

AGENDA

City Council Joint Study Session with Planning Commission

6:30 pm – 9:30 pm
October 20, 2008

Call to Order

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.

Topics

Proposed Historic Preservation Municipal Code Amendments

Proposed Minor Municipal Code Amendments

Recommendations for “Code Block” Amendments

General Discussion

Council Reports

City Manager Report

Adjournment

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.





Planning Commission

801 228th Avenue SE • Sammamish, WA 98075 • Phone: 425.295.0500 • Fax: 425.295.0600 • web: www.ci.sammamish.wa.us

MEMO

Date: June 19, 2008

To: The City Council

From: Erica Tiliacos, Planning Commission Chair

RE: Proposed Historic Preservation Municipal Code (SMC) amendments

A handwritten signature in black ink, appearing to read "Erica Tiliacos", is written over the "To:" and "From:" lines of the memo.

On behalf of the Planning Commission, I'm pleased to forward our recommendations for the proposed Historic Preservation Chapter to be added to the City's Municipal Code. I look forward to discussing these recommendations with you at an upcoming City Council session.

During our review process we completed two public meetings on May 15 and June 5 and a public hearing on May 29, 2008. Our review involved hearing testimony and comments from both King County representatives of the King County Historic Preservation program and one citizen.

At our June 5, 2008 deliberation session on the proposed ordinance we made several revisions based on the testimony we received. The Commission recommends the attached Historic Preservation Ordinance for your consideration.

The ordinance would:

- Establish a process for citizens to nominate potential historic sites or buildings for listing on the Federal, State, King County or City of Sammamish Community Register. Proposed nominations would then be considered by the King County Landmarks Board, which will have one appointed representative from the City of Sammamish. This board would act as the City of Sammamish's Landmark Board. This board with the advice of the King County Historic Preservation Officer will either approve or reject a nomination for listing on the local or county register.
- Provide for an appeal process to the Sammamish City Hearing Examiner by any person aggrieved by the Landmark Board's decision on a specific designation decision.
- Provide for appropriate review of additions and modifications to buildings that are placed on the local or county register and also establish penalties for unauthorized modifications of historic structures or sites.
- Make provision for properties placed on the historic register to be eligible for special tax valuations related to improvements made to the structure/property if approved by the Landmark Commission.

Again I look forward to presenting our recommendation at an upcoming City Council session.

**Title 21
Historic Preservation**

Chapter 21.10 Protection and Preservation of Landmarks

Sections:

- 21.10.010 Purpose**
- 21.10.020 Definitions**
- 21.10.030 Landmarks commission created – Membership and organization**
- 21.10.040 Designation Criteria**
- 21.10.050 Nomination procedure**
- 21.10.060 Designation procedure**
- 21.10.070 Certificate of appropriateness procedure**
- 21.10.080 Evaluation of economic impact**
- 21.10.090 Appeal procedure**
- 21.10.100 Penalty for violation of Section 21.10.060**
- 21.10.110 Special valuation for historic properties**
- 21.10.120 Historic Resources – review process**
- 21.10.130 Administrative rules**
- 21.10.140 Severability**

21.10.010 Findings and declaration of purpose.

A. The Sammamish City Council finds that:

1. The protection, enhancement, perpetuation and use of buildings, sites, districts, structures and objects of historical, cultural, architectural, engineering, geographic, ethnic and archaeological significance located in the City of Sammamish, and the collection, preservation, exhibition and interpretation of historic and prehistoric materials, artifacts, records and information pertaining to historic preservation and archaeological resource management are necessary in the interest of prosperity, promote civic pride and benefit the general welfare of the residents of the City of Sammamish.
2. Such cultural and historic resources are a significant part of the heritage, education and economic base of the City of Sammamish, and the economic, cultural and aesthetic well-being of the county cannot be maintained or enhanced by disregarding its heritage and by allowing the unnecessary destruction or defacement of such resources.
3. Present historic preservation programs and activities are inadequate for insuring present and future generations of the City of Sammamish residents and visitors a genuine opportunity to appreciate and enjoy our heritage.
4. King County has the experience and personnel qualified to administer a preservation program and that the City desires to make use of the County's expertise.

B. The purposes of this chapter are to:

1. Designate, preserve, protect, enhance and perpetuate those sites, buildings, districts, structures and objects which reflect significant elements of the city's,

- state's and nation's cultural, aesthetic, social, economic, political, architectural, ethnic, archaeological, engineering, historic and other heritage;
- 2 Foster civic pride in the beauty and accomplishments of the past;
- 3. Stabilize and improve the economic values and vitality of landmarks;
- 4. Protect and enhance the city's tourist industry by promoting heritage-related tourism;
- 5. Promote the continued use, exhibition and interpretation of significant historical or archaeological sites, districts, buildings, structures, objects, artifacts, materials and records for the education, inspiration and welfare of the people of the City of Sammamish;
- 6. Promote and continue incentives for ownership and utilization of landmarks;
- 7. Assist, encourage and provide incentives to public and private owners for preservation, restoration, rehabilitation and use of landmark buildings, sites, districts, structures and objects;
- 8. Assist, encourage and provide technical assistance to public agencies, public and private museums, archives and historic preservation associations and other organizations involved in historic preservation and archaeological resource management; and

21.10.020 Definitions. The following words and terms shall, when used in this chapter, be defined as follows unless a different meaning clearly appears from the context:

- A. "Alteration" is any construction, demolition, removal, modification, excavation, restoration or remodeling of a landmark.
- B. "Building" is a structure created to shelter any form of human activity, such as a house, barn, church, hotel or similar structure. Building may refer to an historically related complex, such as a courthouse and jail or a house and barn.
- C. "Certificate of appropriateness" is written authorization issued by the commission or its designee permitting an alteration to a significant feature of a designated landmark.
- D. "Commission" is the City of Sammamish Landmarks Commission.
- E. "Community landmark" is an historic resource which has been designated pursuant to SMC Section 21.10.030, but which may be altered or changed without application for or approval of a certificate of appropriateness.
- F. "Council" is the Sammamish City Council.
- G. "Designation" is the act of the commission determining that an historic resource meets the criteria established by this chapter.
- H. "Designation report" is a report issued by the commission after a public hearing setting forth its determination to designate a landmark and specifying the significant feature or features thereof.
- I. "Director" is the Director of the Sammamish Department of Community Development or his or her designee.
- J. "District" is a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

K. "Historic preservation officer" is the King County Historic Preservation Officer or his or her designee

L. "Historic resource" is a district, site, building, structure or object significant in national, state or local history, architecture, archaeology, and culture.

M. "Historic resource inventory" is an organized compilation of information on historic resources considered to be significant according to the criteria listed in SMC Section 21.10.040. The historic resource inventory is maintained by the historic preservation officer and is updated from time to time to include newly eligible resources and to reflect changes to resources.

N. "Incentives" are such compensation, rights or privileges or combination thereof, which the council, or other local, state or federal public body or agency, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner or owners of designated landmarks. Examples of economic incentives include but are not limited to tax relief, conditional use permits, rezoning, street vacation, planned unit development, transfer of development rights, facade easements, gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements, or amenities, or the like.

O. "Interested person of record" is any individual, corporation, partnership or association which notifies the commission or the council in writing of its interest in any matter before the commission.

P. "Landmark" is an historic resource designated as a landmark pursuant to SMC Section 21.10.060

Q. "Nomination" is a proposal that an historic resource be designated a landmark.

R. "Object" is a material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

S. "Owner" is a person having a fee simple interest, a substantial beneficial interest of record or a substantial beneficial interest known to the commission in an historic resource. Where the owner is a public agency or government, that agency shall specify the person or persons to receive notices under this chapter.

T. "Person" is any individual, partnership, corporation, group or association.

U. "Person in charge" is the person or persons in possession of a landmark including, but not limited to, a mortgagee or vendee in possession, an assignee of rents, a receiver, executor, trustee, lessee, tenant, agent, or any other person directly or indirectly in control of the landmark.

V. "Preliminary determination" is a decision of the commission determining that an historic resource which has been nominated for designation is of significant value and is likely to satisfy the criteria for designation.

W. "Significant feature" is any element of a landmark which the commission has designated pursuant to this chapter as of importance to the historic, architectural or archaeological value of the landmark.

X. "Site" is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains an historical or archaeological value regardless of the value of any existing structures.

Y. "Structure" is any functional construction, such as a bridge or trestle, made usually for purposes other than creating human shelter.

21.10.030 Landmarks Commission created – Membership and organization.

A. The King County Landmarks Commission established pursuant to King County Code, Chapter 20.62 is hereby designated and empowered to act as the Landmarks Commission for the City of Sammamish pursuant to the provisions of this ordinance.

B. The Special Member of the King County Landmarks Commission provided for in Section 20.60.030 of the King County Code shall be appointed by the mayor subject to confirmation of the city council. Such special member shall have a demonstrated interest and competence in historic preservation. Such appointment shall be made for a three-year term. Such special member shall serve until his or her successor is duly appointed and confirmed. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner and with the same qualifications as if at the beginning of the term, and the person appointed to fill the vacancy shall hold the position for the remainder of the unexpired term. Such special member may be reappointed, but may not serve more than two consecutive three-year terms. Such special member shall be deemed to have served one full term if such special member resigns at any time after appointment or if such special member serves more than two years of an expired term. The special members of the commission shall serve without compensation except for out-of-pocket expenses incurred connected with commission meetings or programs. The City of Sammamish shall reimburse such expenses incurred by such special member.

C. The commission shall not conduct any public hearings required under this ordinance with respect to properties located within the City of Sammamish until its rules and regulations, including procedures consistent with this ordinance, have been filed with the city clerk.

21.10.040 Designation criteria.

A. An historic resource may be designated as a City of Sammamish landmark if it is more than forty years old or, in the case of a landmark district, contains resources that are more than forty years old, and possesses integrity of location, design, setting, materials, workmanship, feeling and association, and:

1. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history; or
2. Is associated with the lives of persons significant in national, state or local history; or
3. Embodies the distinctive characteristics of a type, period, style or method of design or construction, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
4. Has yielded or may be likely to yield, information important in prehistory or history; or
5. Is an outstanding work of a designer or builder who has made a substantial contribution to the field of construction or design.

B. An historic resource may be designated a community landmark because it is an easily identifiable visual feature of a neighborhood or the city and contributes to the distinctive quality or identity of such neighborhood or city or because of its association with significant historical events or historic themes, association with important or prominent persons, or recognition by local citizens for substantial contribution to the community. An improvement or site qualifying for designation solely by virtue of satisfying criteria set out in this section shall be designated a community landmark and shall not be subject to the provisions of SMC Section 21.10.060.

C. Cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past forty years shall not be considered eligible for designation. However, such a property shall be eligible for designation if they are:

1. An integral part of districts that meet the criteria set out in SMC Section 21.10.020 or if it is:
2. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
3. A building or structure removed from its original location but which is significant primarily for its architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
4. A birthplace, grave or residence of a historical figure of importance if there is no other appropriate site or building directly associated with his or her productive life; or
5. A cemetery that derives its primary significance from graves of persons of importance, from age, from distinctive design features, or from association with historic events; or
6. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner or as part of a restoration master plan, and when no other building or structure with the same association has survived; or
7. A property commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
8. A property achieving significance within the past forty years, if it is of exceptional importance.

21.10.050 Nomination procedure.

A. Any person, including the historic preservation officer and any member of the commission, may nominate an historic resource for designation as a landmark or community landmark. The procedures set forth in SMC Sections 21.10.050 and 21.10.060 may be used to amend existing designations or to terminate an existing designation based on changes which affect the applicability of the criteria for designation set forth in SMC Section 21.10.030 of this chapter. The nomination or designation of an historic resource as a landmark shall constitute nomination or designation of the land which is occupied by the historic resource unless the nomination provides otherwise. Nominations shall be made on official nomination forms provided by the City of Sammamish Department of Community Development or the historic preservation officer,

shall be filed with the Department, and shall include all data required by the historic preservation officer.

B. Upon receipt by the department of any nomination for designation, the Department shall forward the nomination to the historic preservation officer, who shall consult with the person or persons submitting the nomination, and the owner, and prepare any amendments to or additional information on the nomination deemed necessary by the historic preservation officer. The historic preservation officer may refuse to accept any nomination for which inadequate information is provided by the person or persons submitting the nomination. It is the responsibility of the person or persons submitting the nomination to perform such research as is necessary for consideration by the Commission. The historic preservation officer may assume responsibility for gathering the required information or appoint an expert or experts to carry out this research in the interest of expediting the consideration.

C. When the historic preservation officer is satisfied that the nomination contains sufficient information and complies with the commission's regulations for nomination, the historic preservation officer shall forward the nomination to the historic preservation officer and the Landmarks Commission for consideration. The historic preservation officer shall give notice in writing, certified mail/return receipt requested, to the owner of the property or object, to the person submitting the nomination and interested persons of record that a preliminary or a designation determination on the nomination will be made by the commission. The notice shall include:

1. The date, time, and place of hearing;
2. The address and description of the historic resource and the boundaries of the nominated resource;
3. A statement that, upon a designation or upon a preliminary determination of significance, the certificate of appropriateness procedure set out in SMC Section 21.10.060 will apply;
4. A statement that, upon a designation or a preliminary determination of significance, no significant feature may be changed without first obtaining a certificate of appropriateness from the commission, whether or not a building or other permit is required. A copy of the provisions of SMC Section 21.10.060 shall be included with the notice;
5. A statement that all proceedings to review the action of the commission at the hearing on a preliminary determination or a designation will be based on the record made at such hearing and that no further right to present evidence on the issue of preliminary determination or designation is afforded pursuant to this chapter.

D. The historic preservation officer shall, after mailing the notice required herein, promptly provide the commission with copies of the nomination and all supporting information to the commission. No nomination shall be considered by the commission less than thirty nor more than forty five calendar days after notice setting the hearing date has been mailed except where the historic preservation officer or members of the commission have reason to believe that immediate action is necessary to prevent destruction, demolition or defacing of an historic resource, in which case the notice setting the hearing shall so state.

21.10.060 Designation procedure.

A. The commission may approve, deny, amend or terminate the designation of a historic resource as a landmark or community landmark only after a public hearing. At the designation hearing, the commission shall receive evidence and hear argument only on the issues of whether the historic resource meets the criteria for designation of landmarks or community landmarks as specified in SMC Section 21.10.040 and merits designation as a landmark or community landmark; and the significant features of the landmark. The hearing may be continued from time to time at the discretion of the commission. If the hearing is continued, the commission may make a preliminary determination of significance if the commission determines, based on the record before it that the historic resource is of significant value and likely to satisfy the criteria for designation in SMC Section 21.10.040. The preliminary determination shall be effective as of the date of the public hearing at which it is made. Where the commission makes a preliminary determination, it shall specify the boundaries of the nominated resource, the significant features thereof and such other description of the historic resource as it deems appropriate. Within five working days after the commission has made a preliminary determination, the historic preservation officer shall file a written notice of the action with the director and mail copies of the notice, certified mail, return receipt requested, to the owner, the person submitting the nomination and interested persons of record.

The notice shall include:

1. A copy of the commission's preliminary determination; and
2. A statement that while proceedings pursuant to this chapter are pending, or six months from the date of the notice, whichever is shorter, and thereafter if the designation is approved by the commission, the certificate of appropriateness procedures in SMC Section 21.10.070, shall apply to the described historic resource whether or not a building or other permit is required. A copy of SMC Section 21.10.070 shall be enclosed with the notice.
3. The final decision of the commission shall be made after the close of the public hearing or at the next regularly scheduled public meeting of the commission thereafter..

B. Whenever the commission approves the designation of a historic resource under consideration for designation as a landmark, it shall, within fourteen calendar days of the public meeting at which the decision is made, issue a written designation report, which shall include:

1. The boundaries of the designated resource and such other description of the resource sufficient to identify its ownership and location;
2. The significant features and such other information concerning the historic resource as the commission deems appropriate;
3. Findings of fact and reasons supporting the designation with specific reference to the criteria for designation in SMC Section 21.10.040; and
4. A statement that no significant feature may be changed, whether or not a building or other permit is required, without first obtaining a certificate of appropriateness from the commission in accordance with SMC Section 21.10.070, a copy of which shall be included in the designation report. The requirements of this subsection B.4. shall not apply to historic resources designated as community landmarks.

C. Whenever the commission rejects the nomination of a historic resource under consideration for designation as a landmark, it shall, within fourteen calendar days of the

public meeting at which the decision is made, issue a written decision including findings of fact and reasons supporting its determination that the criteria in SMC Section 21.10.040 have not been met. If a historic resource has been nominated as a landmark and the commission designates the historic resource as a community landmark, the designation shall be treated as a rejection of the nomination for City of Sammamish landmark status and the foregoing requirement for a written decision shall apply. Nothing contained herein shall prevent renominating any historic resource that is rejected under this subsection as a City landmark at a future time provided that no renomination shall occur unless a minimum of one year has passed since the prior decision of the commission.

D. A copy of the commission's designation report or decision rejecting a nomination shall be delivered or mailed to the owner, to interested persons of record and to the director within five working days after it is issued. If the commission rejects the nomination and it has made a preliminary determination of significance with respect to the nomination, it shall include in the notice to the director a statement that SMC Section 21.10.070 no longer applies to the subject historic resources.

E. If the commission approves, or amends a landmark designation, the provisions of SMC Section 21.10.070 shall apply as approved or amended. A copy of the commission's designation report or designation amendment shall be recorded with the King County Records, Elections and Licensing Services Division, or its successor agency, together with a legal description of the designated resource and notification that SMC 21.10.070 and SMC Section 21.10.100 apply. If the commission terminates the designation of a historic resource, SMC Section 21.10.070 shall no longer apply to the historic resource.

21.10.070 Certificate of appropriateness procedure.

A. At any time after a designation report and notice has been filed with the director and for a period of six months after notice of a preliminary determination of significance has been mailed to the owner and filed with the director, a certificate of appropriateness must be obtained from the commission before any alterations may be made to the significant features of the landmark identified in the preliminary determination report or thereafter in the designation report. This requirement shall apply whether or not the proposed alteration requires a building or other permit. The designation report shall supersede the preliminary determination report upon issuance.

B. Ordinary repairs and maintenance which do not alter the appearance of a significant feature and do not utilize substitute materials do not require a certificate of appropriateness. Repairs to or replacement of utility systems do not require a certificate of appropriateness provided that such work does not alter an exterior significant feature.

C.1. There shall be three types of certificates of appropriateness, as follows:

- a. Type I, for restorations and major repairs which utilize in-kind materials.
- b. Type II, for alterations in appearance, replacement of historic materials and new construction.
- c. Type III, for demolition, moving and excavation of archaeological sites.

2. The historic preservation officer may approve Type I certificates of appropriateness administratively without public hearing, subject to procedures adopted by the commission. Alternatively the historic preservation officer may refer applications for Type I certificates of appropriateness to the commission for

decision. The commission shall establish and adopt an appeals procedure concerning Type I decisions made by the historic preservation officer.

3. Type II and III certificates of appropriateness shall be decided by the commission and the following general procedures shall apply to such commission actions:

a. Application for a certificate of appropriateness shall be made by filing an application for such certificate with the historic preservation officer on forms provided by the commission.

b. If an application is made to the director for a permit for any action which affects a landmark, the director shall promptly refer such application to the historic preservation officer, and such application shall be deemed an application for a certificate of appropriateness if accompanied by the additional information required to apply for such certificate. The director may continue to process such permit application, but shall not issue any such permit until the time has expired for filing with the director the notice of denial of a certificate of appropriateness or a certificate of appropriateness has been issued pursuant to this chapter.

c. After the commission has commenced proceedings for the consideration of any application for a certificate of appropriateness by giving notice of a hearing pursuant to subsection d of this section, no other application for the same or a similar alteration may be made until such proceedings and all administrative appeals therefrom pursuant to this chapter have been concluded.

d. Within forty five calendar days after the filing of an application for a certificate of appropriateness with the commission or the referral of an application to the commission by the director except those decided administratively by the historic preservation officer pursuant to subsection 2 of this section, the commission shall hold a public hearing thereon. The historic preservation officer shall mail notice of the hearing to the owner, the applicant, if the applicant is not the owner, and parties of record at the designation proceedings, not less than ten calendar days before the date of the hearing. No hearing shall be required if the commission, the owner and the applicant, if the applicant is not the owner, agree in writing to a stipulated certificate approving the requested alterations thereof. This agreement shall be ratified by the commission in a public meeting and reflected in the commission meeting minutes. If the commission grants a certificate of appropriateness, such certificate shall be issued within 10 days and the historic preservation officer shall promptly file a copy of such certificate with the director.

e. If the commission denies the application for a certificate of appropriateness, in whole or in part, it shall so notify the owner, the person submitting the application and interested persons of record setting forth the reasons why approval of the application is not warranted.

21.10.080 Evaluation of economic impact.

A. At the public hearing on any application for a Type II or Type III certificate of appropriateness, or Type I if referred to the commission by the historic preservation officer, the commission shall, when requested by the property owner, consider evidence of the economic impact on the owner of the denial or partial denial of a certificate. In no case may a certificate be denied, in whole or in part, when it is established that the denial or partial denial will, when available incentives are utilized, deprive the owner of a reasonable economic use of the landmark and there is no viable and reasonable alternative which would have less impact on the features of significance specified in the preliminary determination report or the designation report.

B. To prove the existence of a condition of unreasonable economic return, the applicant must establish and the commission must find both of the following:

1. The landmark is incapable of earning a reasonable economic return without making the alterations proposed. This finding shall be made by considering and the applicant shall submit to the commission evidence establishing each of the following factors:

a. The current level of economic return on the landmark as considered in relation to the following:

- (1). The amount paid for the landmark, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the landmark was purchased;
- (2). The annual gross and net income, if any, from the landmark for the previous five (5) years; itemized operating and maintenance expenses for the previous five (5) years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
- (3). The remaining balance on any mortgage or other financing secured by the landmark and annual debt service, if any, during the prior five (5) years;
- (4). Real estate taxes for the previous four (4) years and assessed value of the landmark according to the two (2) most recent assessed valuations;
- (5). All appraisals obtained within the previous three (3) years by the owner in connection with the purchase, financing or ownership of the landmark;
- (6). The fair market value of the landmark immediately prior to its designation and the fair market value of the landmark (in its protected status as a designated landmark) at the time the application is filed;
- (7). Form of ownership or operation of the landmark, whether sole proprietorship, for profit or not for-profit corporation, limited partnership, joint venture, or both;
- (8). Any state or federal income tax returns on or relating to the landmark for the past two (2) years.

b. The landmark is not marketable or able to be sold when listed for sale or lease. The sale price asked, and offers received, if any, within the previous two (2) years, including testimony and relevant documents shall be submitted by the property owner. The following also shall be considered:

- (1) Any real estate broker or firm engaged to sell or lease the landmark;

- (2) Reasonableness of the price or lease sought by the owner;
- (3) Any advertisements placed for the sale or lease of the landmark.
- c. The unfeasibility of alternative uses that can earn a reasonable economic return for the landmark as considered in relation to the following:
 - 1. A report from a licensed engineer or architect with experience in historic restoration or rehabilitation as to the structural soundness of the landmark and its suitability for restoration or rehabilitation;
 - 2. Estimates of the proposed cost of the proposed alteration and an estimate of any additional cost that would be incurred to comply with the recommendation and decision of the commission concerning the appropriateness of the proposed alteration;
 - 3. Estimated market value of the landmark in the current condition after completion of the proposed alteration; and, in the case of proposed demolition, after renovation of the landmark for continued use;
 - 4. In the case of proposed demolition, the testimony of an architect, developer, real estate consultant, appraiser or other real estate professional experienced in historic restoration or rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing landmark;
 - 5. The unfeasibility of new construction around, above, or below the historic resource.
 - 6. Potential economic incentives and/or funding available to the owner through federal, state, county, city or private programs.

d The owner has the present intent and the secured financial ability, demonstrated by appropriate documentary evidence to complete the alteration.

C. Notwithstanding the foregoing enumerated factors, the property owner may demonstrate other appropriate factors applicable to economic return.

D. Upon reasonable notice to the owner, the commission may appoint an expert or experts to provide advice and/or testimony concerning the value of the landmark, the availability of incentives and the economic impacts of approval, denial or partial denial of a certificate of appropriateness.

E. Any adverse economic impact caused intentionally or by willful neglect shall not constitute a basis for granting a certificate of appropriateness.

20.10.090 Appeal procedure.

A. Any person aggrieved by a decision of the commission designating or rejecting a nomination for designation of a landmark or issuing or denying a certificate of appropriateness may appeal such decision in writing to the Hearing Examiner, within twenty-one calendar days of mailing of notice of such designation or rejection of nomination, or of such issuance or denial or approval of a certificate of appropriateness. The written notice of appeal shall be filed with the historic preservation officer and the city clerk and shall be accompanied by a statement setting forth the grounds for the appeal, the appropriate fee, supporting documents, and argument.

B. If, after examination of the written appeal and the record, the Hearing Examiner determines that:

- 1. An error in fact may exist in the record, it shall remand the proceeding to the commission for reconsideration or,

2. The decision of the commission is based on an error in law, it may modify or reverse the decision of the commission.

C. The Hearing Examiner's decision shall be based solely upon the record of the proceedings.

D. The Hearing Examiner shall take final action on any appeal from a decision of the commission by adoption of a resolution, and shall enter findings of fact and conclusions of law based upon the record which support its action. The council may adopt all or portions of the commission's findings and conclusions.

E. The action of the Hearing Examiner sustaining, reversing, modifying or remanding a decision of the commission shall be final unless within twenty calendar days from the date of the action an aggrieved person obtains a writ of certiorari from the superior court of King County, state of Washington, for the purpose of review of the action taken.

21.10.100 Penalty for violation of Section 21.10.060.

Any person violating or failing to comply with the provisions of SMC Section 21.10.060 of this chapter shall incur a civil penalty consistent with SMC Title 23, provided, however, that no penalty shall be imposed for any violation or failure to comply which occurs during the pendency of legal proceedings filed in any court challenging the validity of the provision or provisions of this chapter, as to which such violations or failure to comply is charged.

21.10.110 Special valuation for historic properties.

A. There is hereby established and implemented a special valuation for historic properties as provided in chapter 84.26 RCW.

B. The King County landmarks commission is hereby designated as the local review board for the purposes related to chapter 84.26 RCW, and is authorized to perform all functions required by chapter 84.16 RCW and chapter 254-20 WAC.

C. All City of Sammamish landmarks designated and protected under this chapter shall be eligible for special valuation in accordance with chapter 84.26 RCW

21.10.120 Historic Resources - review process.

A. Upon receipt of an application for a development proposal located on or adjacent to a City of Sammamish historic resource, the application shall be circulated to the historic preservation officer. The City of Sammamish shall not approve any development proposal or otherwise issue any authorization to alter, demolish, or relocate or otherwise adversely affect any historic resource identified in the City of Sammamish Historic Resource Inventory, pursuant to the requirements of this chapter until after the review and recommendation of the historic preservation officer is received and considered. The standards in the Sammamish Municipal Code Chapters 21A.25 and .35 shall be expanded when necessary, to preserve the esthetic, visual and historic integrity of the historic resource from the impacts of development on the same or adjacent properties.

1. The historic preservation officer may recommend that the director continue to process the development proposal application, but not issue any development permits or issue a SEPA threshold determination until receiving a recommendation from the historic preservation officer. In no event shall review of the proposal by the historic preservation officer delay permit processing or issuance beyond any period required

by law. Permit applications for changes to landmark properties shall not be considered complete unless accompanied by a certificate of appropriateness pursuant to SMC Section 21.10.070.

2. On known archaeological sites, before any disturbance of the site, including, but not limited to test boring, site clearing, construction, grading or revegetation, the Washington State Department of Archaeology and Historic Preservation (DAHP), and the historic preservation officer, and appropriate Native American tribal organizations must be notified and state permits obtained, if required by law. The historic preservation officer may recommend that a professional archaeological survey be conducted to identify site boundaries, resources and mitigation alternatives prior to any site disturbance and that a technical report be provided to the historic preservation officer, DAHP and appropriate tribal organizations. The historic preservation officer may recommend approval, disapproval or permit conditions, including professional archeological surveys, to mitigate adverse impacts to known archeological sites.

21.10.130 Administrative rules. The director may promulgate administrative rules and regulations pursuant to SMC Section 20.05, to implement the provisions and requirements of this chapter.

21.10.140 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.



Planning Commission

801 228th Avenue SE • Sammamish, WA 98075 • Phone: 425.295.0500 • Fax: 425.295.0600 • web: www.ci.sammamish.wa.us

MEMO

Date: September 23, 2008
To: The City Council
From: Erica Tiliacos, Planning Commission Chair
RE: Proposed Minor Municipal Code (SMC) amendments

A handwritten signature in black ink, appearing to read "Erica Tiliacos", is written over the "From:" line of the memo.

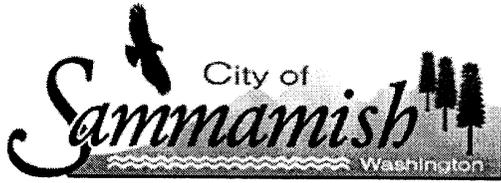
On behalf of the Planning Commission, I'm pleased to forward our recommendations for proposed Minor code amendments to the City's Municipal Code. I look forward to discussing these recommendations with you at an upcoming City Council session.

During our review process we completed two public meetings on February 21, 2008 and June 19, 2008 and a public hearing on July 10, 2008. Our review involved hearing testimony from one citizen.

At our July 10, 2008 deliberation session on the proposed ordinance we made some minor revisions based on our deliberations. The Commission recommends the attached Minor Code Amendments Ordinance for your consideration.

- Minor corrections such as incorrect numbering in the text or incorrect municipal code citations.
- Corrections to the code to reintroduce exemptions to the Clear and Grade section of the code which were unintentionally removed when the City went from the Uniform Building Code to the International Building Code. For instance, an exemption from requiring a grading permit for less than 50 cubic yards of grade and fill, and exemptions for septic field installation.
- Corrections and clarifications in the definitions section.
- Revisions of the interior lot line setback distances in R-4 to make them consistent with other zones. Currently, R-4 has a 7 foot interior lot line setback all of the other zones have a 5 foot interior setback.
- Elimination of the allowance of commercial establishments of 5,000 square feet or less in any residential zone, where the parcel is at least one mile from the nearest commercial area. This was a hold over from King County's code and was intended for rural areas.
- Corrections to the Title 21A eliminating conflicts with other municipal code sections and standards, such as the street tree requirements which appear in both the landscape section of the code and in the Public Works Standards.

Again I look forward to presenting our recommendation at an upcoming City Council session.



Planning Commission

801 228th Avenue SE • Sammamish, WA 98075 • Phone: 425.295.0500 • Fax: 425.295.0600 • web: www.ci.sammamish.wa.us

MEMO

Date: August 12, 2008
To: The City Council
From: Kamuron Gurol, Director
RE: Proposed Minor Municipal Code (SMC) amendments

The Planning Commission considered and approved the minor code amendments in July 2008. Recently we have been considering improvements to our permit processing system which could affect a section of the code for which the Planning Commission recommended approval. We will therefore bring this forward after additional staff review and suggested amendments to section SMC20.05.100, Permit Issuance.

Staff have also been working with our Code Enforcement Officer on potential modifications to the processing of code violations to increase flexibility in working with landowners on violations that occur on their property. The Planning Commission considered a minor amendment to this section of the code SMC23.40. When we have completed our review of the code enforcement process and its fee schedule this section will be scheduled for your consideration, with additional staff recommendations.

Chapter 16.15 Clearing and Grading

16.15.050 Clearing and grading permit required – Exceptions.

No person shall do any clearing or grading without first having obtained a clearing and grading permit from the director except for the following:

- (1) An on-site excavation or fill for basements and footings of a building, retaining wall, parking lot, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure;
- (2) Maintenance of existing driveways or private access roads within their existing road prisms; provided, that the performance and restoration requirements of this chapter are met and best management practices are utilized to protect water quality;
- (3) Any grading within a publicly owned road right-of-way, provided this does not include clearing or grading that expands further into a critical area or buffer;
- (4) Clearing or grading by a public agency for the following routine maintenance activities:
 - (a) Roadside ditch cleaning, provided the ditch does not contain salmonids;
 - (b) Pavement maintenance;
 - (c) Normal grading of gravel shoulders;
 - (d) Maintenance of culverts;
 - (e) Maintenance of flood control or other approved surface water management facilities;
 - (f) Routine clearing within road right-of-way;
- (5) Cemetery graves; provided, that this exception does not apply except for routine maintenance if the clearing or grading is within a critical area as regulated in Chapter 21A.50 SMC;
- (6) Minor stream restoration projects for fish habitat enhancement by a public agency, utility, or tribe as set out in Chapter 21A.50 SMC;
- (7) Any clearing or grading that has been approved by the director as part of a commercial site development permit and for which a financial guarantee has been posted;
- (8) The following activities are exempt from the clearing requirements of this chapter and no permit shall be required:
 - (a) Normal and routine maintenance of existing lawns and landscaping, **including up to 50 cubic yards of top soil, mulch, or bark materials added to existing landscaped areas** subject to the limitations ~~on the use of pesticides~~ in critical areas and their buffers as set out in Chapter 21A.50 SMC;
 - (b) Emergency tree removal to prevent imminent danger or hazard to persons or property;
 - (c) Normal and routine horticultural activities associated with commercial orchards, nurseries, or Christmas tree farms subject to the limitations on the use of pesticides in critical areas as set out in Chapter 21A.50 SMC. This does not include clearing or grading in order to develop or expand such activities;
 - (d) Normal and routine maintenance of existing public park properties and private and public golf courses. This does not include clearing or grading in order to develop or expand such activities in critical areas;

- (e) Removal of noxious weeds from steep slope hazard areas and the buffers of streams and wetlands subject to the limitations on such removal and the use of pesticides in critical areas as set out in Chapter 21A.50 SMC;
- (f) Pruning and limbing of vegetation for maintenance of above-ground electrical and telecommunication facilities; provided, that the clearing is consistent with the electric, natural gas, cable communication and telephone utility exemption in critical areas as regulated in Chapter 21A.50 SMC;
- (9) The cutting and removal of any coniferous tree of less than eight inches DBH or any deciduous tree of less than 12 inches DBH when not located within a critical area or buffer;
- (10) The pruning, limbing, and general maintenance of trees outside of environmentally critical areas and buffers, consistent with the requirements of Chapter 21A.35 SMC; and
- (11) The pruning, limbing, and general maintenance of trees in buffers or that are otherwise required to be retained pursuant to Chapter 21A.50 SMC and :
- (12) An excavation that is less than 2 feet in depth or does not create a cut slope greater than 5 feet in height and steeper than 1 unit vertical in 2 units horizontal (66.7% slope), that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course, excluding work in critical areas and their buffers, and: ;**
- (13) A fill less than 1 foot in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet in depth, not intended to support structures, that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course, excluding work in critical areas and their buffers, and:**
- (14) Normal routine maintenance of existing single family drainage systems, including but not limited to excavation to replace existing pipes, catch basins and infiltration trenches, that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course, excluding work in critical areas and their buffers, and:**
- (15) Installation of sanitary septic systems with King County Health District approval and inspection.**

16.15.070 Permit requirements.

Except as exempted in SMC 16.15.050, no person shall do any clearing or grading without first obtaining a clearing and grading permit from the director. A separate permit shall be required for each site and may cover both excavations and fills.

(1) Application. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. The director shall prescribe the form by which application is made. No application shall be accepted unless it is completed consistent with the requirements of this chapter and the permit process and procedures chapter of SMC Title 20. In addition to the requirements of SMC 20.05.040 every application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made;
- (b) Describe the land on which the proposed work is to be done, by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed site;

- (c) Identify and describe those critical areas as defined in Chapter 21A.50 SMC on or adjacent to the site;
- (d) Indicate the estimated quantities of work involved;
- (e) Identify any clearing restrictions contained in SMC 16.15.120 wildlife habitat corridors pursuant to Chapter 21A.30 SMC, critical drainage areas established by administrative rule or property-specific development standards pursuant to Chapter ~~21A.85 SMC~~ **21A.50.225 SMC**;
- (f) Be accompanied by plans and specifications as required in subsections (2) and (3) of this section;
- (g) Designate who the applicant is, on a form prescribed by the department, except that the application may be accepted and reviewed without meeting this requirement when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right-of-way and the following three requirements are met:
 - (i) The name of the agency or public or private utility is shown on the application as the applicant;
 - (ii) The agency or public or private utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and
 - (iii) The form designating the applicant is submitted to the department prior to permit issuance; and
- (h) Give such other information as may be required by the director.

Chapter 16.20 Construction Administrative Code.

16.20.200 Work exempt from permit.

Exemptions from permit requirements of this code and Chapter 16.05 SMC shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code and Chapter 16.05 SMC or any other laws or ordinances of the City of Sammamish. Permits shall not be required for the following:

- (1) Building.
 - (a) One-story detached accessory structures accessory to residential buildings constructed under the provisions of the IRC used as tool and storage sheds, tree-supported play structures, playhouse and similar uses, provided the floor area does not exceed 200 square feet (18.58 m²) and the structure is located in accordance with all land use regulations.
 - (b) Fences not over six feet (1,829 mm) high.
 - (c) Oil derricks.
 - (d) Retaining walls which are not over four feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids, and are not located in critical areas including steep slopes, wetland buffers, shorelines, etc.
 - (e) Rockery walls which are not over four feet (1,219 mm) in height measured from finished grade to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids, and are not located in critical areas including steep slopes, wetland buffers, shorelines. etc.

- (f) Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not exceed two to one.
- (g) Sidewalks and driveways associated with residential buildings constructed under the provisions of the IRC.
- (h) Decks and associated platforms and steps accessory to residential buildings constructed under the provisions of the IRC which are not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below.
- (i) Painting, papering, tiling, carpeting, cabinets, countertops, nonstructural wood or vinyl siding ~~placed over existing siding~~, and similar finish work.
- (j) ~~In-kind~~ Reroofing of one- and two-family dwellings, provided **the new roofing material does not increase the dead load on the roof and** the roof sheathing is not removed or replaced.
- (k) Temporary motion picture, television and theater stage sets and scenery.
- (l) Prefabricated portable swimming pools and hot tubs accessory to a one- and two-family dwelling or Group R-3 occupancy, which are less than 36 inches (915 mm) deep, do not exceed 5,000 gallons (18,925 L) and are installed entirely above ground.
- (m) Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
- (n) Swings, slides and other similar playground equipment.
- (o) Window awnings supported by an exterior wall of a one- and two-family dwelling or Group R-3, and Group U occupancies, which do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.
- (p) Nonfixed and movable fixtures cases, racks, counters and partitions not over five feet nine inches (1,753 mm) in height.
- (q) Satellite earth station antennas six and one-half feet (two m) or less in diameter or diagonal in zones other than residential zones.
- (r) Satellite earth station antennas three and one-quarter feet (one m) or less in diameter in residential zones.
- (s) Video programming service antennas three and one-quarter feet (one m) or less in diameter or diagonal dimension, regardless of zone.
- (t) Work as noted in SMC 16.20.025, Exceptions.
- (2) Mechanical.
 - (a) Portable heating, cooking, or clothes-drying appliances.
 - (b) Portable ventilation equipment.
 - (c) Portable cooling unit.
 - (d) Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code and Chapter 16.05 SMC.
 - (e) Replacement of any part which does not alter its approval or make it unsafe.
 - (f) Portable evaporative cooler.
 - (g) Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

- (h) Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected.
- (3) Plumbing.
 - (a) The stopping and/or repairing of leaks in drains, water, soil, waste or vent pipe; provided, however, that should any concealed trap, drain pipe, water, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material, the same shall be considered as new work and a permit shall be procured and inspection made as provided in this code.
 - (b) The clearing of stoppages.
 - (c) Reinstallation or replacement of prefabricated fixtures that do not involve or require the replacement or rearrangement of valves or pipes. (Ord. O2007-214 § 1; Ord. O2004-148 § 3)

16.20.393 Temporary Erosion and Sediment Control Inspection.

Temporary Erosion and Sediment control inspections shall be made after all required silt fencing, construction fencing, straw bales, storm drain catch basin inserts (socks) entrance rocking, other required elements are in place and prior to commencement of construction and/or clearing the site.

16.20.395 Footing and foundation inspection.

Footing and foundation inspections shall be made after poles or piers are set, trenches or basement areas are excavated, or excavations for footings are complete, any forms erected, and all required hold-down anchor bolts, hold-down straps, and any required reinforcing steel is in place and supported. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment, ~~and~~ **special requirements for wood foundations, and for any setbacks required from property lines; building setback lines; critical area buffers; and/or the ordinary high water mark on lake properties.** For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job; except where concrete is ready-mixed in accordance with ASTM C 94, the concrete need not be on the job. (Ord. O2007-214 § 1; Ord. O2004-148 § 3)

16.20.415 Roof sheathing inspection.

The roof sheathing shall be inspected after all roof framing is complete. No roof coverings shall be installed until inspections are made and approved **and, confirmation that the height of the structure is in conformance with the requirements of the Development Code Title 21A and/or Shoreline Master Program**(Ord. O2004-148 § 3)

Chapter 20

20.05.020 Classifications of land use decision processes.

- (1) Land use permit decisions are classified into four types, based on the amount of discretion associated with each decision. Procedures for the four different types are

distinguished according to who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made, and whether administrative appeals are provided. The types of land use decisions are listed in Exhibit A of this section.

(a) Type 1 decisions are made by the director (director) of the department of community development (department). Type 1 decisions are non-appealable administrative decisions that require the exercise of little or no administrative discretion. For Type 1 decisions for which the department has issued a SEPA threshold determination, the issuance of any subsequent permits shall not occur until any allowed administrative appeal of the SEPA threshold determination is decided.

(b) Type 2 decisions are made by the director, or his or her designee. Type 2 decisions are discretionary decisions that are subject to administrative appeal in accordance with applicable provisions of law or ordinance.

(c) Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to superior court.

(d) Type 4 decisions are quasi-judicial decisions made by the hearing examiner. Type 4 decisions may be appealed to the State Shoreline Hearings Board.

(2) Except as provided in SMC 20.15.130(1)(f) and 25.35.060 or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application.

(3) Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

(4) Land use permits that are categorically exempt from review under the State Environmental Policy Act (SEPA) will not require a threshold determination (determination of nonsignificance (DNS) or determination of significance (DS)). For all other projects, the SEPA review procedures codified in Chapter 20.15 SMC are supplemental to the procedures set forth in this chapter.

Exhibit A
LAND USE DECISION TYPE

Type 1	Decision by director, no administrative appeal	Building; clearing and grading; boundary line adjustment; temporary use ; right-of-way; road variance except those rendered in conjunction with a subdivision or short plat decision ; variance from the requirements of Chapter 9.04 KCC as adopted by Chapter 15.05 SMC; shoreline exemption; approval of a conversion harvest plan
Type 2	Decision by director appealable to hearing examiner, no further administrative	Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit;

		temporary use; Shoreline substantial development permits (SSDP); procedural and substantive SEPA decision; site development permit; approval of residential density incentives or transfer of development credits; reuse of public schools; reasonable use exceptions under SMC 21A.50.070(2); preliminary determinations under SMC 20.05.030(2); critical areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based on the requirements of Chapter 21A.50 SMC; binding site plan
Type 3	Recommendation by director, hearing and decision by hearing examiner appealable to superior court	Preliminary plat; plat alterations; preliminary plat revisions; plat vacations; zone reclassifications ² ; urban planned development; special use
Type 4	Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board	Shoreline substantial development permits ; shoreline variances; shoreline conditional use permits

1 The road variance process is administered by the City engineer pursuant to the City's street standards as set forth in the public works standards.

2 Approvals that are consistent with the interim comprehensive plan may be considered by the examiner at any time. Zone reclassifications that are not consistent with the interim comprehensive plan require a site-specific land use map amendment and the City council's hearing and consideration will be scheduled with the amendment to the interim comprehensive plan pursuant to SMC 24.25.040 and 24.25.050.

(Ord. O2004-150 §§ 1 – 4; Ord. O2000-63 §§ 1, 2, 3; Ord. O99-29 § 1)

20.05.070 Vesting.

(1) Applications for Type 1, 2, **3** and ~~3-4~~ 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 of 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.

(2) Supplemental information required after vesting of a complete application shall not affect the validity of the vesting for such application.

(3) Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals. (Ord. O99-29 § 1)

20.10.240 Written recommendation or decision.

(1) Within 10 days of the conclusion of a hearing or rehearing, the examiner shall render a written recommendation or decision and shall transmit a copy thereof to all persons of record. The examiner's decision shall identify the applicant and/or the owner by name and address.

~~(2) — The City clerk shall place a proposed ordinance that implements the examiner's recommended action on the agenda of the next available City council meeting for adoption; provided, that no final action to amend or reverse the hearing examiner's recommendation shall be taken at that meeting and notice to parties shall be given before the adoption of a substitute or amended ordinance that amends or reverses the examiner's recommendation; provided further, the City council by motion may remand to the examiner for the purpose of further hearing, receipt of additional information, or further consideration when determined necessary prior to the City council's taking final action thereon.~~

~~(3)~~**(2)** Decisions of the examiner in cases identified in SMC 20.10.070 shall be final and reviewable pursuant to SMC 20.10.250(1). (Ord. O99-29 § 1)

21A.15.020 Accessory use, residential.

"Accessory use, residential" means:

(1) A use, structure, or activity that is subordinate and incidental to a residence on the same parcel including, but not limited to, the following uses:

- (a) Accessory living quarters and dwellings;
- (b) Fallout/bomb shelters;
- (c) Keeping household pets;
- (d) On-site rental office;
- (e) Pools, private docks, piers;
- (f) Antennas for private telecommunication services;
- (g) Storage of yard maintenance equipment;
- (h) Storage of private vehicles, e.g., motor vehicles, boats, trailers or planes;
- (i) Greenhouses.

(j) Garages

(2) Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. (Ord. O2003-132 § 10)

21A.15.078 Barn. "Barn" means: A large agricultural building for storage of agricultural products and sheltering livestock.

21A.15.220 Community residential facility (CRF).

"Community residential facility (CRF)" means living quarters meeting applicable federal and state standards that function as a single housekeeping unit and provide supportive services, including but not limited to counseling, rehabilitation, and medical supervision; excluding drug and alcohol detoxification which is classified in SMC 21A.20.050 as health services. CRFs are further classified as follows:

(1) CRF-I – ~~Nine~~ **7** to 10 residents and staff; (*Note:*

Single family is defined as 6 or fewer residents—it left a gap of 2)
 (2) CRF-II – 11 or more residents and staff.

21A.15.520 Forest practice.

"Forest practice" means any activity regulated by the Washington Department of Natural Resources in WAC Title 222 or Chapter ~~79.06~~ **76.09** RCW for which a forest practice permit is required, together with:

- (1) Fire prevention, detection and suppression; and
- (2) Slash burning or removal. (Ord. O2003-132 § 10)

21A.15.725 Lot.

"Lot" means a physically separate and distinct parcel of property **and on lake front properties above Ordinary High Water Mark**, which has been created pursuant to SMC Title 19, Subdivisions **or state law**. (Ord. O2003-132 § 10)

21A.20.030 Residential land uses.

A. Table of Residential Land Uses.

KEY

P – Permitted Use

C – Conditional Use

S – Special Use

ZONE	Residential	COMMERCIAL		
	Urban Residential	Neighborhood Business	Community Business	Office

SIC #	Specific Land Use	R-1-R-8	R-12-R-18	NB	CB	O
	DWELLING UNIT< TYPES:					
*	Single Detached	P C11 <u>C9</u>	P C11 <u>C9</u>			
*	Townhouse	P10 P9 C	P	P2	P2	P2
*	Apartment	P3, P4	P	P2	P2	P2
*	Mobile Home Park	C7 C6	P			
	GROUP RESIDENCES					
*	Community Residential Facility-I	C	P	P2	P2	P2
*	Community Residential Facility II	P	P	P2	P2	P2
*	Dormitory	C5 C4	P			
	Senior citizen assisted housing		P	P2	P2	P2

	ACCESSORY USES:					
*	Residential Accessory uses	P6 P5	P6 -P5	P6 -P5	P6 -P5	P6 -P5
*	Home Occupation	P	P	P	P	P
*	Home Industry	C				
	TEMPORARY LODGING:					
7011	Hotel/Motel (1)				P	P
*	Bed and Breakfast guesthouse	P8 -P7	P8 -P7	P8 P7	P9 <u>P8</u>	
7041	Organization hotel/lodging houses					

B. Development Conditions.

1. Except bed and breakfast guesthouses.
2. Only as part of a mixed use development subject to the conditions of Chapter 21A.30 SMC, except that in the NB zone on properties with a land use designation of commercial outside of center (CO) in the urban areas, stand-alone townhouse developments are permitted subject to the provisions of SMC 21A.25.040, 21A.30.020, 21A.30.040 and 21A.30.140.
3. Only in a building listed on the National Register as an historic site or designated as a landmark subject to the provisions of Chapter 21A.70 SMC.
4. ~~Only subject to the residential density incentive provisions of Chapter 21A.75 SMC.~~
- 5. 4.** Only as an accessory to a school, college/university, or church.
- 6. 5.** a. Accessory dwelling units:
 - (1) Only one accessory dwelling per primary single detached dwelling unit;
 - (2) Only in the same building as the primary dwelling unit when the lot is less than 10,000 square feet in area or when there is more than one primary dwelling on a lot;
 - (3) The primary dwelling unit or the accessory dwelling unit shall be owner occupied;
 - (a) One of the dwelling units shall not exceed a floor area of 1,000 square feet except when one of the dwelling units is wholly contained within a basement or attic;
 - (b) When the primary and accessory dwelling units are located in the same building, only one entrance may be located on each street side of the building;
 - (c) The total number of occupants in both the primary residence and the accessory dwelling unit combined may not exceed the maximum number established by the definition of family in SMC 21A.15.450;
 - (d) Additions to an existing structure or the development of a newly constructed detached ADU shall be designed consistent with the existing facade, roof pitch, siding, and windows of the primary dwelling unit;
 - (4) One additional off-street parking space shall be provided;
 - (5) The accessory dwelling unit shall be converted to another permitted use or shall be removed if one of the dwelling units ceases to be owner occupied; and
 - (6) An applicant seeking to build an accessory dwelling unit shall file a notice approved by the department with the records and elections division that identifies the

dwelling unit as accessory. The notice shall run with the land. The applicant shall submit proof that the notice was filed before the department shall approve any permit for the construction of the accessory dwelling unit. The required contents and form of the notice shall be set forth in administrative rules.

b. One single or twin engine, noncommercial aircraft shall be permitted only on lots that abut, or have a legal access that is not a City right-of-way, to a waterbody or landing field, provided:

- (1) No aircraft sales, service, repair, charter, or rental; and
- (2) No storage of aviation fuel except that contained in the tank or tanks of the aircraft.

~~7.6.~~ Mobile home parks shall not be permitted in the R-1 zones.

~~8.7.~~ Only as an accessory to the permanent residence of the operator, provided:

- a. Serving meals to paying guests shall be limited to breakfast; and
- b. The number of persons accommodated per night shall not exceed five, except that a structure which satisfies the standards of the Uniform Building Code as adopted by the City of Sammamish for R-1 occupancies may accommodate up to 10 persons per night.

~~9.8.~~ Only when part of a mixed use development, and subject to the conditions of subsection (B) (10) of this section.

~~10.~~ A conditional use permit is not required for townhouse units on lots in a subdivision designed for townhouse units.

~~11.9.~~ Required prior to approving more than one dwelling on individual lots, except on lots in subdivisions, short subdivisions, or binding site plans approved for multiple unit lots, and except as provided for accessory dwelling units in subsection (B)(6) of this section. (Ord. O2003-132 § 11)

21A.20.050 General services land uses.

A. Table of General Services Land Uses.

KEY

P – Permitted Use

C – Conditional Use

S – Special Use

ZONE	Residential	COMMERCIAL		
	Urban Residential	Neighborhood Business	Community Business	Office

SIC #	Specific Land Use	R-1-R-8	R-12-R-18	NB	CB	O
	Personal Services					
72	General Personal Service	C24	C24	P	P	P3

(NO OTHER CHANGES IN THIS SECTION of the TABLE)

*	Theater production services				P25 P24	
*	Artist Studios	P23 P22	P23 P22	P	P	P24 P23
*	Interim recycling facility	P17	P17	P18	P18	

	HEALTH SERVICES:					
	No changes in this section					
	EDUCATION SERVICES:					
*	Elementary school	P	P	P8	P8	P8
*	Middle/junior high school	P	P			
	Secondary or high school	P22	P22 P 21			
	No other changes in this section					

B. Development Conditions.

1. Except SIC Industry No. 7534, Tire retreading, see manufacturing permitted use table.
2. Except SIC Industry Group Nos.:
 - a. 835 – Daycare services; and
 - b. 836 – Residential care, which is otherwise provided for on the residential permitted land use table.
3. Limited to SIC Industry Group and Industry Nos.:
 - a. 723 – Beauty shops;
 - b. 724 – Barber shops;
 - c. 725 – Shoe repair shops and shoeshine parlors;
 - d. 7212 – Garment pressing and agents for laundries and drycleaners;
 - e. 217 – Carpet and upholstery cleaning.
4. Only as an accessory to a cemetery.
5. Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.
6. Only as an accessory to residential use, provided:
 - a. Outdoor play areas shall be completely enclosed by a solid wall or fence, with no openings except for gates, and have a minimum height of six feet; and
 - b. Outdoor play equipment shall maintain a minimum distance of 20 feet from property lines adjoining residential zones.
7. Permitted as an accessory use, see commercial/industrial accessory, SMC 21A.20.060 (A).
8. Only as a re-use of a public school facility subject to the provisions of Chapter 21A.70 SMC, or an accessory use to a school, church, park, sport club or public housing administered by a public agency, provided:
 - a. Outdoor play areas shall be completely enclosed by a solid wall or fence, with no openings except for gates and have a minimum height of six feet;
 - b. Outdoor play equipment shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
 - c. Direct access to a developed arterial street shall be required in any residential zone; and

- d. Hours of operation may be restricted to assure compatibility with surrounding development.
- 9. a. No burning of refuse or dead animals is allowed;
- b. The portion of the building or structure in which animals are kept or treated shall be soundproofed. All run areas, excluding confinement areas for livestock, shall be surrounded by an eight-foot solid wall and surfaced with concrete or other impervious material; and
- c. The provisions of Chapter 21A.65 SMC relative to animal keeping are met.
- 10. The repair work or service shall only be performed in an enclosed building, and no outdoor storage of materials. SIC Industry No. 7532, Top, body, and upholstery repair shops and paint shops, is not allowed.
- 11. Only as a re-use of a public school facility subject to the provisions of Chapter 21A.70 SMC.
- 12. Only as a re-use of a surplus nonresidential facility subject to Chapter 21A.70 SMC.
- 13. Covered riding arenas are subject to the provisions of Chapter 21A.65 SMC and shall not exceed 20,000 square feet; provided, that stabling areas, whether attached or detached, shall not be counted in this calculation.
- 14. All instruction must be within an enclosed structure.
- 15. Only as an accessory to residential use, provided:
 - a. Students are limited to 12 per one-hour session;
 - b. All instruction must be within an enclosed structure; and
 - c. Structures used for the school shall maintain a distance of 25 feet from property lines adjoining residential zones.
- 16. Subject to the following:
 - a. Structures used for the school and accessory uses shall maintain a minimum distance of 25 feet from property lines adjoining residential zones;
 - b. On lots over two and one-half acres:
 - (1) Retail sales of items related to the instructional courses is permitted, provided total floor area for retail sales is limited to 2,000 square feet;
 - (2) Sales of food prepared in the instructional courses is permitted, provided total floor area for food sales is limited to 1,000 square feet and is located in the same structure as the school; and
 - (3) Other incidental student-supporting uses are allowed, provided such uses are found to be both compatible with and incidental to the principal use; and
 - c. On sites over 10 acres, and zoned R-1, and/or R-4:
 - (1) Retail sales of items related to the instructional courses is permitted, provided total floor area for retail sales is limited to 2,000 square feet;
 - (2) Sales of food prepared in the instructional courses is permitted, provided total floor area for food sales is limited to 1,750 square feet and is located in the same structure as the school;
 - (3) Other incidental student-supporting uses are allowed, provided such uses are found to be functionally related, subordinate, compatible with and incidental to the principal use;
 - (4) The use is integrated with allowable agricultural uses on the site;

- (5) Advertised special events shall comply with the temporary use requirements of this chapter; and
- (6) Existing structures that are damaged or destroyed by fire or natural event, if damaged by more than 50 percent of their prior value, may reconstruct and expand an additional 65 percent of the original floor area but need not be approved as a conditional use if their use otherwise complies with the standards set forth in development condition (B)(16)(c) of this section and the requirements of this title.
17. Limited to drop box facilities accessory to a public or community use such as a school, fire station or community center.
18. With the exception of drop box facilities for the collection and temporary storage of recyclable materials, all processing and storage of material shall be within enclosed buildings. Yard waste processing is not permitted.
19. Only when adjacent to an existing or proposed school.
20. Limited to columbariums accessory to a church; provided, that required landscaping and parking are not reduced.
- ~~21. — Not permitted in R-1 and limited to a maximum of 5,000 square feet per establishment and subject to the additional requirements in SMC 21A.25.230.~~
- ~~22.~~ **21.** a. New high schools shall be permitted in urban residential zones subject to the review process set forth in Chapter 21A.100 SMC; and
- b. Renovation, expansion, modernization, or reconstruction of a school, or the addition of relocatable facilities, is permitted.
- ~~23.~~ **22.** Only as a re-use of a surplus nonresidential facility subject to Chapter 21A.70 SMC or as a joint use of an existing public school facility.
- ~~24.~~ **23.** All studio use must be within an enclosed structure.
- ~~25.~~ **24.** Adult use facilities shall be prohibited within 660 feet of any residential zones, any other adult use facility, or school licensed daycare centers, parks, community centers, public libraries or churches which conduct religious or educational classes for minors.
- (Ord. O2003-132 § 11)

21A.20.070 Retail land uses.

A. Table of Residential Land Uses.

KEY

P – Permitted Use

C – Conditional Use

S – Special Use

ZONE	Residential	COMMERCIAL		
	Urban Residential	Neighborhood Businesses	Community Business	Office

SIC #	Specific Land Use	R-1-R-8	R-12-R-18	NB	CB	O
*	Building hardware and garden materials			P1	P	
*	Department and variety stores	C8	C8	P	P	C
54	Food Stores	P9	P9	P	P	C
*	Agricultural product sales	P2				
553	Auto Supply Stores				P4	
554	Gasoline Service Stations			P	P	
56	Apparel and accessory stores				P	
*	Furniture and Home Furnishing stores				P	
58	Eating and Drinking places	C10	C10	P5	P	P
*	Drug Stores	C9	C9	P	P	C
592	Liquor				P	
593	Used goods:antiques/secondhand shops				P	
*	Sporting goods and related stores:				P	
*	Book, Stationary, video and art supply stores	C9,6	C9,6	P	P	C
*	Jewelry Stores				P	
*	Hobby, toy, game shops			P	P	
*	Photographic and electronic shops			P	P	
*	Fabric shops:				P	
598	Fuel dealers				C7	P
*	Florist shops	C9	C9	P	P	P
*	Personal medical supply stores				P	
*	Pet Shops			P	P	
*	Bulk Retail				P	
*	Livestock Sales	P11, P				

		12-P-8, P-9				
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B. Development Conditions.

1. Only hardware and garden materials stores shall be permitted.
2.
 - a. Except for hay sales, limited to products produced on-site; and
 - b. Covered sales areas shall not exceed a total area of 500 square feet.
3. Limited to SIC Industry No. 5331, Variety stores, and further limited to a maximum of 2,000 square feet of gross floor area.
4. Only the sale of new or reconditioned automobile supplies is permitted.
5. Excluding SIC Industry No. 5813, Drinking places.
6. Adult use facilities shall be prohibited within 660 feet of any residential zones, any other adult use facility, school, licensed daycare centers, parks, community centers, public libraries, or churches which conduct religious or educational classes for minors.
7. No outside storage of fuel trucks and equipment.
- ~~8. Not in R-1 and limited to SIC Industry No. 5331, Variety stores, limited to a maximum of 5,000 square feet of gross floor area, and subject to the requirements in SMC 21A.25.230.~~
- ~~9. Not permitted in R-1 and limited to a maximum of 5,000 square feet of gross floor area and subject to the requirements in SMC 21A.25.230.~~
- ~~10. Not permitted in R-1 and excluding SIC Industry No. 5813, Drinking places, and limited to a maximum of 5,000 square feet of gross floor area and subject to the requirements in SMC 21A.25.230.~~
- ~~11~~ **8.** Retail sale of livestock is permitted only as accessory to raising livestock.
- ~~12~~ **9.** Limited to the R-1 zone. (Ord. O2003-132 § 11)

21A.20.090. Resource land uses.

A. The table remains unchanged.

B. Development Conditions.

1. Only forest research conducted within an enclosed building.
2. Large livestock allowed only in the ~~R-1~~ **R1-8 zones. On parcels less than 2.00 acres the property must have an approved Farm Plan from the King County Conservation District on file with the City.**

21A.25.030 Densities and Dimensions-Residential Zones.

A. Residential Zones.

Zones		Residential	Urban Residential			
Standards	R-1 (15)	R-4	R-6	R-8	R-12	R-18

	(14)					
Maximum Density DU/Acre (13)	1 du/ac	4 du/ac (6) (5)	6 du/ac	8 du/ac	12 du/ac	18 du/ac
Minimum Density ²				85% (11) (16) (15)	80% (16) (15)	75% (16) (15)
Minimum Lot Width	35 ft (7)	30 ft	30 ft	30 ft	30 ft	30 ft
Minimum Street Setback	20 ft (7) (6)	10 ft (8) (7)	10 ft (8) (7)	10 ft (8) (8) (7)	10 ft (8) (7)	10 ft (8) (7)
Minimum Interior Setback (3) & (14) (2 and 13)	5 ft (7)	7 (1) 5 ft	5 ft	5 ft	5 ft	5 ft
Base Height (4) -(3)	35 ft	35 ft	35 ft 45 ft (12) (11)	35 ft 45 ft (12) (11)	60 ft	60 ft 80 ft (12) (11)
Maximum Impervious Surface: Percentage (5) (4)	30% (10) (9)	55%	70%	75%	85%	85%

1. Interior setbacks may be reduced to five feet pursuant to SMC 21A.25.155.
2. 1. Also see SMC 21A.25.060.
3. ~~2~~. These standards may be modified under the provisions for zero-lot-line and townhouse developments.
4. 3. Height limits may be increased when portions of the structure which exceed the base height limit provide one additional foot of street and interior setback for each foot above the base height limit, provided the maximum height may not exceed 75 feet. Netting or fencing and support structures for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the additional interior setback requirements; provided, that the maximum height shall not exceed 75 feet.
5. 4. Applies to each individual lot. Impervious surface area standards for:
 - a. Regional uses shall be established at the time of permit review;
 - b. Nonresidential uses in residential zones shall comply with SMC 21A.25.130;
 - c. Individual lots in the R-4 through R-6 zones which are less than 9,076 square feet in area shall be subject to the applicable provisions of the nearest comparable R-6 or R-8 zone;
 - d. Lot may be increased beyond the total amount permitted in this chapter subject to approval of a conditional use permit.
6. 5. Mobile home parks shall be allowed a base density of six dwelling units per acre.
7. 6. The standards of the R-4 zone shall apply if a lot is less than 15,000 square feet in area.

~~8.7.~~ At least 20 linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the street property line. The linear distance shall be measured along the center line of the driveway from the access point to such garage, carport or fenced area to the street property line.

~~9.~~ **8.a.** For developments consisting of three or more single-detached dwellings located on a single parcel, the setback shall be 10 feet along any property line abutting R-1 through R-8, except for structures in on-site play areas required in SMC 21A.30.160, which shall have a setback of five feet.

b. For townhouse and apartment development, the setback shall be 20 feet along any property line abutting R-1 through R-8, except for structures in on-site play areas required in SMC 21A.30.160, which shall have a setback of five feet, unless the townhouse or apartment development is adjacent to property upon which an existing townhouse or apartment development is located.

~~10.~~ **9.** Lots smaller than 0.5 acre in area shall comply with standards of the nearest comparable R-4 through R-8 zone. For lots that are 0.5 acre in area or larger, the ~~maximum~~ impervious surface area allowed shall be ~~at least~~ 10,000 square feet **or 30 percent of the property which ever is greater**. On any lot over one acre in area, an additional five percent of the lot area may be used for buildings related to agricultural or forestry practices. For lots smaller than two acres but larger than 0.5 acre, an additional 10 percent of the lot area may be used for structures which are determined to be medically necessary, provided the applicant submits with the permit application a notarized affidavit, conforming with the requirements of SMC 21A.70.170 (1)(b).

~~11.~~ ~~For purposes of calculating minimum density, the applicant may request that the minimum density factor be modified based upon the weighted average slope of the net buildable area(s) of the site pursuant to SMC 21A.25.100.~~

~~12.~~ **11.** The base height to be used only for projects as follows:

- a. In R-6 and R-8 zones, a building with a footprint built on slopes exceeding a 15 percent finished grade; and
- b. In the R-18 zone using residential density incentives and transfer of density credits pursuant to this title.

~~13.~~ **12.** Density applies only to dwelling units and not to sleeping units.

~~14.~~ **13.** Vehicle access points from garages, carports or fenced parking areas shall be set back from the property line on which a joint use driveway is located to provide a straight line length of at least 26 feet as measured from the center line of the garage, carport or fenced parking area, from the access point to the opposite side of the joint use driveway.

~~15.~~ **14.** All subdivisions and short subdivisions in the R-1 zone shall be required to be clustered away from critical areas or the axis of designated corridors such as urban separators or the wildlife habitat network to the extent possible and a permanent open space tract that includes at least 50 percent of the site shall be created. Open space tracts shall meet the provisions of SMC 21A.30.030.

~~16.~~ **15.** See SMC 21A.25.090. (Ord. O2004-143 § 1; Ord. O2003-132 § 12)

21A.25.040 Densities and dimensions – Commercial zones. (Numbering is incorrect)

Zones	Commercial		
	Neighborhood	Community	Office

	Business	Business	
Standards	NB	CB	O
Maximum Density DU/Acre	8 du/ac (1)	18 du/ac (1)	18 du/ac (1)
Minimum lot area			
Maximum Lot Depth/Width Ration		10 ft. (8)	10 ft. (8)
Minimum Street Setback	10 ft. (3) (2)	10 ft. (3) (2)	10 ft.
Minimum Interior Setback (4)	20 ft (5)	20 ft. (5)	20 ft (5)
Base Height (7)	35 ft 45 ft (4) (3)	35 ft 60 ft (4) (3)	45 ft 60 ft (4) (3)
Maximum Floor/Lot Ration: Square feet	1/1 (7) (6)	1.5/1 (7) (6)	2.5/1 (7) (6)
Maximum Impervious Surface Percentage (9) (8)	85%	85%	75%

B. Development Conditions.

1. These densities are allowed only through the application of mixed use development standards and for stand-alone townhouse development in the NB zone on property designated commercial outside of center in the urban area.
2. Gas station pump islands shall be placed no closer than 25 feet to street front lines.
3. This base height allowed only for mixed use developments and for stand-alone townhouse development in the NB zone on property designated commercial outside of center in the urban area.
4. Required on property lines adjoining residential zones.
5. Required on property lines adjoining residential zones for industrial uses established by conditional use permits.
6. The floor/lot ratio for mixed use developments shall conform to Chapter 21A.30 SMC.
7. Height limits may be increased when portions of the structure building which exceed the base height limit provide one additional foot of street and interior setback for each foot above the base height limit, provided the maximum height may exceed 75 feet only in mixed use developments. Netting or fencing and support structures for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the additional interior setback requirement; provided, that the maximum height shall not exceed 75 feet.
8. The impervious surface area for any lot may be increased beyond the total amount permitted in this chapter subject to approval of a conditional use permit. (Ord. O2003-132 § 12)

21A.25.080 Calculations – Site area used for base density and ~~maximum density floor area calculations.~~

(1) All site areas may be used in the calculation of base ~~and maximum~~ allowed residential density or project floor area except as outlined under the provisions of subsection (2) of this section.

(2) **Existing** submerged lands, steep slopes and buffers, ~~Class Categories 1-4~~ **wetlands** and buffers, ~~Class 1-3~~ **Type S, F, Np and Ns streams** and buffers, and property to be used as a street(s), shall not be credited toward base and maximum density or floor area calculations; provided, that subdivisions or short plats that meet the tree retention standards of SMC 21A.35.210(2), Tree retention requirements, shall be credited 10 percent of the environmentally critical areas and associated buffers identified above. (Ord. O2005-174 § 1; Ord. O2003-132 § 12)

21A.25.090 Calculations – Site area used for minimum density calculations.

Minimum density shall be determined by:

(1) Multiplying the base density (dwelling units/acre) as set forth in SMC 21A.20.030(A) by the net buildable area of the project site; ~~and then~~

(2) ~~Multiplying the resulting product by the minimum density percentage set forth in SMC 21A.25.030(A) or as adjusted pursuant to the provisions of SMC 21A.25.100. (Ord. O2003-132 § 12)~~

21A.25.090 Calculations – Site area used for minimum density calculations.

Minimum density shall be determined by:

(1) Multiplying the ~~base~~ density (dwelling units/acre) as set forth in SMC 21A.20.030 (A) by the net buildable area of the project site; and then

(2) Multiplying the resulting product by the minimum density percentage set forth in SMC 21A.25.030 (A) ~~or as adjusted pursuant to the provisions of SMC 21A.25.100. (Ord. O2003-132 § 12)~~

~~21A.25.100 Minimum density adjustments for moderate slopes.~~

(1) ~~For purposes of calculating minimum density of sloped sites, the following adjustment is permitted:~~

Weighted Average Slope of Net Buildable Area(s) of Site	Minimum Density Factor
0% less than 5%	85%
5% less than 15%	83%, less 1.5% for each 1% of average slope in excess of 5%
15% less than 40%	66%, less 2.0% for each 1% of average slope in excess of 15%

(2) ~~Weighted average slope shall be calculated as follows:~~

(a) — The applicant shall submit a topographic survey of the net buildable area(s) of the site which identifies distinct areas within the following slope increments: zero to five percent, five to 10 percent, 10 to 15 percent, etc., up to 35 to 40 percent.

(b) — Each slope increment will have a corresponding median slope value. This value is the midpoint of each slope increment. For instance, slope increments of zero to five percent and five to 10 percent shall have median values of 2.5 percent and 7.5 percent, respectively.

(c) — The weighted average slope shall be determined by multiplying the number of square feet in each area by the median slope value in that area. For example, if the net buildable area portion of a site is 30,000 square feet of which there are 10,000 square feet of five to 10 percent slope and 20,000 square feet of 10 to 15 percent slope, the weighted average slope would be 10.8 percent. See the following calculation ((10,000 square feet times 7.5 percent plus 20,000 square feet times 12.5 percent) divided by 30,000 square feet equals 10.8 percent). (Ord. O2003-132 § 12)

21A.25.190 Setbacks – Projections and structures allowed.

Provided that the required setbacks from regional utility corridors of SMC 21A.25.160, **as allowed in the Environmentally Critical Areas SMC 21A.50.200**, the adjoining half-street or designated arterial setbacks of SMC 21A.25.180 and the sight distance requirements of SMC 21A.25.220 are maintained, structures may extend into or be located in required setbacks, as follows:

(1) Fireplace structures, bay or garden windows, enclosed stair landings, closets, or similar structures may project 30 inches into a ~~street~~ setback, provided such projections are:

(a) Limited to two per facade; and

(b) Not wider than 10 feet;

(2) Uncovered porches and decks that exceed 18 inches above the finished grade may project five feet into the ~~street~~ setback;

(3) Uncovered porches and decks not exceeding 18 inches above the finished grade may project to the ~~street~~ property line;

(4) Eaves may not project more than:

(a) Twenty-four inches into a street setback; or

(b) Eighteen inches across a lot line in a zero lot line development provided that any neighboring building and its associated eaves, are 10 feet from the lot line;

(c) Eighteen inches into an interior setback:

(5) Fences with a height of six feet or less may project into or be located in any setback;

(6) Rockeries, retaining walls and curbs may project into or be located in any setback provided these structures:

(a) Do not exceed a height of six feet in the R-1 through R-18 zones; and

(b) Do not exceed the building height for the zone in commercial zones, measured in accordance with the standards established in the ~~Uniform Building Code~~ **International Building Code**, SMC Title 16;

c) Are in accordance with the requirements in Environmentally Critical Areas 21A.50;

- (7) Fences located on top of rockeries, retaining walls or berms are subject to the requirements of SMC 21A.30.190;
- (8) Telephone poles and lines; power poles and lines; cable TV and Internet lines; light and flagpoles; trellises not exceeding eight feet in height, not wider than 10 feet; culverts; underground water facilities; underground sewer facilities; and accessory facilities for the provision of utilities, such as drains, but excluding electrical and cellular equipment cabinets, and similar utility boxes and vaults.
- (9) The following may project into or be located within a setback, but may only project into or be located within an interior setback area if an agreement documenting consent between the owners of record of the abutting properties is recorded with the King County Department of Records and Elections prior to the installment or construction of the structure:
 - (a) Sprinkler systems, **air conditioning units**, electrical and cellular equipment cabinets and other similar utility boxes and vaults;
 - (b) Security system access controls;
 - (c) Structures, except for buildings, associated with trails and on-site recreation spaces and play areas required in SMC 21A.30.140 and 21A.30.160 such as benches, picnic tables and drinking fountains; and
 - (d) Surface water management facilities as required by Chapter 9.04 KCC as adopted by Chapter 15.05 SMC;
- (10) Mailboxes and newspaper boxes may project into or be located within street setbacks;
- (11) Fire hydrants and associated appendages;
- (12) Metro bus shelters may be located within street setbacks;
- (13) Unless otherwise allowed in SMC 21A.45.080, freestanding and monument signs four feet or less in height, with a maximum sign area of 20 square feet may project into or be located within street setbacks; and
- (14) Stormwater conveyance and control facilities, both above and below ground, provided such projections are:
 - (a) Consistent with setback, easement and access requirements specified in the surface water design manual; or
 - (b) In the absence of said specifications, not within five feet of the property line.

(Ord. O2005-171 §§ 3, 4; Ord. O2004-143 § 1; Ord. O2003-132 § 12)

~~21A.25.230 — Personal services and retail uses in R-4 through R-18 zones.~~

~~The general personal service use (SIC No. 72 except 7216, 7218 and 7261) listed in SMC 21A.20.050 and the retail uses listed in SMC 21A.20.070 which are located in the R-4 through R-18 zones shall be subject to the following requirements:~~

- ~~(1) — Each individual establishment shall not exceed 5,000 square feet of gross floor area and the combined total of all contiguous commercial establishments shall not exceed 15,000 square feet of gross floor area;~~
- ~~(2) — Establishments shall not be located less than one mile from another commercial establishment, unless located with other establishments meeting the criteria in subsection (1) of this section;~~

~~(3) — Establishment sites shall abut an intersection of two public streets, each of which is designated as a neighborhood collector or arterial and that has improved pedestrian facilities for at least one-quarter mile from the site;~~

~~(4) — The maximum on-site parking ratios for establishments and sites shall be two per 1,000 square feet and required parking shall not be located between the building(s) and the street;~~

~~(5) — Buildings shall comply with the building facade modulation and roofline variation requirements in SMC 21A.30.060 and 21A.30.070 and at least one facade of the building shall be located within five feet of the sidewalk;~~

~~(6) — If the personal service or retail use is located in a building with multifamily uses, then the commercial use shall be on the ground floor and shall not exceed 25 percent of the total floor area of the building;~~

~~(7) — Sign and landscaping standards for the use apply. (Ord. O2003-132 § 12)~~

21A.30.160 On-site recreation – Play areas required.

(1) All single detached subdivisions, apartment, townhouse and mixed use development, excluding age restricted senior citizen housing, shall provide to children play areas within the recreation space on-site, except when facilities are available to the public within one-quarter mile that are developed as parks or playgrounds and are accessible without crossing of arterial streets.

(2) ~~If any~~ Play apparatus is provided in the play area shall meet Consumer Product Safety Standards for equipment, soft surfacing and spacing, and shall be located in an area that is:

(a) At least 400 square feet in size with no dimension less than 20 feet; and

(b) Adjacent to main pedestrian paths or near building entrances. (Ord. O99-29 § 1)

21A.35.040 Landscaping – Street frontages.

The required width of perimeter landscaping along street frontages shall be provided as follows:

(1) Twenty feet of Type II landscaping shall be provided for an institutional use, excluding playgrounds and playfields;

(2) Ten feet of Type II landscaping shall be provided for an industrial development;

(3) Ten feet of Type II landscaping shall be provided for an above-ground utility facility development, excluding distribution and transmission corridors, located outside a public right-of-way;

(4) Ten feet of Type III landscaping shall be provided for a commercial or attached/group residence development; and

(5) For single-family subdivisions:

(a) Street trees shall be planted per the Public Works Standards at the rate of one tree for every 40 feet of frontage along a neighborhood collector street or arterial street;

~~(b) — The trees shall be:~~

~~(i) — Located within the street right-of-way if permitted by the custodial state or local agency;~~

~~(ii) — No more than 20 feet from the street right-of-way line when located within a lot;~~

~~(iii) — Maintained by the adjacent landowner unless part of a City maintenance program; and~~

- (iv) — A species approved by the City if located within the street right of way and compatible with overhead utility lines;
- (e) — The trees may be spaced at irregular intervals in order to accommodate sight distance requirements for driveways and intersections. (Ord. O2005-175 § 1; Ord. O99-29 § 1)

21A.35.070 Landscaping – General standards for all landscape areas.

All new landscape areas proposed for a development shall be subject to the following provisions:

- (1) Berms shall not exceed a slope of two horizontal feet to one vertical foot (2:1).
- (2) All new turf areas, except all-weather, sand-based athletic fields shall:
 - (a) Be augmented with a two-inch layer of stabilized compost material or a four-inch layer of organic material with a minimum of eight percent organic material cultivated a minimum of six inches deep; or
 - (b) Have an existing organic content of eight percent or more to a depth of six inches as shown in a soil sample analysis. The soil analysis shall include:
 - (i) Determination of soil texture, indicating percentage of organic matter;
 - (ii) An approximated soil infiltration rate (either measured or derived from soil/texture/infiltration rate tables). A range of infiltration rates shall be noted where appropriate; and
 - (iii) Measure pH value.
- (3) Landscape areas, except turf or areas of established groundcover, shall be covered with at least two inches of ~~stabilized~~ **city approved mulch** ~~compost~~ to minimize evaporation.
- (4) Plants having similar water use characteristics shall be grouped together in distinct hydrozones.
- (5) Plant selection shall consider adaptability to climatic, geologic, and topographical conditions of the site. Preservation of existing vegetation is encouraged. (Ord. O99-29 § 1)

21A.45.080 Residential zone signs.

Signs in the R zone are limited as follows:

- (1) Nonresidential Use.
 - (a) One sign identifying nonresidential uses **on the same residential parcel**, not otherwise regulated by this section, not exceeding 25 square feet and not exceeding six feet in height is permitted;
 - (b) Schools are permitted one sign per school or school facility entrance, **not exceeding 25 square feet and not exceeding six feet in height is permitted**, which may be located in the setback. Two additional wall signs **not exceeding 25 square feet** attached directly to the school or school facility are permitted;
 - (c) Public agency facilities, including but not limited to civic centers, community centers, public agency offices, and public utility yards, are permitted two signs for each facility. Each sign shall be limited to a sign area of not more than 30 square feet and not exceeding a height of more than six feet for freestanding signs;
 - (d) Home occupation and home industry signs are limited to wall signs not exceeding six square feet.

21A.45.120 Signs or displays of limited duration.

The following temporary signs or displays are permitted and except as required by the International Building Code, Chapter 16.20 SMC, Construction Administrative Code, or as otherwise required in this chapter, do not require building permits:

- (1) Grand Opening Displays.
 - (a) Signs, posters, pennants, strings of lights, blinking lights, balloons, and searchlights are permitted for a period of up to one month to announce the opening of a new enterprise or the opening of an enterprise under new management; and
 - (b) All grand opening displays shall be removed upon the expiration of 30 consecutive days;
- (2) Construction Signs.
 - (a) Construction signs identifying architects, engineers, planners, contractors, or other individuals or firms involved with the construction of a building and announcing the character of the building or the purpose for which the building is intended may be displayed;
 - (b) One non-illuminated, double-faced sign is permitted for each public street upon which the project fronts;
 - (c) No sign shall exceed 32 square feet in surface area or 10 feet in height, or be located closer than 30 feet from the property line of the adjoining property; and
 - (d) Construction signs must be removed by the date of first occupancy of the premises or one year after placement of the sign, whichever occurs first;
- (3) Political Signs. Political signs are allowed, subject to the following requirements:
 - (a) Location.
 - (i) Political signs may be displayed on private property with the consent of the property owner;
 - (ii) Political signs may be displayed within public easements or streets; provided, that signs shall not be located within the center median of principal, minor, and collector arterials (as defined) or within roundabouts, traffic circles, or islands;
 - (iii) Political signs located pursuant to subsections (3)(a)(i) or (ii) of this section shall not obstruct sight distances as prescribed by Chapter 14.01 SMC, Public Works Standards Adopted, or by SMC 21A.25.220, Sight distance requirements.
 - (b) Specifications.
 - (i) Political signs located on private property may have a maximum sign area of up to 32 square feet;
 - (ii) Freestanding political signs on private property may be up to eight feet tall;
 - (iii) Political signs located on or within public easements or streets may have a maximum sign area of up to four square feet and may be up to three feet tall above grade;
 - (iv) Political signs located within 15 feet of a street corner or driveway, as further identified in Chapter 14.01 SMC, Public Works Standards Adopted, or

by SMC 21A.25.220, Sight distance requirements, shall be further limited in sign area and height as necessary to satisfy sight distance limitations;

- (c) Removal.
 - (i) Political signs shall be removed within seven days following the election;
 - (ii) Property owners shall be responsible for the removal of political signs located on private property;
 - (iii) The campaign officer or responsible official shall be responsible for the removal of political signs located on or within public easements or streets;
- (4) Real Estate Signs. All temporary real estate signs may be single or double-faced signs:
 - (a) Signs advertising an individual residential unit for sale or rent shall be limited to one sign per street frontage. The sign may not exceed eight square feet in area, and shall not exceed six feet in height. The sign shall be removed within five days after closing of the sale, lease or rental of the property.
 - (b) Portable off-premises residential directional signs announcing directions to an open house at a specified residence that is offered for sale or rent shall not exceed six square feet in area for each sign, and shall not exceed 42 inches in height. Such signs shall be permitted only when the agent or seller is in attendance at the property for sale or rent and may be located on the right-of-way outside of vehicular and bicycle lanes.
 - (c) On-site commercial (**non-residential**) or industrial property for sale or rent signs shall be limited to one sign per street frontage, and shall not exceed 32 square feet in area. The sign shall not exceed 12 feet in height. The sign shall be removed within ~~30~~ **five** days after closing of the sale, lease or rental of the property. A building permit is required and shall be issued for a one-year period. The permit is renewable for one year increments up to a maximum of three years.
 - (d) On-site residential development for sale or rent signs shall be limited to one sign per development. The sign shall not exceed 32 square feet in area, and shall not exceed 12 feet in height. A building permit is required and shall be issued for a one-year period. The permit is renewable annually for up to a maximum of three years.
 - (e) Off-site directional signs for residential developments shall be limited to six signs. Each sign shall not exceed 16 square feet in area, and shall include only the name of and directions to the residential development. The sign(s) shall be placed a maximum of two road miles from the nearest residential development entrance. No two signs for one residential development shall be located closer than 500 feet from one another on the same street. A single building permit is required for all signs and shall be issued for a one-year period. The permit number and the permit expiration date must be clearly displayed on the face of each sign. The permit is renewable for one-year increments up to a maximum of three years, provided that extensions will only be granted if the sign permit applicant has complied with the applicable regulations.
 - (f) Residential on-premises informational signs shall be limited to one sign per feature, including but not limited to signs for information centers, model homes, parking areas or announcing features such as parks, playgrounds, or trails.

Each sign shall not exceed 16 square feet in area, and shall not exceed six feet in height;

21A.65.020 Animal regulations – Small animals.

The raising, keeping, breeding, or fee boarding of small animals are subject to Chapter 11.04 KCC as adopted by Chapter 11.05 SMC, Animal Control, and the following requirements:

(1) Small animals that are kept indoors as household pets in aquariums, terrariums, cages or similar containers shall not be limited in number, except as may be provided in KCC Title 11 as adopted by Chapter 11.05 SMC. Other small animals excluding cats kept indoors as household pets shall be limited to five, of which not more than three may be unaltered cats or dogs. Cats kept indoors shall not be limited in numbers.

(2) Other small animals kept outside, including adult cats and dogs, shall be limited to three per household on lots of less than 20,000 square feet, five per household on lots of 20,000 to 35,000 square feet, with an additional two per acre of site area over 35,000 square feet up to a maximum of 20, unless more are allowed as an accessory use pursuant to subsection (5) of this section; provided, that all unaltered animals kept outdoors must be kept on a leash or in a confined area, except as authorized for a hobby kennel or cattery or commercial kennel or cattery pursuant to Chapter 11.04 KCC as adopted by Chapter 11.05 SMC.

(3) Excluding kennels and catteries, the total number of unaltered adult cats and/or dogs per household shall not exceed three.

(4) Animals considered to be household pets shall be treated as other small animals pursuant to subsection (5) of this section when they are kept for commercial breeding, boarding or training.

(5) Small animals and household pets kept as an accessory use outside the dwelling shall be raised, kept or bred only as an accessory use on the premises of the owner, or in a kennel or cattery approved through the conditional use permit process, subject to the following limitations:

(a) Birds shall be kept in an aviary or loft that meets the following standards:

(i) The aviary or loft shall provide one-half square foot for each parakeet, canary or similarly sized birds, one square foot for each pigeon, small parrot or similarly sized bird, and two square feet for each large parrot, macaw or similarly sized bird.

(ii) Aviaries or lofts shall not exceed 2,000 square feet.

(iii) The aviary is set back at least 10 feet from any property line, and 20 feet from any dwelling unit.

(b) Small animals other than birds shall be kept according to the following standards:

(i) The minimum site area shall be one-half acre if more than three small animals are being kept.

(ii) All animals shall be confined within a building, pen, aviary or similar structure.

(iii) Any covered structure used to house or contain such animals shall maintain a distance of not less than 10 feet to any property line, except

structures used to house mink and fox shall be a distance of not less than 150 feet.

(iv) Poultry, chicken, squab, and rabbits are limited to a maximum of one animal per one square foot of structure used to house such animals, up to a maximum of 2,000 square feet.

(v) Hamsters, nutria and chinchilla are limited to a maximum of one animal per square foot of structure used to house such animals, up to a maximum of 2,000 square feet.

(vi) Mink and fox are permitted only on sites having a minimum area of five acres.

(vii) Beekeeping is limited as follows:

(A) Beehives are limited to 50 on sites less than five acres;

(B) The number of beehives shall not be limited on sites of five acres or greater;

(C) Colonies shall be maintained in movable-frame hives at all times;

(D) Adequate space shall be provided in each hive to prevent overcrowding and swarming;

(E) Colonies shall be requeened following any swarming or aggressive behavior;

(F) All colonies shall be registered with the King County extension agent prior to April 1st of each year on a state registration form acceptable to the county; and

(G) Abandoned colonies, diseased bees, or bees living in trees, buildings, or any other space except in movable-frame hives shall constitute a public nuisance, and shall be abated as set forth in Chapter 21A.115 SMC, Enforcement.

(c) Kennels and catteries are subject to the following requirements:

~~(i) For kennels located on residential zoned sites:~~

~~(A) The minimum site area shall be five acres; and~~

~~(B) Structures housing animals and outdoor animal runs shall be a minimum distance of 100 feet from property lines abutting residential zones;~~

(ii)(i) For kennels located on nonresidential zoned sites, run areas shall be completely surrounded by an eight-foot solid wall or fence, and be subject to the requirements in KCC 11.04.060 as adopted by Chapter 11.05 SMC; and

(iii)(ii) Catteries shall be on sites of 35,000 square feet or more, and buildings used to house cats shall be a minimum distance of 50 feet from property lines abutting residential zones. (Ord. O99-29 § 1) *(These are not currently allowed in residential zones)*

21A.65.040 Animal regulations – Livestock – Building requirements.

(1) In residential zones, fee boarding of livestock other than in a legally established stable shall only be as an accessory use to a residence on the subject property (**See 21A.25.140 for setbacks related to manure storage**); and

(2) A barn or stable may contain a caretaker's accessory living quarters. (Ord. O99-29 § 1)

21A.65.050 Home occupation.

Residents of a dwelling unit may conduct one or more home occupations as accessory activities, provided:

(1) The total area devoted to all home occupation(s) shall not exceed 20 percent of the floor area of the dwelling unit. Areas with attached garages and storage buildings shall not be considered part of the dwelling unit for purposes of calculating allowable home occupation area but may be used for storage of goods associated with the home occupation;

(2) In residential zones, all the activities of the home occupation(s) shall be conducted indoors, except for those related to growing or storing of plants used by the home occupation(s) **or Daycare 1;**

(3) No more than one nonresident shall be employed by the home occupation(s);

(4) The following activities shall be prohibited in residential zones only:

- (a) Automobile, truck and heavy equipment repair;
- (b) Autobody work or painting;
- (c) Parking and storage of heavy equipment; and
- (d) Storage of building materials for use on other properties;
- (e) Real Estate Offices.**

(5) In addition to required parking for the dwelling unit, on-site parking shall be provided as follows:

- (a) One stall for a nonresident employed by the home occupation(s); and
- (b) One stall for patrons when services are rendered on-site;

(6) Sales shall be limited to:

- (a) Mail order sales;
- (b) Telephone sales with off-site delivery; and
- (c) Internet sales;

(7) Services to patrons shall be arranged by appointment or provided off-site;

(8) The home occupation(s) may use or store a vehicle for pickup of materials used by the home occupation(s) or the distribution of products from the site, provided:

- (a) No more than one such vehicle shall be allowed;
- (b) Such vehicle shall not park within any required setback areas of the lot or on adjacent streets; and
- (c) Such vehicle shall not exceed a weight capacity of one ton; and

(9) The home occupation(s) shall not use electrical or mechanical equipment that results in:

- (a) A change to the occupancy type of the structure(s) used for the home occupation(s);
- (b) Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or

(c) Fluctuations in line voltage off-premises;

(10) Uses not allowed as home occupations may be allowed as a home industry pursuant to this chapter. (Ord. O99-29 § 1)

21.100 Review Procedures-Notice Requirements

21A.100.060 Director review – Decision final unless appealed.

(1) The decision of the director shall be final unless the applicant or an aggrieved party files an appeal to the hearing examiner pursuant to Chapter 20.10.080 SMC.

(2) The hearing examiner shall review and make decisions based upon information contained in the written appeal and the record.

(3) The hearing examiner’s decision may affirm, modify, or reverse the decision of the director.

(4) As provided by SMC 20.10.240(1) and (2):

(a) The hearing examiner shall render a decision within 10 days of the closing of hearing; and

(b) The decision shall be final unless appealed under the provisions of SMC 20.10.250(1).

(5) Establishment of any use or activity authorized pursuant to a conditional use permit, **reasonable use exception**, or variance shall occur within four years of the effective date of the decision for such permit or variance; provided, that for schools this period shall be five years. This period may be extended for one additional year by the director if the applicant has submitted the applications necessary to establish the use or activity and has provided written justification for the extension.

(6) For the purpose of this section, “establishment” shall occur upon the issuance of all local permit(s) for on-site improvements needed to begin the authorized use or activity; provided, that the conditions or improvements required by such permits are completed within the timeframes of said permits.

(7) Once a use, activity or improvement allowed by a conditional use permit or variance has been established, it may continue as long as all conditions of permit issuance are met. (Ord. O99-29 § 1)

23.25. Notice and Orders

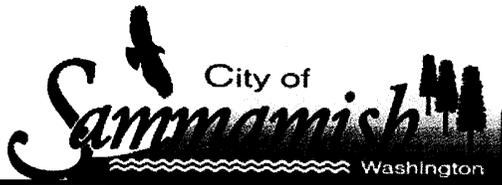
23.25.020 Effect.

(1) Subject to the appeal provisions of Chapter 23.35 SMC, a notice and order represents a determination that a civil code violation has occurred, that the cited party is a person responsible for the code violation, and that the violations set out in the notice and order require the assessment of penalties and costs and other remedies specified in the notice and order.

(2) Failure to correct the civil code violation in the manner prescribed by the notice and order subjects the person to whom the notice and order is directed to the use of any of the compliance remedies provided by this title, including:

(a) Additional civil penalties and costs;

- (b) A requirement that abatement, remediation and/or mitigation be performed;
 - (c) An agreement to perform community service as prescribed by this chapter;
 - (d) Permit suspension, revocation, modification and/or denial as prescribed by this chapter; and/or
 - (e) Abatement by the director and recovery of the costs of abatement according to the procedures described in this title.
- (3) Any person identified in the notice and order as responsible for the code violation may appeal the notice and order within ~~14~~ 21 days according to the procedures described in Chapter 23.35 SMC. *(to match 23.25.030 (11))*.
- (4) Failure to appeal the notice and order within the applicable time limits shall render the notice and order a final determination that the conditions described in the notice and order existed and constituted a civil code violation, and that the named party is liable as a person responsible for code compliance.
- (5) Issuance of a notice and order in no way limits a director's authority to issue a notice of infraction or stop work order to a person previously cited through the notice and order process pursuant to this title. Payment of the civil penalties assessed under the notice and order does not relieve a person found to be responsible for the code violation of his or her duty to correct the violation and/or to pay any and all civil fines or penalties accruing under notices of infractions or stop work orders issued pursuant to this title.
(Ord. O99-42 § 1; Ord. O99-29 § 1)



Planning Commission

801 – 228th Avenue SE • Sammamish, WA 98075 • Phone: 425-295-0500 • Fax: 425-295-0600 • Web: www.ci.sammamish.wa.us

To: City Council

From: Erica Tiliacos, Chair

RE: Recommendation for "Code Block" amendments to the Sammamish Municipal Code

July 24, 2008

A handwritten signature in black ink, appearing to read "Erica Tiliacos", is written over the "From:" line.

On behalf of the Planning Commission, I am pleased to transmit the Planning Commission's recommendations for the "Code Block" amendments to the Sammamish Municipal Code. The Commission and staff used a public participation process that included multiple public meetings and an extended public hearing process. These amendments address lots split by zoning designations, SEPA exemption thresholds, and drainage requirements in the Erosion Hazard Near Sensitive Water Body (EHNSWB) overlay and Landslide Hazard areas.

Lot Split by Zone Boundaries

The Planning Commission recommends that the City Council **adopt** the proposed amendment to the code regarding lots split by zoning boundaries.

Drainage Requirements for the EHNSWB overlay and the Landslide Hazard area

1. The Planning Commission recommends that the City Council **adopt** the proposed amendment related to the one-time exemption for 200 square foot additions to single family homes that existed prior to January 1, 2006.
2. The Planning Commission recommends that the City Council **defer action** on the proposed amendments that allow alternatives to infiltration or a tight-line system until the City has:
 - Resolved the litigation and implemented the NPDES permitting requirements.
 - Adopted an updated Storm Water Drainage Manual
 - Updated the Sub- Basin Plans for all of the sub-basins affected by these regulations

SEPA Exemption Thresholds:

The Planning Commission recommends that the City Council **defer action** on the proposed amendments regarding SEPA review thresholds. The Commission also notes that:

1. Raising SEPA exemption thresholds may be an appropriate incentive for Low Impact Development
2. Sufficient public notice and appeal processes must apply for any projects not subject to SEPA review
3. The Planning Commission requests additional SEPA training by the Department of Ecology

Thank you for your consideration of our recommendations. We look forward to the Council's process to take action later this year. If you have any questions, please contact Kamuron Gurol at 425.295.0520 or kgurol@ci.sammamish.wa.us.

Proposed Sammamish Municipal Code Amendments:

Property Split by Zone Boundary – Code Amendment

Amendment List:

SMC 21A.25.210 - Lot divided by zone boundary.

Plain text in the following pages represents existing regulatory language.

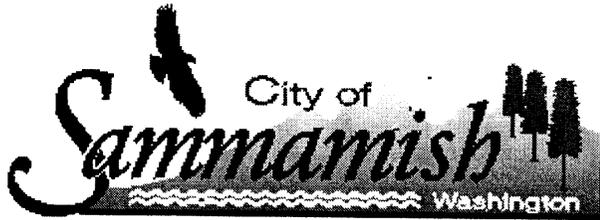
~~Strikethrough~~ text in the following pages represents the deletion of existing regulatory language.

Underlined text in the following pages represents the addition of new regulatory language.

21A.25.210 Lot divided by zone boundary.

When a lot or development proposal site is divided by a zone boundary, the following rules shall apply:

- (1) When a lot contains both residential and nonresidential zoning, the zone boundary between the zones shall be considered a lot line for determining permitted building height and required setbacks on the site;
- (2) When a lot or development proposal site contains residential zones of varying density:
 - (a) Any residential density transfer within ~~the~~ a lot or development proposal site shall be allowed from the portion with the lesser residential density to that of the greater residential density;
 - (b) Residential density transfer from the higher density zone to the lower density zone may be allowed only when:
 - (i) The units transferred from any R-12 or R-18 zoned portion of the lot or development proposal site are maintained in an attached dwelling unit configuration on the lower density portion receiving such units;
 - (ii) The transfer does not reduce the minimum density achievable on the lot or development proposal site;
 - (iii) The transfer enhances the efficient use of needed infrastructure;
 - (iv) The transfer does not result in significant adverse impacts to the low density portion of the lot or development proposal site;
 - (v) The transfer contributes to preservation of environmentally sensitive areas, wildlife corridors, or other natural features; and
 - (vi) The transfer does not result in significant adverse impacts to adjoining lower density properties;
 - (c) Compliance with these criteria shall be evaluated during review of any development proposals in which such a transfer is proposed; and
- (3) Uses on each portion of the lot shall only be those permitted in each zone pursuant to Chapter 21A.20 SMC.



Memorandum

Date: June 5, 2008
To: City of Sammamish Planning Commission
From: Kamuron Gurol, Community Development Director
Re: Erosion Hazard Near Sensitive Water Body (EHNSWB) overlay and
Landslide Hazard Area Code Amendments

Background:

In December of 2005, the City Council adopted amendments to the critical areas code that regulated stormwater drainage discharge in the Erosion Hazard Near Sensitive Water Body (EHNSWB) overlay and the Landslide Hazard area. The EHNSWB overlay was formerly known as the Special District Overlay 190 (a.k.a. SO-190). The EHNSWB regulates properties that drain to defined no-disturbance areas and properties located within the no-disturbance area (the slopes on the edge of the plateau where there is not a defined stream channel). The critical areas code also regulates landslide hazards due to geologic conditions and steep slope hazards due to site topography (both are termed "landslide hazard").

In particular, the 2005 code amendments established new drainage requirements for single family homes, single family additions, paving of gravel driveways, new driveways, etc, generating more than 2,000 square feet of total impervious surface, and restricted point discharges in or upstream of the no-disturbance area, erosion, or landslide hazard areas.

Three options are provided in the current code: a) infiltrate 100% of drainage on the site; b) tightline the stormwater drainage to a point below the erosion and/or landslide hazard area; or c) achieve no net increase of existing impervious surface (may need to eliminate some existing impervious surface area). The third option is allowed under the "grandfathering" provisions of the code.

Issue:

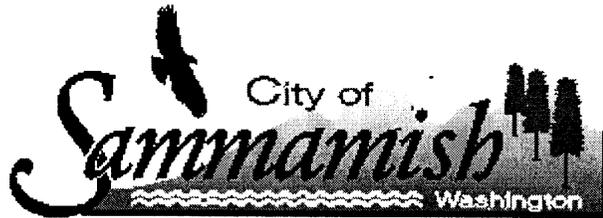
Unfortunately much of these areas are unsuitable for infiltration because of poor soil conditions and steep site topography. Consequently the only effective option for proposals generating more than 2,000 square feet is to tightline the drainage to a point below the erosion and/or landslide hazard area. This often requires crossing private property, is technically challenging, and is often cost-prohibitive.

Recently, the City Council directed the staff to investigate potential code amendments to address these concerns. If helpful, staff can bring selected case studies and supporting documentation to the Planning Commission meeting for review.

Proposal:

The proposed amendment requires that new single family homes and additions infiltrate to the maximum extent feasible based upon on-site soil conditions, topography, and confirmed through a geotechnical review. If 100% onsite infiltration is not feasible, drainage is subject individual lot evaluation to determine what methodology will minimize the potential landslides or erosion hazards. A tightline may or pmay not be required.

The amendment also provides a one-time exemption to the these requirements in the Landslide Hazard area and the EHNSWB overlay for additions to existing single family homes adding less than 200 square feet to the existing impervious surface area.



Memorandum

Date: June 19, 2008
To: City of Sammamish Planning Commission
From: Kamuron Gurol, Community Development Director
Re: EHNSWB overlay and Landslide Hazard Area Code Amendments:
Case Studies

Case Study 1 (A & B):

Proposed: Applicant has a 7,906 square foot lot and is proposing a new house with a total impervious surface area of 2,495 square feet (1,574 square foot house / patio / garage). The applicant is located adjacent to landslide hazard areas, and is within the EHNSWB overlay and drains to the no-disturbance area.

Required: Tight line drainage to a point beyond the erosion / landslide hazard area by connecting into an existing drainage system. Tight line will require approximately 400 feet of new pipe, plus the upgrade of approximately 1,200 feet of existing pipe.

Case Study 2:

Proposed: Applicant has a 35,299 square foot lot and is proposing a new addition with an area of 1,175 square feet. The applicant is located adjacent to landslide hazard areas, and is within the EHNSWB overlay and drains to the no-disturbance area.

Required: Applicant eliminated 1,200 square feet of existing driveway and existing site improvements (walkway, driveway) to create no net increase in impervious surface with the proposed addition.

Case Study 3:

Proposed: Applicant has a 34,768 square foot lot and is proposing a new addition with an area of 156 square feet. The applicant is located within the EHNSWB overlay and drains to the no-disturbance area.

Required: Applicant created 162 square feet of pervious driveway to create no net increase in impervious surface with the proposed addition.

Case Study 4:

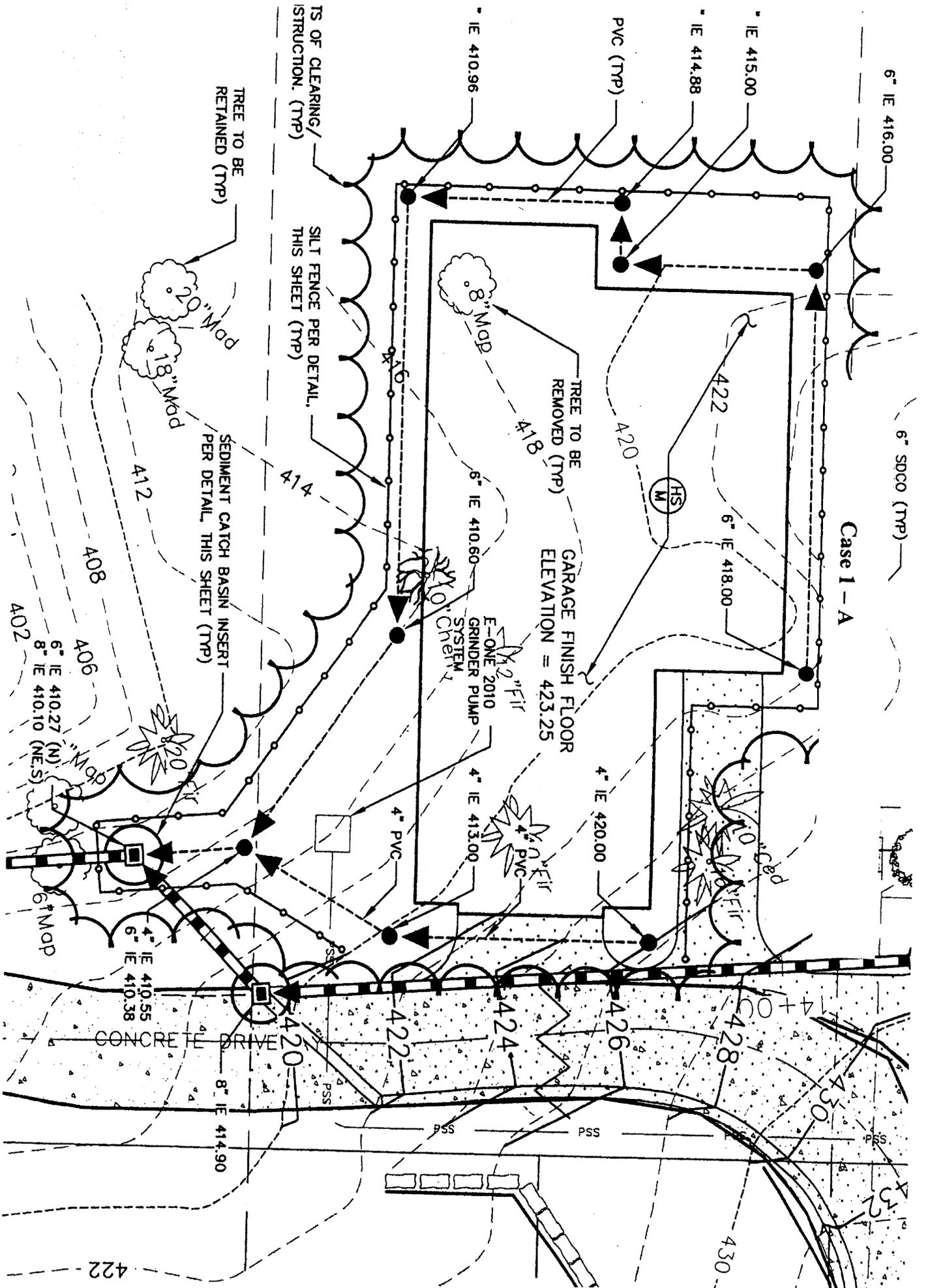
Proposed: Applicant has a 23,100 square foot lot and is proposing a new addition with an area of 1,460 square feet to an existing house with a footprint of 2,172 square feet. The applicant is located within the EHNSWB overlay and drains to the no-disturbance area. A large portion of the remaining lot is constrained by a septic drain field and associated reserve area.

Required: The applicant has not identified a solution at this time; 100% onsite infiltration or a tightline to an approved discharge location appear to be the available options.

Case Study 5:

Proposed: Applicant has a 12,500 square foot lot and is proposing a new addition with an area of 290 square feet to an existing house with a footprint of 3,150 square feet. The applicant is located within the EHNSWB overlay and drains to the no-disturbance area. Existing house drainage connects to a storm system; however connection for the addition was not an option in this case.

Required: The applicant provided drainage engineering information documenting that the existing house drainage was discharged from the storm system directly into Lake Sammamish. The applicant proposed new infiltration trenches to allow for infiltration of onsite drainage.

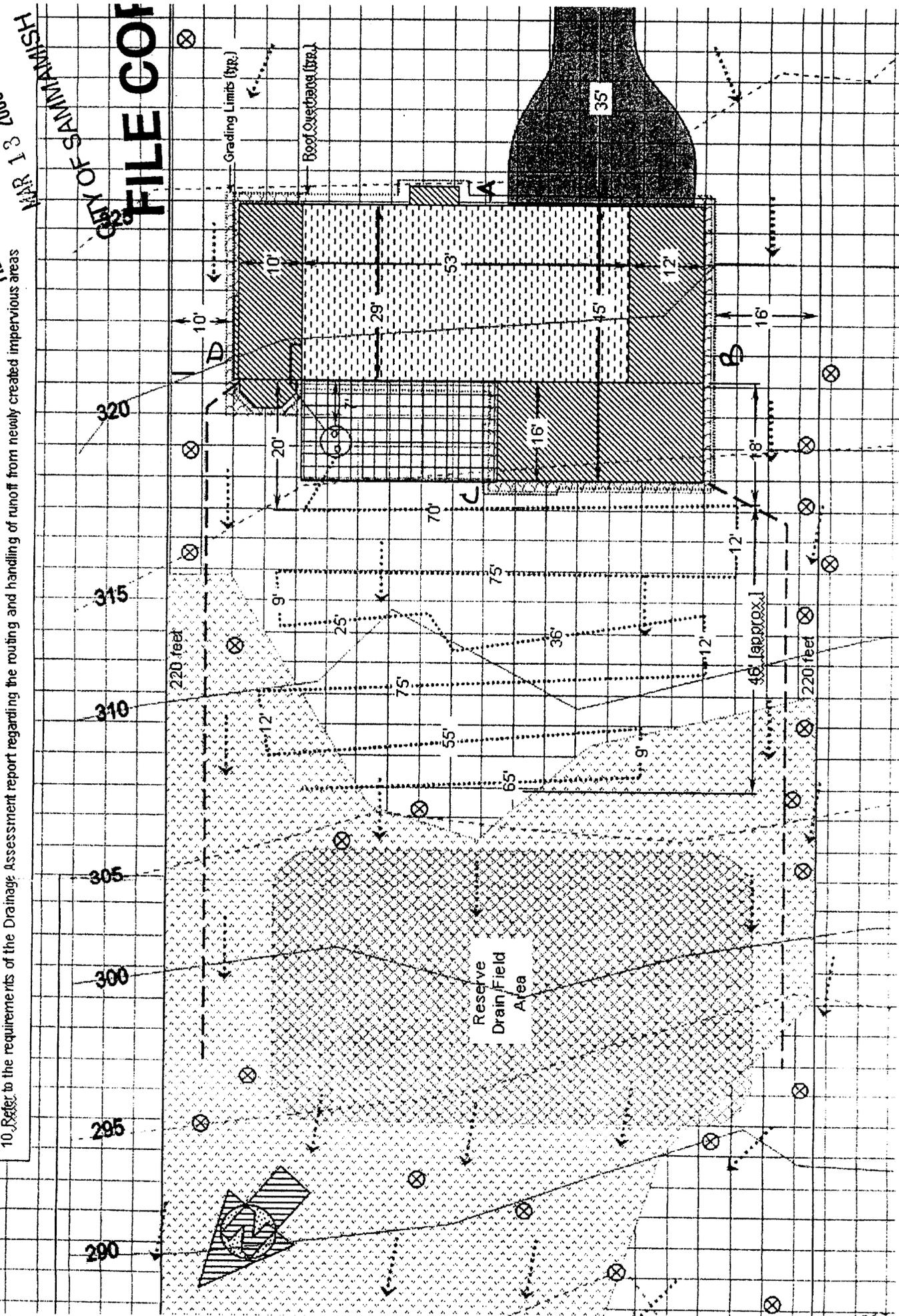


- 6. Construction hours are 7:00 AM to 8:00 PM on weekdays and 9:00 AM to 6:00 PM on Saturdays & Holidays. Work is not allowed on Sundays.
- 7. No materials or equipment shall be placed or st
- 8. No work is allowed within the public right-of-way
- 9. All projects are required to submit requests for v
- 10. Refer to the requirements of the Drainage Assessment report regarding the routing and handling of runoff from newly created impervious areas

Case 4

advance of starting work within the right-of-way in writing. Detailed drawing sh

FILE COF
 CITY OF SAN ANTONIO
 MAR 13 2008



5660

Case 5

SMC 21A28
MC 25.10

PROPERTY SURVEY

CORRECTIONS

NEW 12" x 18" INFILTRATION TRENCH

EXIST. 6' FENCE

SETBACK - ROOF OVERHANG TO FENCE

Roof overhang

NEW 3' WALKWAY
(Retaining wall between Road)

(Max. 18" High)

ADDITION

NEW 24" x 36" INFILTRATION TRENCH (E. WALL)

Large 1/2" (12" Dia.)

LOT SIZE 12,500 SQ. FT. CALC. FROM SURVEY
EXISTING 3,150 SQ. FT. KINCAID ASSESSOR

FOOT PRINT - EXISTING 3,150 SQ. FT.
ADDITION 3,440 SQ. FT.

RATIO $\frac{3,440}{12,500} = 28\%$

NOTES: 1) RETAINING WALLS (4" TO 18") HIGH



Row of
Asalios

Grass

Bank

Garage

Rhodi's

Hobby

Den

Living

Entertainment

Deck

Bed Room

Bed Room

Stair

Garage

Grass

Bank

Cable

Stone - Park

Stream Bed

Ground

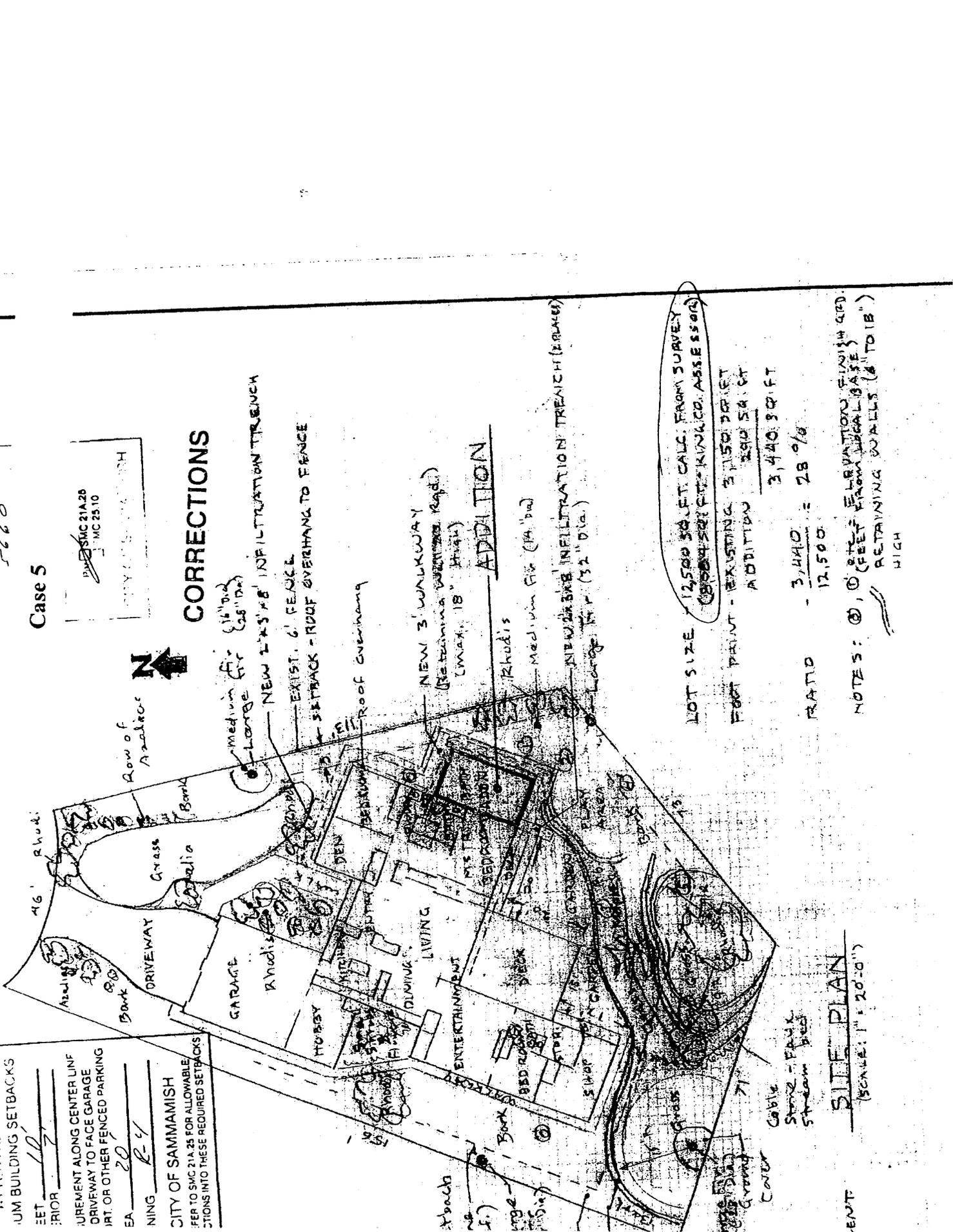
Cover

SITE PLAN

SCALE: 1" = 20'-0"

DATE

ATTENTION
MUM BUILDING SETBACKS
FEET: 10'
PRIOR: 2'
UREMENT ALONG CENTER LINE
DRIVEWAY TO FACE GARAGE
DRIVEWAY TO FENCED PARKING
PLOT OR OTHER FENCED PARKING
EA: 20'
NING: 2-4'
CITY OF SAMMAMISH
REFER TO SMC 21A.25 FOR ALLOWABLE
STIONS INTO THESE REQUIRED SETBACKS



EHNSWB and Landslide Hazard Area





Memorandum

Date: July 10, 2008
To: City of Sammamish Planning Commission
From: Kamuron Gurol, Community Development Director
Re: Erosion Hazard Near Sensitive Water Body (EHNSWB) overlay and
Landslide Hazard Area Code Amendments – Response to Public Comments

On June 19th, 2008, the Planning Commission opened the public hearing for the proposed code amendments related to the Erosion Hazard near Sensitive Water Body overlay and the Landslide Hazard area. Several people spoke at the public hearing, identifying different concerns, and two sets of written public comments were received. A brief summary of the testimony (related to the code amendments in question) and City response is provided below:

Public Concern: Save Lake Sammamish (Joanna Buehler) and the Friends of Pine Lake (Ilene Stahl) expressed concerns that the proposed code amendments would “gut the provisions of SO190 Erosion Hazards Near Sensitive Water Bodies”. The concerns were based upon the history surrounding the original regulations governing the EHNSWB overlay, which Save Lake Sammamish and the Friends of Pine Lake were instrumental in adopting and maintaining through the recent critical areas code update. The comments also express a concern that the regulations would be subject to the King County Surface Water Design Manual that were in effect in 1997 (and deficient in protecting water quality in Lake Sammamish, thereby necessitating the adoption of the EHNSWB overlay).

The original regulations were adopted to ensure that phosphorus contained within soils eroding from the edges of the plateau did not create water quality issues (phytoplankton blooms) within Lake Sammamish. When the City incorporated in August of 1999, the EHNSWB overlay regulations were adopted directly from the County code into the City's code. A copy of the subsection in question, as it existed prior to the recent 2005 critical areas update is attached to this memo together with a copy of the changes included in the 2005 critical areas update (highlighting indicates the changes). With some minor amendments for formatting / clarity, the regulations were unchanged in the recent critical areas update, except for the section currently under discussion (section 2c in SMC 21A.85, section 3c in SMC 21A.50).

Staff Response: The proposed code amendments do not amend the original regulations governing development in the Erosion Hazard Near Sensitive Water Body overlay. The original regulations were kept intact with the recent update to the critical areas code and in some cases tightened further. The proposed code amendments address a section of code that was added to the original EHNSWB overlay as part of the Council's recent critical areas update.

The original code, which the City is not proposing to amend, does require compliance with the adopted King County Surface Water Design Manual; the manual has been amended since 1997.

In particular, the proposed code amendments allow City staff to exercise discretion in identifying the best available science on an individual property to limit the risk of erosion or landslides. The current code language artificially limits the options for drainage control on a property to either: a) 100% infiltration or, b) a tightline. These two options are the only ones available, even when the best available science, generated after a review by a geotechnical engineer in concert with a civil engineer evaluating a specific property, and peer reviewed by the City staff, does not support either option “a)” or “b)”.

Erosion Hazard Near Sensitive Water Body regulations – prior to 2005 Critical Areas Code update

21A.85.060 Special district overlay – Erosion hazards near sensitive water bodies.

...

(c) New development proposals for sites that drained predeveloped runoff to the no-disturbance zone shall evaluate the suitability of on-site soils for infiltration. All runoff from newly constructed impervious surfaces shall be retained on-site unless this requirement precludes the ability to meet minimum density requirements in Chapter 21A.25 SMC. When minimum density cannot be met, runoff shall be retained on-site as follows:

- (i) Infiltration of all site runoff shall be required in granular soils as defined in the King County Surface Water Design Manual (KCSWDM);
- (ii) Infiltration of downspouts shall be required in granular soils and in soil conditions defined as allowable in the KCSWDM when feasible to fit the required trench lengths on-site;
- (iii) When infiltration of downspouts is not feasible, downspout dispersion trenches shall be required when minimum flow paths defined in the KCSWDM can be met on-site or into adjacent open space; and
- (iv) When dispersion of downspouts is not feasible, downspouts shall be connected to the drainage system via perforated pipe.

.....

Erosion Hazard Near Sensitive Water Body regulations – post 2005 Critical Areas Code update

21A.50.225 Special district overlay – Erosion hazards near sensitive water bodies.

...

(c) New development proposals for sites that drained predeveloped runoff to the no-disturbance zone shall evaluate the suitability of on-site soils for infiltration. All runoff from newly constructed impervious surfaces shall be retained on-site unless this requirement precludes a proposed subdivision or short subdivision from achieving 75 percent of the maximum net density as identified in Chapter 21A.25 SMC. When 75 percent of the maximum net density cannot be met, the applicant shall retain runoff on-site and a perforated tightline (Figure C.2.1, Appendix C, of the 1998 KCSWDM, as amended) shall be used to connect each lot to the central drainage system. The following drainage systems shall be evaluated, using the following sequential measures, which appear in order of preference:

- (i) Infiltration of all site runoff shall be required in granular soils as defined in the King County Surface Water Design Manual (KCSWDM);
- (ii) Infiltration of downspouts shall be required in granular soils and in soil conditions defined as allowable in the KCSWDM when feasible to fit the required trench lengths on-site. All flows not going to an individual infiltration system shall be detained on-site using the most restrictive flow control standard; and
- (iii) When infiltration of downspouts is not feasible, the applicant shall design a drainage system that will detain flows on-site using the applicable flow control standard and shall install an outlet from the drainage system designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; provided, that in no case shall development proposals generating more than 2,000 square feet of impervious surface create point discharges in or upstream of the no-disturbance or landslide hazard areas.

Proposed Sammamish Municipal Code Amendments:

Erosion Hazard near Sensitive Water Body (EHNSWB) and Landslide Hazard Area – Code Amendment

Amendment List:

- SMC 21A.50.225 - Erosion hazards near sensitive water bodies – Special district overlay.
SMC 21A.50.260 - Landslide hazard areas – Development standards and permitted alterations.

The proposed code amendment requires that new single family homes and additions to existing single family homes infiltrate to the maximum extent feasible on the subject site. If 100% onsite infiltration is not feasible, drainage is subject individual lot evaluation to determine what methodology will minimize the potential landslides or erosion hazards, however a tightline is not always required.

The code amendment also provides a one time exemption to the critical area drainage requirements in the Landslide Hazard area and the EHNSWB overlay for additions to existing single family homes adding less than 200 square feet to the existing impervious surface area.

Plain text in the following pages represents existing regulatory language.

~~Strikethrough~~ text in the following pages represents the deletion of existing regulatory language.

Underlined text in the following pages represents the addition of new regulatory language.

21A.50.225 Erosion hazards near sensitive water bodies – Special district overlay.

- (1) The purpose of the erosion hazards near sensitive water bodies special overlay district is to provide a means to designate sloped areas posing erosion hazards that drain directly to lakes or streams of high resource value that are particularly sensitive to the impacts of increased erosion and the resulting sediment loads from development.
- (2) The department of community development shall maintain a map of the boundaries of the erosion hazard near sensitive water bodies overlay district.
- (3) The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the erosion hazards near a sensitive water bodies special district overlay:
 - (a) A no-disturbance area shall be established on the sloped portion of the special district overlay to prevent damage from erosion. The upslope boundary of the no-disturbance area lies at the first obvious break in slope from the upland plateau over onto the steep valley walls. The downslope boundary of the no-disturbance area is the extent of those areas designated as erosion or landslide hazard areas. The department shall maintain maps of the approximate location of the no-disturbance areas, which shall be subject to field verification for new development proposals.
 - (b) Land clearing or development shall not occur in the no-disturbance area, except for the clearing activities listed in subsection (3)(b)(i) of this section. Clearing activities listed in subsection (3)(b)(i) of this section shall only be permitted if they meet the requirements of subsection (3)(b)(ii) of this section.
 - (i) Clearing activities may be permitted as follows:
 - (A) For single-family residences, associated landscaping and appurtenances on pre-existing separate lots;
 - (B) For utility corridors to service existing development along existing rights-of-way including any vacated portions of otherwise contiguous rights-of-way, or for the construction of utility corridors identified within an adopted water, storm water, or sewer comprehensive plan; or
 - (C) For streets providing sole access to buildable property and associated utility facilities within those streets.
 - (ii) The clearing activities listed in subsection (3)(b)(i) of this section may be permitted only if the following requirements are met:
 - (A) A report that meets the requirements of SMC 21A.50.130 shall show that the clearing activities will not subject the area to risk of landslide or erosion and that the purpose of the no-disturbance area is not compromised in any way;
 - (B) The clearing activities shall be mitigated, monitored and bonded consistent with the mitigation requirements applicable to critical areas;
 - (C) The clearing activities are limited to the minimal area and duration necessary for construction; and
 - (D) The clearing activities are consistent with this chapter.
 - (c) New proposed subdivisions, short subdivisions, commercial site development permits, and binding site plans ~~development proposals~~ for sites that drained predeveloped runoff to the no-disturbance zone shall evaluate the suitability of on-site soils for infiltration. All runoff from newly constructed impervious surfaces shall be retained on-site unless this requirement precludes a proposed subdivision or short subdivision from achieving 75 percent of the maximum net density as identified in Chapter 21A.25 SMC. When 75 percent of the maximum net density cannot be met, the applicant shall retain runoff on-site and a perforated tightline (Figure C.2.I, Appendix C, of the 1998 KCSWDM, as amended) shall be used to connect each lot to the central drainage system. The following drainage systems shall be evaluated, using the following sequential measures, which appear in order of preference:
 - (i) Infiltration of all site runoff shall be required in granular soils as defined in the King County Surface Water Design Manual (KCSWDM);
 - (ii) Infiltration of downspouts shall be required in granular soils and in soil conditions defined as allowable in the KCSWDM when feasible to fit the required trench lengths on-site. All flows not going to an individual infiltration system shall be detained on-site using the most restrictive flow control standard; and

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- (iii) When infiltration of downspouts is not feasible, the applicant shall design a drainage system that will detain flows on-site using the applicable flow control standard and shall install an outlet from the drainage system designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; provided, that in no case shall development proposals generating more than 2,000 square feet of impervious surface create point discharges in or upstream of the no-disturbance or landslide hazard areas.
- (d) 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:
 - (i) Infiltration of all site runoff shall be required to the maximum extent technically feasible in soils 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.
- (ed) 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 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.
- (fe) 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.
- (gf) 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).
- (hg) 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. O2005-193 § 1)

21A.50.260 Landslide hazard areas – Development standards and permitted alterations.

A development proposal containing, or within 50 feet of, a landslide hazard area shall meet the following requirements:

- (1) A minimum buffer of 50 feet shall be established from all edges of the landslide hazard area. The buffer shall be extended as required to mitigate a landslide or erosion hazard or as otherwise necessary to protect the public health, safety, and welfare.

- (2) The buffer may be reduced to a minimum of 15 feet if, based on a critical areas study, the City determines that the reduction will adequately protect the proposed development and other properties, the critical area and other critical areas off-site.
- (a) For single-family residential building permits only, the City may waive the critical areas study requirement if other development in the area has already provided sufficient information or if such information is otherwise readily available.
 - (b) In addition to the general requirements for critical areas studies that may be required consistent with SMC 21A.50.130, the critical areas study for a landslide hazard area shall specifically include:
 - (i) A description of the extent and type of vegetative cover;
 - (ii) A description of subsurface conditions based on data from site-specific explorations;
 - (iii) Descriptions of surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - (iv) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
 - (v) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
 - (vi) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
 - (vii) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - (viii) Recommendations for building siting limitations; and
 - (ix) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.
- (3) Unless otherwise provided herein or as part of an approved alteration, removal of any vegetation from a landslide hazard area or buffer shall be prohibited, except for limited removal of vegetation necessary for surveying purposes and for the removal of hazard trees determined to be unsafe by the City. The City may require the applicant to submit a report prepared by a certified arborist to confirm hazard tree conditions. Notice to the City shall be provided prior to any vegetation removal permitted by this subsection.
- (4) Vegetation on slopes within a landslide hazard area or buffer that has been damaged by human activity or infested by noxious weeds may be replaced with native vegetation pursuant to an enhancement plan approved by the City. The use of hazardous substances, pesticides, and fertilizers in landslide hazard areas and their buffers may be prohibited by the City.
- (5) Alterations to landslide hazard areas and buffers may be allowed only as follows:
- (a) A landslide hazard area located on a slope 40 percent or steeper may be altered only if the alteration meets the following standards and limitations:
 - (i) Approved surface water conveyances, as specified in the applicable City-adopted storm water requirements, may be allowed in a landslide hazard area if they are installed in a manner to minimize disturbance to the slope and vegetation;
 - (ii) Public and private trails may be allowed in a landslide hazard area subject to the standards and mitigations contained in this chapter, development standards in Chapter 21A.30 SMC, and requirements elsewhere in the SMC, when locating outside of the hazard area is not feasible;
 - (iii) Utility corridors may be allowed in a landslide hazard area if a critical areas study shows that such alteration will not subject the area to the risk of landslide or erosion;
 - (iv) Limited trimming and pruning of vegetation may be allowed in a landslide hazard area pursuant to an approved vegetation management plan for the creation and maintenance of views if the soils are not disturbed;
 - (v) Stabilization of sites where erosion or landsliding threatens public or private structures, utilities, roads, driveways or trails, or where erosion and landsliding threaten any lake, stream, wetland, or shoreline. Stabilization work shall be performed in a manner that causes the least possible disturbance to the slope and its vegetative cover; and
 - (vi) Reconstruction, remodeling, or replacement of an existing structure upon another portion of an existing impervious surface that was established pursuant to City ordinances and regulations may be allowed; provided:

- (A) If within the buffer, the structure is located no closer to the landslide hazard area than the existing structure; and
- (B) The existing impervious surface within the buffer or landslide hazard area is not expanded as a result of the reconstruction or replacement.

- (b) A landslide hazard area located on a slope less than 40 percent may be altered only if the alteration meets the following requirements:
 - (i) The development proposal will not decrease slope stability on contiguous properties; and
 - (ii) 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 landslides; and
- (c) Neither buffers nor a critical area tract shall be required if the alteration meets the standards of subsection (5)(b) of this section.

(6)

New development proposals 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:

- (a) Infiltration of all site runoff shall be required to the maximum extent technically feasible in soils conditions, consistent with the infiltration system design requirements of the KCSWDM;
- (b) 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;
- (c) 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,
- (d) 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.

~~Point discharges from surface water facilities in erosion hazard areas and onto or upstream from landslide hazard areas shall be prohibited for developments generating more than 2,000 square feet of impervious surface area, except if conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas downstream from the discharge.~~

(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 geologist or geotechnical engineer; and
 - (b) The approved regrading of any slope that was created through previous legal grading activities. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

Section C

Attachment A

Chapter 20.15

STATE ENVIRONMENTAL POLICY ACT PROCEDURES

Sections:

- 20.15.010 Definitions and abbreviations.
- 20.15.020 Lead agency.
- 20.15.030 Purpose and general requirements.
- 20.15.040 Categorical exemptions and threshold determinations.
- 20.15.050 Planned actions.
- 20.15.060 Environmental impact statements and other environmental documents.
- 20.15.070 Comments and public notice.
- 20.15.080 Use of existing environmental documents.
- 20.15.090 Substantive authority.
- 20.15.100 SEPA/GMA integration.
- 20.15.110 Ongoing actions.
- 20.15.120 Responsibility as consulted agency.
- 20.15.130 Appeals.
- 20.15.140 Department procedural rules.
- 20.15.010 Definitions and abbreviations.

(1) The City of Sammamish adopts by reference the definitions contained in WAC 197-11-700 through 197-11-799. In addition, the following definitions are adopted for this chapter:

- (a) "City council" means the Sammamish City council.
- (b) "Department" means the City of Sammamish department of community development.
- (c) "Director" means the director of the department of community development.

(2) The following abbreviations are used in this chapter:

- (a) SEPA – State Environmental Policy Act.

- (b) DNS – Determination of nonsignificance.
- (c) DS – Determination of significance.
- (d) EIS – Environmental impact statement. (Ord. O2003-132 § 9)

20.15.020 Lead agency.

The procedures and standards regarding lead agency responsibility contained in WAC 197-11-050 and 197-11-922 through 197-11-948 are adopted, subject to the following:

- (1) The department shall serve as the lead agency and the director shall serve as the responsible official for all SEPA activity by the City of Sammamish. (Ord. O2003-132 § 9)

20.15.030 Purpose and general requirements.

The procedures and standards regarding the timing and content of environmental review specified in WAC 197-11-055 through 197-11-100 are adopted subject to the following:

- (1) Pursuant to WAC 197-11-055(4), the department shall adopt rules and regulations pursuant to Chapter 2.55 SMC establishing a process for environmental review at the conceptual stage of permit applications that require detailed project plans and specifications (i.e., building permits and PUDs). This process shall not become effective until it has been reviewed by the council.
- (2) The optional provision of WAC 197-11-060(3)(c) is adopted.
- (3) Under WAC 197-11-100, the applicant shall prepare the initial environmental checklist, unless the lead agency specifically elects to prepare the checklist. The lead agency shall make a reasonable effort to verify the information in the environmental checklist and shall have the authority to determine the final content of the environmental checklist.
- (4) The director may set reasonable deadlines for the submittal of information, studies, or documents necessary for, or subsequent to, threshold determinations. Failure to meet such deadlines shall cause the application to be deemed withdrawn, and plans or other data previously submitted for review may be returned to the applicant together with any unexpended portion of the application review fees. (Ord. O2003-132 § 9)

20.15.040 Categorical exemptions and threshold determinations.

- (1) The City of Sammamish adopts the standards and procedures specified in WAC 197-11-300 through 197-11-390 and 197-11-800 through 197-11-890 for determining categorical exemptions and making threshold determinations subject to the following:

- (a) The following exempt threshold levels are hereby established pursuant to WAC 197-11-800(1)(c) for the exemptions in WAC 197-11-800(1)(b):

- (i) The construction or location of any residential structures of up to ~~four~~ twenty dwelling units;
 - (ii) The construction of an office, school, commercial, recreational, service, or storage building with up to ~~4,000~~ 12,000 square feet of gross floor area, and with associated parking facilities designed for up to ~~20~~ 40 automobiles;
 - (iii) The construction of a parking lot designed for up to ~~20~~ 40 automobiles;
 - (iv) Any fill or excavation of up to ~~100~~ 500 cubic yards throughout the total lifetime of the fill or excavation; ~~provided, however, that if the proposed action is to remove from or replace fill in a sensitive area to correct a violation, the threshold shall be 500 cubic yards.~~
- (b) The determination of whether a proposal is categorically exempt shall be made by the department.

(2) The mitigated DNS provision of WAC 197-11-350 shall be enforced as follows:

- (a) If the department issues a mitigated DNS, conditions requiring compliance with the mitigation measures that were specified in the application and environmental checklist shall be deemed conditions of any decision or recommendation of approval of the action.
- (b) If at any time the proposed mitigation measures are withdrawn or substantially changed, the responsible official shall review the threshold determination and, if necessary, may withdraw the mitigated DNS and issue a DS. (Ord. O2003-132 § 9)

20.15.050 Planned actions.

The procedures and standards of WAC 197-11-164 through 197-11-172 are adopted regarding the designation of planned actions. (Ord. O2003-132 § 9)

20.15.060 Environmental impact statements and other environmental documents.

The procedures and standards for preparation of environmental impact statements and other environmental documents pursuant to WAC 197-11-400 through 197-11-460 and 197-11-600 through 197-11-640 are adopted, subject to the following:

- (1) Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).
- (2) Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the department shall be responsible for preparation and content of EISs and other environmental documents. The department shall contract with consultants as necessary for the preparation of environmental documents. The department may

consider the opinion of the applicant regarding the qualifications of the consultant but the department shall retain sole authority for selecting persons or firms to author, co-author, provide special services, or otherwise participate in the preparation of required environmental documents.

(3) Consultants or subconsultants selected by the City to prepare environmental documents for a private development proposal shall not: act as agents for the applicant in preparation or acquisition of associated underlying permits; have a financial interest in the proposal for which the environmental document is being prepared; perform any work or provide any services for the applicant in connection with or related to the proposal.

(4) The department ~~may~~ shall establish and maintain one or more lists of qualified consultants who are eligible to receive contracts for preparation of environmental documents. Separate lists may be maintained to reflect specialized qualifications or expertise. When the department requires consultant services to prepare environmental documents, the department shall select a consultant from the lists and negotiate a contract for such services. Pursuant to Chapter 2.55 SMC, the department shall promulgate administrative rules that establish processes to: create and maintain a qualified consultant list; select consultants from the list; remove consultants from the list; provide a method by which applicants may request a reconsideration of selected consultants based upon costs, qualifications, or timely production of the environmental document; and waive the consultant selection requirements of this chapter.

(5) All costs of preparing the environmental document shall be borne by the applicant. Pursuant to Chapter 2.55 SMC, the department ~~may~~ shall promulgate administrative rules that establish a deposit mechanism trust fund for consultant payment purposes, define consultant payment schedules, prescribe procedures for treating interest from deposited funds, and develop other procedures necessary to implement this chapter.

(6) In the event an applicant decides to suspend or abandon the project, the applicant must provide formal written notice to the department and consultant. The applicant shall continue to be responsible for all monies expended by the division or consultants to the point of receipt of notification to suspend or abandon, or other obligations or penalties under the terms of any contract let for preparation of the environmental documents.

(7) The department shall only publish an environmental impact statement (EIS) when it believes that the EIS adequately discloses: the significant direct, indirect, and cumulative adverse impacts of the proposal and its alternatives; mitigation measures proposed and committed to by the applicant, and their effectiveness in significantly mitigating impacts; mitigation measures that could be implemented or required; and unavoidable significant adverse impacts. Unless otherwise agreed to by the applicant, a final environmental impact statement shall be issued by the department within 270 days following the issuance of a DS for the proposal, except for public projects and nonproject actions, unless the department determines at the time of issuance of the DS that a longer time period will be required because of the extraordinary size of the proposal or the scope of the environmental impacts resulting therefrom; provided, that the additional time shall not exceed 90 days unless agreed to by the applicant.

(8) The following periods shall be excluded from the 270-day time period for issuing a final environmental impact statement:

- (a) Any time period during which the applicant has failed to pay required environmental review fees to the department;
- (b) Any period of time during which the applicant has been requested to provide additional information required for preparation of the environmental impact statement; and
- (c) Any period of time during which the applicant has not authorized the department to proceed with preparation of the environmental impact statement. (Ord. O2003-132 § 9)

20.15.070 Comments and public notice.

(1) The procedures and standards of WAC 197-11-500 through 197-11-570 are adopted regarding public notice and comments.

(2) For purposes of WAC 197-11-510, public notice shall be required as provided in this title. Publication of notice in a newspaper of general circulation in the area where the proposal is located also shall be required for all nonproject actions and for all other proposals that are subject to the provisions of this chapter but are not classified as land use permit decisions in this title.

(3) The responsible official may require further notice if deemed necessary to provide adequate public notice of a pending action. Failure to require further or alternative notice shall not be a violation of any notice procedure. (Ord. O2003-132 § 9)

20.15.080 Use of existing environmental documents.

The procedures and standards of WAC 197-11-600 through 197-11-640 are adopted regarding use of existing environmental documents. (Ord. O2003-132 § 9)

20.15.090 Substantive authority.

(1) The procedures and standards of WAC 197-11-650 through 197-11-660 regarding substantive authority and mitigation, and WAC 197-11-158, regarding reliance on existing plans, laws and regulations, are adopted.

(2) For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following policies, plans, rules and regulations, and all amendments thereto, are designated as potential bases for the exercise of the City of Sammamish's substantive authority under SEPA, subject to the provisions of RCW 43.21C.240 and subsection (3) of this section:

- (a) The policies of the State Environmental Policy Act, RCW 43.21C.020.
- (b) The City's comprehensive plan, and surface water management program basin plans, as specified in Chapters 24.15 and 24.20 SMC.

- (c) The Sammamish development code, as adopted in SMC Title 21A.
- (d) The City's shoreline management master plan, as adopted in SMC Title 25.
- (e) The King County surface water runoff policy, as adopted by reference in Chapter 9.04 KCC as adopted by Chapter 15.05 SMC.
- (f) The City's public works standards and transportation regulations, as adopted in SMC Title 14.
- (g) The City's noise ordinance, Chapter 8.15 SMC.

(3) Substantive SEPA authority to condition or deny new development proposals or other actions shall be used only in cases where specific adverse environmental impacts are not addressed by regulations as set forth below, or unusual circumstances exist. In cases where the City has adopted the following regulations to systematically avoid or mitigate adverse impacts (Chapter 21A.25 SMC, Development Standards – Density and Dimensions; Chapter 21A.30 SMC, Development Standards – Design Requirements; Chapter 21A.35 SMC, Development Standards – Landscaping and Irrigation; Chapter 21A.40 SMC, Development Standards – Parking and Circulation; Chapter 21A.45 SMC, Development Standards – Signs; Chapter 21A.50 SMC, Environmentally Sensitive Areas; Chapter 21A.55 SMC, Development Standards – Communication Facilities; Chapter 21A.60 SMC, Development Standards – Adequacy of Public Facilities and Services), those standards and regulations will normally constitute adequate mitigation of the impacts of new development. Unusual circumstances related to a site or to a proposal, as well as environmental impacts not mitigated by the foregoing regulations, will be subject to site-specific or project-specific SEPA mitigation.

(4) Any decision to approve, deny, or approve with conditions pursuant to RCW 43.21C.060 shall be contained in the responsible official's decision document. The written decision shall contain facts and conclusions based on the proposal's specific adverse environmental impacts (or lack thereof) as identified in an environmental checklist, EIS, threshold determination, other environmental document including a department's staff report and recommendation to a decision maker, or findings made pursuant to a public hearing authorized or required by law or ordinance. The decision document shall state the specific plan, policy or regulation that supports the SEPA decision and, if mitigation beyond existing development regulations is required, the specific adverse environmental impacts and the reasons why additional mitigation is needed to comply with SEPA.

(5) This chapter shall not be construed as a limitation on the authority of the City to approve, deny, or condition a proposal for reasons based upon other statutes, ordinances, or regulations. (Ord. O2003-132 § 9)

20.15.100 SEPA/GMA integration.

The procedures and standards regarding the timing and content of environmental review specified in WAC 197-11-210 through WAC 197-11-235 are hereby adopted. (Ord. O2003-132 § 9)

20.15.110 Ongoing actions.

Unless otherwise provided herein, the provisions of Chapter 197-11 WAC shall be applicable to all elements of SEPA compliance, including the modification or supplementation of an EIS, initiated after the effective date of the ordinance. (Ord. O2003-132 § 9)

20.15.120 Responsibility as consulted agency.

All requests from other agencies that the City of Sammamish consult on threshold investigations, the scope process, EISs, or other environmental documents shall be submitted to the department. The department shall be responsible for coordination with other affected City officials and for compiling and transmitting the City's response to such requests for consultation. (Ord. O2003-132 § 9)

20.15.130 Appeals.

(1) Appeals of threshold determinations or the adequacy of a final EIS are procedural SEPA appeals that are conducted by the hearing examiner pursuant to the provisions of SMC 20.10.070, subject to the following:

- (a) Only one appeal of each threshold determination shall be allowed on a proposal.
- (b) As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight.
- (c) An appeal of a DS must be filed within 14 calendar days following issuance of the DS.
- (d) An appeal of a DNS for actions classified as land use permit decisions in SMC 20.05.020 must be filed within 21 calendar days following notice of the decision as provided in SMC 20.05.090. For actions not classified as land use permit decisions in SMC 20.05.020, no administrative appeal of a DNS is permitted.
- (e) Administrative appeals of the adequacy of a final EIS are permitted for actions classified as Type 2, 3 or 4 land use permit decisions in SMC 20.05.020, except Type 1 decisions for which the department has issued a threshold determination. Such appeals must be filed within 21 calendar days following notice of the decision or recommendation as provided in SMC 20.05.090.
- (f) The hearing examiner shall make a final decision on all procedural SEPA determinations. The hearing examiner's decision may be appealed to superior court as provided in SMC 20.10.250(1).

(2) The hearing examiner's consideration of procedural SEPA appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.

(3) Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the merits of a proposal.

(4) Notwithstanding the provisions of subsections (1) through (3) of this section, the department may adopt procedures under which an administrative appeal shall not be provided if the director finds that consideration of an appeal would be likely to cause the department to violate a compliance, enforcement, or other specific mandatory order or specific legal obligation. The director's determination shall be included in the notice of the SEPA determination, and the director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action. (Ord. O2003-132 § 9)

20.15.140 Department procedural rules.

(1) The department may prepare rules and regulations pursuant to Chapter 2.55 SMC for the implementation of SEPA, Chapter 197-11 WAC, and this chapter.

(2) The rules and regulations prepared by the department shall not become effective until approved by council motion. (Ord. O2003-132 § 9)