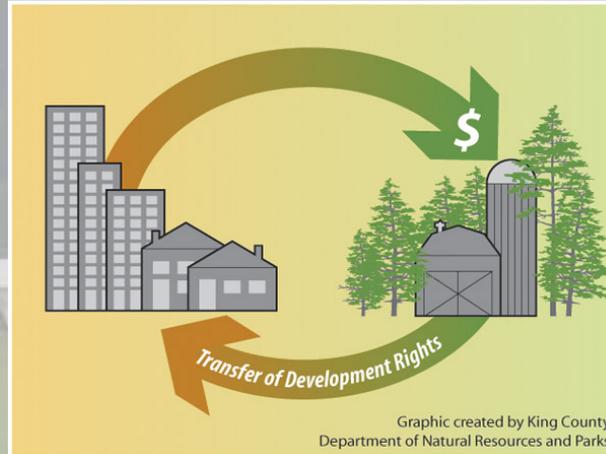
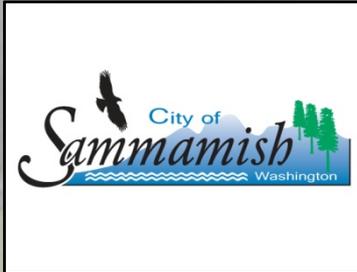
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# Transfer of Development Rights

## *Sammamish - King County*



June, 2013

## **January 2011 City Council adopts TDR Interlocal agreement with King County; the ILA does the following:**

- ***City agrees to accept 75 TDRs for increased density in Town Center***
- ***TDRs must come from the City's "emerald necklace"***
- ***KC provides city with \$375,000 up-front for acquisition of in-city parks / open space***



Exhibit 3

# City-County TDR Partnerships

- **City of Issaquah**
- **City of Bellevue**
- **City of Bothell**
- **City of Seattle**
- **City of Normandy Park**
- **City of Kirkland**



Exhibit

# **Landscape Conservation and Local Infrastructure Program (LCLIP)**

## **“TIF-TDR”**

- **New voluntary tool**
- **2011 WA State legislature passed ESSB 5253 (RCW 39.108)**
- **Links Tax Increment Financing (TIF) with TDR**
- **Eligible cities (over 22,500 population + employment) in King, Pierce, and Snohomish Counties**
- **Focus is on development right transfers into cities from rural farm and forest land**

# TIF / TDR

- **Creates a new revenue stream for City to fund infrastructure investments in a designated area**
- **Allows the City to capture up to 75% of King County's portion of property tax from new construction, within a designated area, for up to 25 years *(no other taxing districts involved)***



# LCLIP – Eligible Cities

## KING

Auburn (part)  
Bothell (part)  
Bellevue  
Burien  
Covington  
Des Moines  
Federal Way  
Issaquah  
Kenmore  
Kent  
Kirkland  
Maple Valley  
Mercer Island

Mercer Island  
Redmond  
Renton  
Sammamish  
SeaTac  
Seattle  
Shoreline  
Tukwila

## PIERCE

Auburn (part)  
Lakewood  
Puyallup  
Tacoma  
University Place

## SNOHOMISH

Arlington  
Bothell (part)  
Edmonds  
Everett  
Lake Stevens  
Lynnwood  
Marysville  
Mill Creek  
Monroe  
Mountlake Terrace  
Mukilteo  
Woodinville

# TIF / TDR

- **Total # of TDRs available in the 3 county region = 18,576** *(as reported by the counties to PSRC)*
- **Of the total 3-county 18,576 TDRs, Sammamish's allocated share = 215 TDRs** *(allocated by PSRC based on growth targets)*

# TIF / TDR

- **Sammamish can choose to accept between 20% and 100% of its PSRC allocation – i.e. between 43 and 215 TDRs over 20 years.**
- **The more TDRs the City agrees to accept, the more tax revenue it receives; e.g.**
  - **215 TDR allows City to capture 75% of KC property tax**
  - **108 TDR, 50% of allocated share, allows City to capture 37.5% of KC's property tax (e.g. 50% x 75%)**
  - **43 TDR, 20% of the allocated share, allows City to capture 15% of KC's property tax (e.g. 20% x 75%)**

# TIF / TDR

## Thresholds:

**Year 0: 25% of the TDRs agreed to by the City need to be permitted for or acquired by the city before access to tax revenue (*18 TDRs based on 75 total TDRs*)**

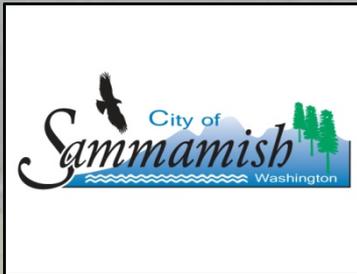
**Year 10: 50% of the TDRs agreed to by the City need to be permitted for (*37 TDRs based on 75 total TDRs*)**

**Year 15: 75% of the TDRs agreed to by the City need to be permitted for (*50 TDRs based on 75 total TDRs*)**

**Year 20: 100% of the TDRs agreed to by the City need to be permitted for (*75 TDRs based on 75 total TDRs to ensure city receives tax revenue for the full 25 year time period*)**

# Transfer of Development Rights

## *Sammamish - King County*



June, 2013

## Exhibit 3



## Memorandum

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**DATE:** June 24, 2013  
**TO:** City Council  
**FROM:** Ben Yazici, City Manager  
**RE:** Community and Aquatic Center – June 11 Study Session Recap

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At the City Council Study Session on June 11, 2013 Barker Rinker Seacat (BRS), the prime consultant for the Community & Aquatic Center project, presented the schematic design to the City Council and the Parks & Recreation Commission for their consideration. The presentation included three items - the site plan, the building design and the aquatic layout.

### Site Plan Discussion:

The proposed site plan provides for a total of 300 parking spaces. Approximately 200 spaces will serve the new facility and the remaining 100 spaces will serve as overflow for the community center and the rest of the Sammamish Commons. A new loop road (to the north and west of City Hall) is proposed to relieve traffic congestion in front of City Hall. The city's operating partner, the YMCA, is working with Mary Queen of Peace to coordinate arrangements for employee parking at the church.

### Building Design Discussion:

BRS worked closely with city staff and the YMCA to blend the city's original building program with the operational objectives of the YMCA. While the fundamental amenities have not changed, the spaces were reconfigured. In an effort to keep the building size at 60,000 square feet and within the \$30 million project budget, the jogging track and auxiliary gymnasium have been identified as additive alternates.

### Aquatic Layout Options:

Doug Whitaker of Water technology Inc. presented two options for the aquatic layout. Both options include a 6-lane lap pool. As for the leisure pool, both options presented have the same components, but option 1 has a larger active use area and therefore accommodates a higher user capacity.

## **Direction Received from City Council:**

### Site Plan:

- Staff will ensure the design accommodates easy vehicle turn-around in the overflow parking lot located west of the building.
- Concerns were expressed about ease of access from the overflow lot to the entrance of the building. Staff will continue to explore options to improve access from the overflow parking lot.
- Pedestrian safety was a concern, especially where the trail from the plaza meets the new loop road. Consultants will continue to refine these amenities.
- Council inquired as to the new launch site for the Fourth on the Plateau fireworks. A new launch site has not yet been identified, but staff are working on this issue.

### Building Design:

- Council would like the project team to explore options to increase the space available for community use. The goal is to ensure non-members may access more of the facility.
- Though not identified in the design program, council would like the project team to consider including an area for concessions, snacks and/or coffee.

### Aquatic Layout Options:

- Council preferred the larger of the two leisure pool options presented. The design team will fine tune the location and size of the various aquatic amenities to ensure the aquatics space is maximized.
- A reduction in the size of the 6-lane lap pool was considered, but council were reminded that this amenity was included in the ballot measure.
- Council inquired about the possibility of expanding the leisure pool by shifting the north wall out, effectively expanding the size of the aquatics area. BRS will look into this but cautioned that the pool is the most expensive component of the building and there is very little flexibility in the project budget.
- The design team will provide more detail on the outdoor patio, west of the leisure pool.

### **Next Steps:**

The next check-in with the City Council is scheduled for September 10, 2013. The consultants will report on work completed since the June meeting, address the requests identified above and present an updated cost estimate for the project. The city's operating partner, the YMCA, will also present the operating business plan to the City Council.