City of Sammamish Washington
Department of Community Development
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EAST LAKE SAMMAMISH TRAIL SEGMENT 2B
FINDINGS/CONCLUSIONS/RECOMMENDATIONS
SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT (SSDP)
CITY OF SAMMAMISH FILE NUMBER: SSDP2016-00415

File Name:	East Lake Sammamish Trail Segment 2B - SSDP2016-00415
Proposal:	Request to improve 3.5 miles of the existing soft-surface interim East Lake Sammamish Trail, extending from SE 33rd Street to Inglewood Hill Road. The interim trail will be improved to a cross section of 12 feet of paved surface with 2-foot gravel shoulders and a 1-foot clear zone on both sides. In conjunction with the trail widening, associated activity will take place which includes: earthwork; drainage improvements related to the trail; culvert replacements to improve fish passage; construction of rest areas with benches; improved intersections and sight triangles; mitigation and habitat enhancement; tree removal and replanting; landscaping and fencing; and access and traffic control (bollards, striping, signage, etc.). The project proposal is located within the Shoreline Jurisdiction of Lake Sammamish which is a Shoreline of Statewide Significance. A portion of the project as proposed is located outside of the Lake Sammamish Shoreline Jurisdiction although is included in this permit for analysis of impacts under RCW 90.58.340.
Applicant:	Gina Auld, King County Department of Natural Resources and Parks, 201 South Jackson Street, Suite 700, Seattle, WA 98104
Applicant Agent:	Jenny Bailey, Parametrix, 719 2nd Avenue, Suite 200, Seattle, WA 98104
Project Location:	The proposed development consists of a 3.5 mile stretch of property used as an interim trail and is located west of East Lake Sammamish Parkway SE and East Lake Sammamish Parkway NE between SE 33rd Street and Inglewood Hill Road within King County right-of-way in Sammamish, WA; within portions of Sections 06, 07, & 08, Township 24 North, Range 6 East, W.M. and Sections 29, 31, & 32, Township 25 North, Range 6 East, W.M.
Water Body:	Lake Sammamish
Shoreline Environment:	Lake Sammamish Shoreline Residential
Decision Required:	Shoreline Substantial Development Permit (SSDP) – Type 4 Decision (SMC 20.05.020)
Decision Authority:	City of Sammamish Hearing Examiner on Recommendation by the Community Development Department Director (SMC 20.05.020)
Planner Assigned	Lindsey Ozbolt, Associate Planner, Community Development Department
Director's Recommendation:	The City of Sammamish Department of Community Development recommends to the City of Sammamish Hearing Examiner **Approval with Conditions** of the proposed King County East Lake Sammamish Trail Segment 2B, SSDP2016-00415, as the applicant has demonstrated that the criteria for Shoreline Substantial Development have been met as conditioned. The Project is in compliance with the Sammamish Municipal Code and Shoreline Master Program as conditioned.

Jeff Thomas, Director

Application: 10/19/2016
Determination of Completeness: 12/13/2016.
Notice of Application: 12/28/2016
Public Comment Period: 12/28/2016 through 1/27/2017

Notice of Public Hearing Mailed: 10/04/2017
Notice of Public Hearing Published: 10/04/2017
Notice of Recommendation: 10/04/2017
Public Hearing: 11/03/2017

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EXHIBIT LIST:

1. Staff Report
2. Notice of Public Hearing and Staff Recommendation
3. Land Use Application
4. Shoreline Substantial Development Permit Application
5. Affidavit of Applicant Status
6. Project Narrative
7. 60% Revised Project Plan Set/Site Plan
8. JARPA
9. Record of Decision - FEIS
10. SEPA Narrative
11. Acceptance of Financial Responsibility
12. Draft Technical Information Report
13. Section 106 Programmatic Agreement
14. Pre-Application notes (PRA2016-00334)
15. Critical Areas Affidavit
16. Revised Critical Areas Study – July 2017
17. Ordinance O2016-410
18. Letter of Incomplete Application – November 15, 2016
19. King County Response Letter to City Letter of Incomplete Application – November 30, 2016
20. Title Reports submitted on October 19, 2016
21. Ownership Binder submitted on November 30, 2016
22. Letter of Complete Application – December 13, 2016
23. Notice of Application – December 28, 2016
24. Notice of Application – Affidavit of Mailing and Sign Posting
25. Notice of Application – Affidavit of Seattle Times Publication
26. Clarification to Letter of Complete Application – December 23, 2016
27. March 1, 2017 process change letter
28. Comment Matrix Log
29. Public Comments
30. Notice of 120 Day Clock Exceedance – April 12, 2017
31. Notice of 120 Day Clock Exceedance – Affidavit of Email
32. Notice of 120 Day Clock Exceedance – Affidavit of Mailing
33. Notice of 120 Day Clock Exceedance – Affidavit of Sign Posting
34. Notice of 120 Day Clock Exceedance – Affidavit of Seattle Times Publication
35. Status of ELST Segment 2B SSDP Letter – April 12, 2017
36. First Review and Request for Additional Information Letter – April 12, 2017
37. Public Works Review Memorandum #1 – March 27, 2017
38. Eastside Fire and Rescue Plan Review – March 30, 2017
39. Sammamish Plateau Water Review – January 27, 2017
40. Sammamish Plateau Water Plan Set Review – January 27, 2017
41. Sammamish Plateau Water Notes – March 27, 2017
42. The Watershed Company Memorandum – March 22, 2017
43. Comment from Muckleshoot Indian Tribe – January 27, 2017
44. Comment from Snoqualmie Indian Tribe – December 28, 2016
45. Email correspondence from P. Reddy and Staff – March 22, 2017

46. Email correspondence from S. Roberts, Staff and King County – May 22, 2017
47. Email correspondence from M. Parrott and Staff – June 22, 2017
48. Email correspondence from P. Harrell and Staff – July 24, 2017
49. King County Response Cover Letter – July 11, 2017
50. City Letter Comments Annotated and County Response Matrix – July 2017
51. Public Works Comments Annotated and County Response Matrix – July 2017
52. Sammamish Plateau Water Comments Annotated and County Response Matrix – July 2017
53. Eastside Fire and Rescue Comments Annotated and County Response Matrix – July 2017
54. Watershed Comments Annotated and County Responses including Response Matrix – July 2017
55. Mitigation Sequencing Compliance Narrative – July 2017
56. Shoreline No Net Loss Narrative
57. Fish Passage Draft Technical Memorandum – February 26, 2015
58. Fish Passage Final Technical Memorandum Supplemental – May 18, 2015
59. Trail Demand Analysis Memorandum – June 20, 2017
60. Trail Width Memorandum – June 20, 2017
61. Updated Tree Inventory/Assessment Report – July 11, 2017
62. Revised 60% Tree Preservation Plan
63. Second Review Letter to County – August 23, 2017
64. Public Works Review Memorandum #2 – August 22, 2017
65. The Watershed Company Memorandum – September 25, 2017
66. Fehr Peers Review letter – April 7, 2017 and Fehr Peers Review Letter – September 25, 2017
67. Real Property Interests Memorandum from Kenyon Disend – December 14, 2016 and Updated Real Property Interests Memorandum from Kenyon Disend – September 29, 2017

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I. INTRODUCTION:

The City of Sammamish made a conscientious effort to provide this staff report in as clear of a format as possible. In line with this effort, the staff report is broken down into numerous sections to clearly explain the East Lake Sammamish Trail Segment 2B Shoreline Substantial Development Permit (SSDP) proposal and the process followed by the City to reach its recommendation to the Hearing Examiner. The Proposal, Background, and Review section is intended to provide an explanation of the County's application request, give a brief history of the East Lake Sammamish Trail, provide an overview of the policies and regulations this proposal is reviewed under, a general summary of received public comment, and other required permits. The Findings of Fact and Conclusions sections provide detailed information to support the recommendation of the City to the Hearing Examiner. Finally, the Recommendation and Recommended Conditions of Approval sections of this report describe the recommendation made to the Hearing Examiner and list conditions proposed to ensure project compliance and help guide the review of any future construction permits.

II. PROPOSAL, BACKGROUND, AND REVIEW PROCESS:

1. PROPOSAL:

King County Department of Natural Resources and Parks (the "County") is proposing to improve 3.5 miles of the existing soft-surface interim East Lake Sammamish Trail, extending from SE 33rd Street to Inglewood Hill Road known as East Lake Sammamish Trail Segment 2B (the "Trail"). The interim trail will be improved to a cross section of 12 feet of paved surface with 2-foot gravel shoulders and a 1-foot clear zone on both sides. In conjunction with the trail widening, associated activity will take place which includes: earthwork; drainage improvements related to the trail; culvert replacements to improve fish passage; construction of rest areas with benches; improved intersections and sight triangles; mitigation and habitat enhancement; tree removal and replanting; landscaping and fencing; access and traffic control (bollards, striping, signage, etc.); and clearing and grading limits. These elements are collectively known as the "Project" for the purpose of this staff report and recommendation. An expanded Project Narrative is included as **Exhibit 6**. A Project Site Plan is included as **Exhibit 7**.

2. PROJECT SITE:

The proposed development site consists of 12 King County tax parcels (the "Site"), comprising the 3.5-mile stretch of property currently used as a segment of the interim Trail. The Site is located west of East Lake Sammamish Parkway SE and East Lake Sammamish Parkway NE (the "Parkway") between SE 33rd Street and Inglewood Hill Road in Sammamish, WA within portions of Sections 06, 07, & 08, Township 24 North, Range 6 East, W.M. and Sections 29, 31, & 32, Township 25 North, Range 6 East, W.M. King County Assessor Tax parcels included with this proposal are: 2925069007, 3225069015, 0624069013, 0724069004, 4065100005, 4065100011, 0724069033, 0724069036, 0724069040, 0724069039, 0724069119, and 0824069214. The Site also includes those areas included in the 05-13-2016 Judgment Quieting Title to King County, *Hornish v. King County*, No. 2:15-cv-00284-MJP **(Exhibit 67)**. A Project Site Plan is included as **Exhibit 7**.

3. ZONING:

The Site is located in the R-4 zone. The Project must comply with the zoning controls applicable to the R-4 zone.

4. SHORELINE DESIGNATION:

A majority of the Project Site is located within the Lake Sammamish Shoreline Jurisdiction of the City of Sammamish Shoreline Master Program (the "SMP"). In accordance with Sammamish Municipal Code ("SMC") 25.05.030 and Revised Code Washington ("RCW") 90.58.020. Lake Sammamish is designated as a Shoreline of Statewide Significance. That portion of the Project that is located within Shoreline Jurisdiction is within the Shoreline Residential Environment designation established by SMC 25.05.020 ("Residential Environment"). The City estimates that approximately one (1) mile is located outside of the Shoreline Jurisdiction. The project must comply with mechanisms of the City of Sammamish Shoreline Master Program applicable to uses and development proposed within the Residential Environment.

5. ADJACENT LANDS – APPLICABILITY OF SHORELINE RULES

In accordance with RCW 90.58.340, Shoreline permits for project sites that include land in shoreline jurisdiction as well as adjacent areas outside of the shoreline jurisdiction should include consideration of the impacts of the entire project. The permit should address the portion of a project outside the shoreline area to the extent that it causes shoreline impacts and should include consideration of the project's consistency with the policies of the Shoreline Management Act (SMA) and the SMP. However, in accordance with SMC 25.06.005 and SMC 25.07.005, only the portion of the Project within the shoreline jurisdiction must meet SMP regulations and standards (e.g. height limit, lot coverage, etc.). Therefore, while this SSDP does consider potential impacts to the Shoreline Jurisdiction caused by that portion of the Project that is outside of the Shoreline Jurisdiction, the SSDP does not include those segments and components of the project that are outside of Shoreline Jurisdiction. The boundary of the Lake Sammamish Shoreline Jurisdiction is depicted in **Exhibit 7** – Project Site Plan.

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6. **SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT REQUIRED:**

In accordance with SMC 25.08.020 and RCW 90.58.140, a SSDP is required for this Project.

7. **SHORELINE SUBSTANTIAL DEVELOPMENT REVIEW PROCESS:**

SSDP Permits are Type 4 decisions made by the City of Sammamish Hearing Examiner on recommendation from the Department of Community Development Director ("Director") in accordance with SMC 20.05.020. Type 4 decisions require compliance with the review process described in Chapter 20.05 SMC. The SSDP review process generally includes a notice of application, a 30-day public comment period, and project review timelines for City review of application materials, with time allowed for a County response. The review process culminates with an open public hearing where the Hearing Examiner accepts public, County, and City staff testimony; reviews the Project record; and considers the requirements and criteria for SSDP approval. In accordance with SMC 20.10.240, the Hearing Examiner is required to issue a written decision within 10 days of the conclusion of the hearing. The Hearing Examiner's Decision on the SSDP is considered the final decision of the City and is subject to request for reconsideration under SMC 20.10.260 and in accordance with City of Sammamish Hearing Examiner Rules of Procedure (RoP) Section 504. The final decision of the City, as issued by the Hearing Examiner, is appealable to the Washington State Shoreline Hearings Board in accordance with RCW 90.58.180 and SMC 25.08.090.

Ordinance 2016-410 **(Exhibit 17)** was adopted on June 7, 2016 by the Sammamish City Council which changed the process for SSDPs from a Type 2 decision to a Type 4 decision. Since this change in land use decision type affects the City's SMP, the Washington State Department of Ecology ("DOE") was required to approve the change prior to it being effective. The County was notified of this upcoming process change on October 12, 2016 during the Pre-Application Conference prior to the original submittal of their SSDP application for this Project **(Exhibit 14)**. DOE gave approval of this change and other limited SMP amendments on February 15, 2017, making the process changes to SSDP permits effective March 1, 2017. The County was notified of this change via email and letter on March 1, 2017 **(Exhibit 27)**. In accordance with this change in process requirements, this application is being processed as a Type 4 decision.

8. **SUMMARY OF RECOMMENDATION TO HEARING EXAMINER:**

The SSDP for the Project is recommended to the Hearing Examiner for approval with conditions. Conditions may be applied to the permit by the Hearing Examiner in accordance with SMC 20.10.070(2), 25.08.020(2), and WAC 173-27-150(2). Approval is based on the findings of fact, Project information provided by the County, consideration of public comments, the case file, and the conclusion that the proposed SSDP, as conditioned, is consistent with the requirements identified in the Sammamish Shoreline Master Program ("SMP"); Titles 21A and 25 SMC; Chapter 90.58 RCW, Shoreline Management Act ("SMA"); Chapter 173-27 Washington Administrative Code ("WAC"), Shoreline Management permit and enforcement procedures.

9. **TRAIL BACKGROUND:**

The East Lake Sammamish Trail ("ELST") corridor was once a Burlington Northern Santa Fe ("BNSF") railroad corridor. BNSF ceased operations of this corridor in 1996. In April 1997, the Land Conservancy of Seattle, now known as Forterra, purchased the railroad corridor from BNSF. The Land Conservancy requested in 1997 that the federal Surface Transportation Board ("STB") grant Interim trail use or "railbanking" status for this corridor. Railbanking is a process whereby an inactive rail line can be converted to use a recreational trail, so long as the trail sponsor agrees to preserve the corridor intact for potential reactivation of rail service of rail service in the future. The STB must approve the railbanking condition and the sponsor of the interim trail use. At any time, this specific railbanked corridor could be converted back to an active railroad corridor by any carrier that desires to resume rail transportation services. The STB approved the railbanking of this corridor in August 1998 and a federal Notice of Interim Trail Use was issued.

On September 18, 1998, The Land Conservancy sold the railbanked corridor to King County. With the purchase of this corridor, the County intended to develop the ELST. The King County Council adopted the Interim Use Trail and Resource Protection Plan in August 2010, selecting the existing rail bed alignment for development of the ELST. According to information provided in the JARPA **(Exhibit 8)**, the interim ELST through the City of Sammamish was completed in 2006. The County later adopted plans to widen and pave the ELST so that it can better serve as a non-motorized, commuter transportation facility. There are six (6) segments of the ELST covering approximately 11 linear miles that the County intends to widen and pave for this purpose. Redmond's segment was completed in November 2011, followed by the Issaquah segment in June 2013. The northern segment in Sammamish was completed in June 2015, and the southern segment in Sammamish (known as Segment 2A) is currently under construction. The County's Inglewood Hill Parking Lot Project SSDP application to redevelop the interim trail condition and establish an associated trail parking lot and amenities is limited to the development of an approximately 525-foot segment of the remaining 3.5 miles of trail is currently being reviewed under a separate SSDP application (City of Sammamish File SSDP2016-00414). This proposal, known as Segment 2B (see **Exhibit 6** for an expanded Project Narrative and **Exhibit 7** for a Project Site Plan), is to improve the remaining approximately 3.5 miles of the ELST through the City of Sammamish and associated activities described above.

10. SHORELINE MANAGEMENT ACT AND SHORELINE MASTER PROGRAM:

The SMA was adopted and enacted in 1972. The SMA establishes the concept of preferred uses of shoreline areas. The SMA requires that "uses shall be preferred which are…unique to or dependent upon use of the states' shorelines…" Under the SMA, "preferred" uses include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide public access (including public-private) opportunities. To the maximum extent possible, the shorelines should be reserved for "water-oriented" uses, including "water-dependent," "water-related," and "water-enjoyment" uses.

Under the SMA, each city and county with "shorelines of the state" must prepare and adopt an SMP that is based on state laws and rules but is tailored to the specific geographic, economic and environmental needs of the community. The local SMP is essentially a shoreline-specific combined comprehensive plan, zoning ordinance, and development permit system. The City of Sammamish adopted the current SMP in 2011 under Ordinance O2011-308. The City has subsequently adopted various amendments and development regulations in Title 25 of the SMC. Pursuant to SMC 25.01.030 all proposed uses and development defined in Chapter 25.02 SMC, that occur within the shoreline jurisdiction shall comply with the City's SMC, Chapters 173-26 and 173-27 WAC, and Chapter 90.58 RCW.

According to RCW 90.58.020 "shorelines of the state are among the most valuable and fragile of its natural resources and …there is great concern throughout the state relating to their utilization, protection, restoration, and preservation." Lake Sammamish is identified as a shoreline of statewide significance pursuant to SMC 25.02.010 (84), SMC 25.05.030, and RCW 90.58.020. The SMP and SMC 25.05.030 state that the City shall manage Lake Sammamish to give preference to uses and developments that:

1) Recognize and protect the statewide interest over local interest;
2) Preserve the natural character of the shoreline;
3) Result in long term over short term benefit;
4) Protect the resources and ecology of the shoreline;
5) Increase public access to publicly owned areas of the shorelines;
6) Increase recreational opportunities for the public in the shoreline environment.

The SMA and SMP also provide that: 1) uncoordinated and piecemeal development should be prevented along the shoreline, 2) there shall be no net loss of ecological functions of the shoreline, and 3) visual and/or physical access to the shoreline for the benefit of the public should be provided. These objectives have been used as benchmarks in review and recommendation of the Project.

11. PROJECT REVIEW PARAMETERS:

When reviewing SSDP applications, the City's main objectives are to ensure that coordinated (not piecemeal) development occurs along the shoreline, the proposal results in no-net-loss of ecological function, and visual and/or physical access to the shoreline for the benefit of the public is provided or maintained pursuant to RCW 90.58.020 and SMC 25.01.005. For approval of an SSDP on a specific project proposal, an applicant is not required to demonstrate full compliance with technical standards such as Building Codes, Public Works Standards, or Stormwater Requirements, but rather must conceptually show that compliance can be achieved through provision of preliminary plans.

The next phase of review, if the SSDP is approved, is construction permitting, which may include Clearing and Grading Permit(s), Building Permit(s), and Right-of-Way Permits (collectively referred to as "Construction Permits"). Review of Construction Permits includes review for compliance with SSDP permit conditions of approval; all pertinent SMC regulations, which include but are not limited to, Titles 14, 16, 21A, and 25 SMC; 2016 City Storm and Surface Water regulations; and 2016 City Public Works Standards. Review of Construction Permits associated with the Project will entail review for compatibility with the existing built environment, such as legally and irrevocably permitted structures.

12. TRAIL AS AN ALLOWED AND PREFERRED SHORELINE USE:

The proposed Trail is considered a Public Recreational Use under the SMP and Chapter 25.07 SMC. The SMP identifies Recreational Use Policies, specifically SMP 25.04.040 (1) which states "public recreational development should be located on public lands to facilitate the public's ability to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline." Especially when considered in connection with other proposed and completed ELST improvements (and not as a stand-alone or piecemeal proposal), the Project is considered a preferred water-oriented and water-enjoyment use that is given priority in both the SMA and the SMP. The majority of the 3.5-mile Trail is located within the Residential Environment; the City estimates that approximately one (1) mile is located outside of the Residential Environment.

In accordance with SMC 25.07.010 and SMC 25.07.090, within the Residential Environment designation, Public Recreational Use (a priority water-oriented and water-enjoyment use) is allowed as a permitted (P) use when consistent with the underlying zoning pursuant to Chapter 21A.10 SMC, the SMP and the SMA, including the goal of maintaining no-net-loss of shoreline ecological functions. More specifically, the public recreational use regulations in SMC 25.07.090, provide in part as follows: (1) "Public recreational development on public land is a preferred shoreline use…"; (2) "New public recreational activities and facilities proposed within shoreline jurisdiction shall be water-oriented, and shall provide physical and/or visual access to the shoreline;" (3) Public picnic shelters and similar facilities for water-enjoyment uses are allowed waterward of the shoreline setback and building setback; . . . and (5) "Public recreational developments shall provide for public non-motorized connectivity between existing public roads, trails, and said development on the shoreline (e.g. pedestrian and/or bicycle paths), unless such access is infeasible due to public health and safety considerations." Additionally, pursuant to SMC 21A.20.040, trails are allowed as a permitted (P) use in the Residential-4 (R-4) zoning designation.

13. PROPERTY OWNERSHIP:

In lieu of title reports, the applicant submitted numerous documents, including a Judgment Quieting Title to King County in *Hornish v. King County*, No. 2:15-cv-00284-MJP. The City Attorney reviewed these documents and determined they provide a sufficient basis under SMC 20.05.040(3) for the Director to waive the otherwise applicable requirement for title report in order to be satisfied that the County has the necessary real property interests in the Corridor Parcel to pursue the Project proposed in the application. Further, the City sent a letter dated December 23, 2016 providing further clarification to this issue where it stated in **Exhibit 26**:

> "…the information submitted on November 30, 2016 has made a title report unnecessary pursuant to SMC 20.05.040(3) and has substantiated that King County has the necessary property rights interests in the Corridor Parcel to pursue the project proposed in the SSDP Application. A Judgment entered by the Hon. Marsha Pechman, a judge of the U.S. District Court for the Western District of Washington at Seattle, in cause no. 2:15-cv-00284-MJP, verifies that the Corridor Parcel is under King County control and use, *free and clear of all claims by the Plaintiffs.* The Judgment also confirms that King County has fee simple title to a portion of the Corridor Parcel and a prescriptive easement in other portions of the Corridor Parcel. For the SSDP Application, both the fee simple and prescriptive rights are acceptable property interests for the proposed use."

The City Attorney provided the Department of Community Development with a Real Property Interests Memorandum outlining the findings of their review of the documentation in compliance with SMC 20.05.040. The Real Property Interest Memorandum and Updated Memorandum prepared by the City Attorney are included as **Exhibit 67**.

14. STATE ENVIRONMENTAL POLICY ACT (SEPA) REVIEW - FEIS:

A Final Environmental Impact Statement (FEIS) for the entire 11 mile ELST corridor which includes this proposed Project was issued on May 28, 2010. The completed FEIS was a project level review, therefore no further environmental review is required with SEPA. Through the EIS process, King County has determined that the preferred Master Plan trail alternative is the Corridor Alternative because it best meets King County's purpose and need of (1) providing an alternative transportation corridor between major business centers, (2) providing non-motorized recreational trails to support the growing population, and (3) providing connections between other existing regional trails. The Corridor Alternative is outlined and documented within the FEIS, which describes the Master Plan trail proposal, identifies potential environmental impacts, and identifies reasonable mitigation measures. With the application for SSDP the County has provided a SEPA Narrative **(Exhibit 10)** outlining the measures identified to minimize impacts and how the Project is consistent with the FEIS Record of Decision **(Exhibit 9)**. Further, the County's proposal is consistent with the preferred Corridor Alternative identified in the FEIS. An electronic copy of the issued FEIS and Notice of Availability are available in the City's Project file and is incorporated within this staff report by reference. An electronic copy of the FEIS is also available on the City's Project website at: https://www.sammamish.us/government/departments/community-development/current-projects/east-lake-sammamish-trail/

Although the FEIS as published identifies the Corridor Alternative as the preferred alternative and includes an assessment of potential adverse impacts associated with the preliminary design, including recommended mitigation measures to eliminate or minimize impacts, the FEIS is not a license or permit to proceed with construction and the identified preferred alternative is not a final design. Rather, an FEIS is a disclosure document related to a design concept that is to be used by decision makers in refining project design to reduce impacts and as an evaluation tool in the consideration of projects through the permit review process. It is expected that following an EIS process a project proponent will continue to refine a design in an effort to minimize impacts as outlined in the EIS. Throughout the EIS process, King County acknowledged that any Master Plan trail option must meet State and local design guidelines to design a multi-use trail to safely accommodate anticipated uses. WAC 197-11-448.

The primary safety guidelines referenced by King County through the EIS process are the AASHTO guidelines that inform trail design based on use (volume) projections. As a result of this, and with the identification of a preferred alternative, King County developed a Corridor Alternative Typical Design (Design Alternative "E" as depicted in Figure 2-6 of FEIS Volume I – PDF Page 75) that includes 12 feet of pavement, 2 feet of gravel shoulder on each side, and a 1-foot clear zone for a total footprint of 18 feet. This typical section design, as identified in the EIS, is intended to serve as a baseline template for design of the corridor, not as a required minimum.

15. TRAIL WIDTH

SMC 21A.30.210 provides development standards for trails and stipulates that trails should generally be located along existing cleared areas or on improved corridors, including but not limited to utility corridors, road or railroad rights-of-way, so as to avoid or minimize the need to remove additional vegetation and create other associated impacts. Also stipulated is that the width of the cleared area, trail corridor, surface and shoulder should be designed consistent with AASHTO and cleared areas shall be the minimum necessary. To better understand the County proposal and the reference to the AASHTO guidelines made by the SMC and King County as the primary driver of trail width (and corresponding impacts), the City obtained the services of a qualified Transportation Engineer specializing in multi-use trail design. The City's consultant evaluated the County's proposed trail width through consideration of the ASSHTO guidelines and County-provided forecasted user volumes. The City's consultant made a finding that it is appropriate for the Trail to be narrowed in locations where necessary to avoid physical constraints. Two memos from the City's consultant Transportation Engineer are included as **Exhibit 66**.

The AASHTO Bike Guide provides guidelines and recommendations which inherently provide flexibility; the AASHTO Bike Guide is not a set of standards or requirements. The AASHTO Bike Guide provides ample guidance that path widths of less than 12 feet may be used due to physical constraints. This is a common issue in designing trails, or for that matter, roadways where designers strive to design facilities to meet guidelines whenever possible. However, it frequently occurs that meeting all desirable guidelines causes additional undesirable impacts to the existing built environment and natural resources. When this occurs, case-by-case decisions that balance objectives and impacts with risks are required. Further, trail width is a function of safety which corresponds with forecasted user volumes.

The Corridor Alternative Typical Design section is what has been submitted for consideration of approval with this SSDP application and no narrowing is proposed by the County at any location, although the FEIS suggests this typical section is elastic under the AASHTO guidelines. Through the SSDP review process, the City has asked the County to provide an analysis outlining how the clearing and grading limit proposed is the minimum necessary as required by SMC 25.06.020(5), how the mitigation sequencing requirements of SMC 25.06.020(1) and SMC 21A.50.135 have been met, and how the proposed design and clearing and grading limits are consistent with the findings of the project EIS. The City has asked the County to demonstrate what design flexibilities were considered in meeting these code requirements and what minimization measures have been applied. The County's position, in response to review comments from the City, has been that the risks of any narrowing of the Trail outweigh all of the possible impacts to the existing built environment and natural resources, and no case-by-case analysis has been provided where narrowing opportunities were considered to reduce impacts. The County has also responded with a Sequencing Compliance Narrative **(Exhibit 55)** outlining where the Trail has already been moved (not narrowed) in specific instances. The County has maintained that the proposed Corridor Alternative Typical Design is the necessary minimum width and has declined to consider narrowing the Trail at any location.

16. CRITICAL AREAS REVIEW:

As described in the July 2017 Revised Critical Areas Study (CAS) **(Exhibit 16)** the proposed Trail improvements will cause permanent and temporary impacts to wetlands, streams, associated buffers, and shoreline setbacks. The County's qualified professional identified 37 wetlands and 17 stream crossings throughout the Project. Additionally, Fish and Wildlife Habitat Conservation Areas were identified and associated with Pine Lake Creek, Ebright Creek, and George Davis Creek. On-site mitigation is proposed to compensate for critical area impacts. Additionally, the Project will replace eight (8) existing culverts on six (6) Type F streams with box culverts to comply with State and Federal requirements to provide adequate fish passage. Sporadically throughout the 3.5-mile corridor there are areas located within the Erosion Hazard Area, Erosion Hazard Near Sensitive Water Bodies (EHNSWB) overlay and No Disturbance Area, Seismic Hazard Area, Landslide Hazard Area, and Landslide Hazard Drainage Area. The majority of this Project is located within mapped Critical Aquifer Recharge Areas (CARA). To address these critical areas, during permitting review compliance with SMC 21A.50.220, SMC 21A.50.225, SMC 21A.50.260, SMC 21A.50.270, and SMC 21A.50.280 will be verified.

The City of Sammamish 3rd Party Environmental Consultant, The Watershed Company (TWC), operating in compliance with SMC 21A.50.110, conducted a 3rd Party Review of this Project proposal area and provided a memorandum dated March 22, 2017 summarizing TWC's findings, see **Exhibit 42**. TWC found that the CAS was generally an accurate portrayal of

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existing conditions in the Project area and recommended further review of some identified critical areas. All temporary and permanent impacts to wetlands, wetland buffers, streams, stream buffers, and shoreline setbacks are shown in Appendix D of the CAS.

The County responded to the TWC review comments and provided a re-submittal to the City on July 11, 2017 **(Exhibit 54)**. TWC reviewed the County's re-submittal and provided a project review memorandum to the City dated September 25, 2017 summarizing TWC's conclusions of the Project in regards to mitigation sequencing, critical areas functions and values, and no-net-loss of ecological function. The memo also provides a general review of the County's re-submittal. The TWC memo is included as **Exhibit 65**. In this memo, TWC identifies that while adequate mitigation has been provided (adequate mitigation ratios and mitigation locations have been provided), and while the Project as designed generally meets the requirement of no-net-loss, the Project design and rigid application of the Corridor Alternative Typical Design section does not warrant the conclusion that the Project has been designed in accordance with mitigation sequencing requirements. As outlined in the first TWC review memorandum dated March 22, 2017 **(Exhibit 42)**, there are opportunities to further refine the Project design through application of mitigation measures to reduce impacts. One such measure is the reduction of the Corridor Alternative Typical Design section to narrow or neck-down the Project footprint where the Project passes through known critical areas and associated buffers. These 'impact avoidance' and 'impact reduction' measures, as recommended in the Project FEIS, are available in instances where the County has designed the project through rigid application of the Corridor Alternative Typical Design section, and where instead of reducing impacts through a refined/narrowed design, impacts have been determined as unavoidable and have been addressed through application of compensatory mitigation measures. Further, TWC offers several suggestions related to long-term compliance with no-net-loss associated with the long-term management of the Project corridor after installation.

17. SHORELINE SETBACK:

The Project is subject to the requirements of SMC 25.06.020(9) that establishes a required 50-foot shoreline setback from the Lake Sammamish Shoreline. The Project, redevelopment of a public access facility that provides view-access to the Lake Sammamish Shoreline, may be located within the 50-foot Lake Sammamish Shoreline Setback pursuant to SMC 25.06.020(9)(d). The Project includes a limited section where the trail is proposed to be located within the setback and where enhanced public view-access to a section of the shoreline with limited existing public access. More specifically these shoreline setback encroachments are located at approximately Stations: 600+00, 328+00 through 335+00, 340+00 through 344+00, 356+00 through 357+00, and 374+00 on the plan set provided by the County in **Exhibit 7**. In providing this waterfront public view-access amenity in this limited section of the Project, the section that is proposed to be located within the Setback is consistent with SMC 25.06.020(9)(d). Further, the existing soft-surface interim trail that is being reconstructed is also already located within the Shoreline Setback.

In compliance with SMC 25.06.020(1) and SMC 25.06.020(5), this section of the Project must be minimized by either locating proposed expanded improvements landward of the current interim trail alignment or by narrowing the Trail section. All new impacts due to the reconstruction of the potentially larger Corridor Alternative Typical Design section must be located landward of the existing improvements; no further reduction of the current interim trail shoreline setback will be allowed.

Further, in accordance with SMC 25.06.020(10) all redevelopment within the shoreline setback must establish and maintain a Vegetation Enhancement Area (VEA) that is the 15-foot wide portion of the shoreline setback immediately landward of the Ordinary High Water Mark (OHWM). At least 75 percent of the VEA area must be planted with vegetation consisting of native trees, shrubs, and groundcover designed to improve ecological functions. In accordance with SMC 25.06.020(10) that portion of the Project located within the shoreline setback must establish and maintain the VEA. Compliance with the VEA will be confirmed during Construction Permit review.

18. PUBLIC COMMENT:

As required by Chapter 20.05 SMC a Notice of Application was issued on December 28, 2016 and included notification of availability of Project documents and a 30-day comment period. Hundreds of public comments were received regarding this proposal up to the point of issuance of this Staff Report and Recommendation. Approximately 55% of the comments received were from "trail supporters," the majority of these were similar in nature and appeared to be "form support emails" sent out to bicycle clubs/enthusiasts throughout the northwest. The remaining approximately 45% of the comments received were more specific in nature regarding issues/concerns/support of the Project. A matrix log summarizing comments received is included as **Exhibit 28**. Comments received generally include:

Critical Areas:

- Concern over construction within a wetland buffer and/or stream buffer and how it will be protected
- Jurisdictional ditch #11 should be an underground ditch, it's a hazard

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- Wetland 23C near station 378 should be evaluated by USACE and reconsidered
- Wetlands 23A & 23B, and jurisdictional ditch #14 are artificially created and do not require a buffer
- Re-evaluate Wetland 18C
- Wetland 28A and unnamed Stream #28 are incorrect
- Creating unnecessary wetland buffer areas
- Trail should slope to allow water to access wetlands
- Concern of wetland elimination

Wildlife Habitat:

- Concern for existing wildlife
- Chain link fencing will prevent wildlife crossings
- Were bald eagles and osprey considered
- Drainage/dispersion areas should be on the east side of trail only

Survey:

- Incorrect property boundaries staked in multiple locations along trail
- Plan set does not show newly constructed residences or garages
- Houses/garages shown partially or entirely within staked ROW, how will they be affected

ROW/Ownership:

- Dispute with County ownership of ROW and survey boundaries
- Railroad only had prescriptive easement, underlying ownership is private
- Pechman ruling is under appeal

Stormwater/drainage:

- Concern over increased runoff, hard surfaces, and pollutants
- Keep storm piping sizing consistent and do not create unnecessary backup of water or flooding
- How will underground drainage systems be addressed
- When existing drainage exists on east side of trail, why create new drainage area on west side of trail
- County should work with City to address increased stormwater needs now and into the future; especially in Inglewood and Tamarack area
- Broken culverts exist under rail bed: unnamed streams #4 and #5
- Improve additional "creeks" for fish passage

Access:

- Creation of steeper driveways will not allow emergency vehicles and other large vehicles/trailers access to homes
- Concern emergency vehicles and other large vehicles/trailers will not be able to access residences
- Not aware of the County combining or eliminating driveways in the completed segments of trail to the north and south; explain why being done in this segment
- ADA access needs to be provided to both trail users and residents
- Provide assurances that access will be available to homes during construction and that driveways will not be damaged
- Provide designs for staircases to be changed/replaced
- How will mailboxes and parking areas be accessed if stairs that are shown as remove are not replaced along East Lake Sammamish Parkway
- How were the shared stair access scenarios determined
- Explain how access will be provided for residents during trail construction
- Acknowledge deeded easement for the Tamarack community beach access
- More public access points to the trail are needed; only three (3) currently exist for this segment.

Construction/Staging Area:

- Where will equipment be stored during construction
- Construction of trail should be completed in two phases for this segment to minimize property owner disruption
- Need written approval from all property owners to use private driveways/roads for construction access

Parking:

- Re-design rockeries/walls to allow for more resident parking
- Concern over removal of existing residential parking, both shared and individual areas – will there be a net loss in residential parking

Clearing and Grubbing Limits:

- Clearing and grubbing limits are not designated for a portion of this plan set
- How will structures be protected during construction when clearing and grubbing limits abut a structure

Exhibit 1
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- Reduce width of clearing and grubbing limits

Trail Width/Location:

- Explain reasoning for proposed trail alignment
- Trail should not be improved outside existing footprint
- Use existing trail centerline for alignment as it reduces need for some additional retaining walls and lowers construction costs
- Do not move trail to the west, many trees and wetlands can be avoided if trail is not moved west
- Use 10-foot width for trail as AASHTO recommends

Structures:

- Will existing structures located in clearing and grubbing limits be removed
- Provide more details on proposed "rest stops"

Safety:

- County needs to protect homeowners from liability created from trail
- Who is patrolling trail, enforcing cyclist speed limit and preventing trespassing on private property
- Trail improvements will increase risk to home owners of vandalism, theft and trespass
- Will homeowners be allowed to install security gates that align with the chain link fence installed by the County
- Will homeowners be allowed to install their own fencing in place of or behind County's proposed chain link fence
- Install signage to keep cyclists off of private driveways
- Proposed 4-foot-high fence does not prohibit unauthorized access to each side of trail
- Replace existing fences upon construction completion
- Trail design should include measures to reduce speed of cyclists
- Paint a centerline on trail
- Hydrants need to remain accessible at all times
- Concerned with integrity of hillside once construction begins
- How will icy conditions on the trail be addressed, specifically black ice

Trees:

- What is the plan for tree retention and minimal tree damage during construction
- Narrow trail to retain trees and shrubs where able
- Many healthy, significant, and old growth trees proposed to be removed and should be retained
- Shift trail appropriately to retain healthy significant trees throughout segment

Landscaping/Aesthetics:

- Will homeowners be allowed to plant new/replace landscaping after trail complete
- Replace chain link fence with split rail fence, which exists on other completed portions of the trail
- Use rockeries instead of concrete walls
- Use concrete treatment on concrete walls similar to other segments

Signage:

- Need to designate what is private property

Utilities:

- Locate and do not disturb existing water/sewer/power/telephone/cable etc. utilities already existing under and/or above ground
- Update plan set to show all existing utilities/infrastructure

Privacy:

- Will locking gates be added to staircases to maintain privacy
- Replace landscaping for privacy and noise reduction

Comments were forwarded to the County in March 2017. Comments were also assigned unique identifying numbers ("SB for Segment 2B" and "TJ for Trail Joint Comments" when it wasn't clear which SSDP application they applied to) and summarized in a searchable spreadsheet which was included with the first review letter provided to the County and attached as **Exhibit 29**. Rather than responding to each public comment as requested by City Staff, the County provided responses only to the summary of public comments in the first review letter. The County indicated it would respond to each individual comment sometime during the summer or fall of 2017 with a further refined design and/or as part of the Construction Permit applications. The County has indicated that multiple comments received were not pertinent to the review of the Project under the SSDP application and were not specific to the Project's compliance with the SMA and SMP. The City agrees that comments not related to the SSDP application and applicable shoreline regulations are not required to be addressed with SSDP review to reach a conclusion on SMA and SMP compliance. As of the date of this staff report, the City has not

received the County's individual responses to the full range of individual public comments received, including those that are related to the SSDP application and SMA/SMP compliance. City staff has addressed those public comments that are pertinent to the review of this SSDP, either directly or indirectly, within this staff report. Project Public Comments are included in the Project file as **Exhibit 29**.

19. **STATE AND FEDERAL PERMITS REQUIRED:**

In addition to compliance with the SMA, SMP, and SMC, the Project must be designed to meet the requirements of other agencies with shared jurisdiction. This includes, but is not limited to, meeting the requirements of the Army Corps of Engineers, the Washington State Department of Fish and Wildlife, and the Washington State Department of Ecology, as necessary. Construction Permit requirements for all agencies with overlapping jurisdiction must be met before commencement of construction. Counterpart agency permits, such as a Hydraulic Project Approval (HPA) as issued by the Washington State Department of Fish and Wildlife, must be confirmed prior to issuance of a Construction Permit for the Project.

20. **CONSTRUCTION PERMITS REQUIRED:**

This SSDP is not a Construction Permit. Prior to commencement of construction activity, Construction Permits issued under Titles 14 and 16 SMC are required. No Construction Permit may be issued until the City of Sammamish Hearing Examiner has issued a SSDP decision and the period of reconsideration as required under Hearing Examiner RoP 504 has passed, the final decision of the City has been transmitted to the DOE, and the standard 21-day appeal period for this SSDP has passed without an appeal having been filed. If an appeal is filed, appeal proceedings and issuance of Construction Permits are subject to limitations provided by State law.

III. FINDINGS OF FACT:

Based on information provided by the County, the case file, SMC, and the Sammamish Comprehensive Plan (SCP), the City of Sammamish Department of Community Development finds as follows:

1. The County filed its application for SSDP with the City on October 19, 2016 (**Exhibit 4**).

2. The SSDP application was deemed incomplete and additional information was requested by the City on November 15, 2016 **(Exhibit 18)**.

3. The County submitted additional information for the SSDP on November 30, 2016.

4. The SSDP application was deemed complete on December 13, 2016 (**Exhibit 22**). A Notice of Application was mailed and posted onsite in accordance with Chapter 20.05 SMC requirements on December 28, 2016 (**Exhibit 23**). The Notice of Application identified a formal public comment period for the proposal, extending through January 27, 2017 (30 days). The City's standard practice is to allow public comment throughout the permit process, and up to within a few days of issuing a staff report and recommendation to Hearing Examiner.

5. Goals, policies, and regulations relevant to this Project are found in the SMP in the following chapters of the SMC: 25.03 Master Program Element Goals; 25.04 Shoreline Management Policies; 25.06 General Shoreline Regulations; 25.07 Use/Development Regulations. The Project is designed to be consistent with the SMC and SMP goals, policies, and regulations as conditioned.

6. The City received hundreds of written comments during the Project review. All written comments are included in the permit file (**Exhibit 29**).

7. The City requested additional information from the County on April 12, 2017, as a result of the hundreds of public comments received and staff's review of the Project file; this included a request that all public comments be addressed individually by the County **(Exhibit 36)**.

8. The County submitted additional information on July 11, 2017, as a formal response to the City's request **(Exhibits 49** through **62)**. Within the document title "City Letter Comments Annotated and County Response Matrix – July 2017," **(Exhibit 50)** the County stated in response to several City requests for corrections or supplemental information that they were not pertinent to review of the SSDP as they were not oriented towards compliance with the SMA and/or SMP."

9. As part of the July 11, 2017 submittal to the City, the County did not respond to all of the individual public comments received as requested by the City; rather the County indicated that "public comments received as part of the SSDP review process that are outside the scope of the SSDP permit application will separately be responded to in the summer or fall of 2017 within the Construction Permit process."

10. The County did respond to the summary of public comments provided by the City through inclusion of responses in the comment matrix. County response to the summary of public comments is included as **Exhibit 50**. No discreet/individual public comments have been responded to by the County as of the date of this staff report.

11. On August 23, 2017, City staff sent a second review letter to the County stating that staff had received and examined the County's supplemental information submittal, and that the next steps will be to prepare a staff recommendation and to set the public hearing before the Hearing Examiner **(Exhibit 63)**. Within this letter was a tentative schedule for accomplishing these next steps.

12. The 12 tax parcels included in this Project are all zoned R-4. All parcels adjacent to the north and west are also zoned R-4. Parcels adjacent to the east are primarily zoned R-4 with a mix of R-1 and R-6 zoning as well. Adjacent to the south are parcels zoned R-4 and NB. The majority of the 3.5-mile Trail is located within the Residential Environment of Lake Sammamish; the City estimates that approximately one (1) mile is located outside of the Residential Environment **(Exhibit 7)**.

13. Lake Sammamish is a shoreline of statewide significance where preference to uses and development that recognize and protect the statewide interest over local interest is required pursuant to SMC 25.05.030.

14. The proposed Project, a Public recreational use, is an allowed use under SMC 21A.20.040 and SMC 25.07.010.

15. The proposed Project meets the prescriptive requirements of SMC 21A.30.210, SMC 21A.30.240, SMC 25.07.090 and SMC 25.07.100.

16. SMC 25.07.030 allows for filling and excavation activities in the shoreline jurisdiction when it is associated with a permitted use. This proposal will include limited filling and excavation in the development of the Trail and associated activities. There are instances where the Trail and/or Clearing and Grading limits are within the 50-foot shoreline setback; in these instances, the area has already been disturbed by existing activity related to the interim trail and the railroad activity that previously occurred. In compliance with SMC 25.06.020(1) and SMC 25.06.020(5), this section of the Project must be minimized by either locating landward proposed improvements that encroach further into the setback than the current interim trail alignment, or by narrowing the Trail section. No further reduction of the shoreline setback from the current interim trail shoreline setback will be allowed.

17. All redevelopment within the shoreline setback must establish and maintain a Vegetation Enhancement Area (VEA) that is the 15-foot wide portion of the 50-foot Lake Sammamish Shoreline Setback immediately landward of the Ordinary High Water Mark (OHWM). SMC 25.06.020(9) and SMC 25.06.020(10). At least 75 percent of the VEA area must be planted with vegetation consisting of native trees, shrubs, and groundcover designed to improve ecological functions. In accordance with SMC 25.06.020(10) that portion of the Project located within the shoreline setback must establish and maintain the VEA. Compliance with the VEA will be confirmed during Construction Permit review.

18. Construction must comply with SMC 25.06.010 (Archaeological, historic, and cultural resource regulations) and notification of the Washington State Department of Archaeology and Historic Preservation is required if artifacts are discovered.

19. Construction Permits are required for the Project.

20. The SMC requires that the clearing and grading be the minimum necessary to accommodate the allowed use/development pursuant to SMC 21A.30.210(3), SMC 21A.50.135(1), SMC 25.06.020(5), and SMC 25.07.100(7). The proposed Trail width is the primary driver of amount (width) of clearing and grading required and consequently is also the primary driver of impacts to critical areas or valuable resources. Trail width should be designed in accordance with AASHTO. The AASHTO Bike Guide provides guidelines and recommendations which inherently provide flexibility; the AASHTO Bike Guide is not a set of standards or requirements. The AASHTO Bike Guide provides ample guidance that paths less than 12 feet may be used due to physical constraints or in circumstances where balancing objectives is paramount (**Exhibit 66**). Trail width is also a function of safety which corresponds

with forecasted user volumes. The Trail can be narrowed in locations to reduce required clearing and grading limits to avoid and minimize impacts to physical and natural resource (Environmentally Critical Area) constraints. (**Exhibit 7**).

21. SEPA Review – A Final Environmental Impact Statement (FEIS) for the 11 mile ELST corridor which includes this Project was issued on May 28, 2010. This FEIS is a project level review, therefore no further environmental review is required with SEPA. The County provided a SEPA Narrative outlining the measures identified to minimize harm and how the Project is consistent with the FEIS Record of Decision, see **Exhibit 10** and **Exhibit 9** respectively. Further, the County's proposal is consistent with the preferred alternative identified in the FEIS. An electronic copy of the FEIS and Notice of Availability are available on the City's Project webpage: https://www.sammamish.us/government/departments/community-development/current-projects/east-lake-sammamish-trail/. The FEIS as published identifies the Corridor Alternative as the preferred alternative and includes an assessment of potential adverse impacts associated with the preliminary design. The Corridor Alternative Typical Design section is what has been submitted for consideration of approval with this SSDP application and no narrowing of Trail width is proposed by the County, although the FEIS suggests this typical section is elastic under the AASHTO guidelines. The FEIS includes several instances where this typical section should be narrowed as a mitigation measure to minimize impacts and ASSHTO guidelines allow for narrowing on a case-by-case basis with sound engineering judgement.

22. A fish passage culvert is proposed under the Project for George Davis Creek at approximately Station 441+40 **(Exhibit 7)**. The proposed location of the George Davis fish passage culvert is in alignment with the existing stream channel. Downstream of this culvert, fish passage barriers exist through private property to Lake Sammamish.

23. The City intends to complete a study to determine the preferred stream alignment for George Davis Creek. The preferred stream alignment may require the fish passage culvert at Station 441+40 to shift in location and/or orientation during engineering design or construction phase of the Project.

24. The Project conforms with the SMA and SMC as conditioned below.

IV. CONCLUSIONS:

Review of the Project file indicates that the County has demonstrated compliance with the requirements for approval of an SSDP and the Project is consistent with the SMA and the SMP, as conditioned below. As described within this staff report, for approval of an SSDP on a specific project proposal, the County is not required to demonstrate full compliance with technical standards (such as Building Codes, Public Works Standards, or Stormwater Requirements), but rather must conceptually show that compliance can be achieved through provision of preliminary plans. Full compliance with technical requirements is evaluated through Construction Permit review. Consistency with the requirements of the City's SMP is, or with appropriate conditions will be, achieved as follows:

1. SMP POLICIES:

a. City of Sammamish Comprehensive Plan Shoreline Element Policies.

Staff Analysis:

The proposed Trail is a preferred shoreline use and is a public amenity. The proposed Project will improve 3.5 miles of the existing soft-surface interim East Lake Sammamish Trail, extending from SE 33rd Street to Inglewood Hill Road known as East Lake Sammamish Trail Segment 2B (the "Trail"). The interim trail will be improved to a cross section of 12 feet of paved surface with 2-foot gravel shoulders and a 1-foot clear zone on both sides. In conjunction with the trail widening, associated activity will take place which includes: earthwork; drainage improvements related to the trail; culvert replacements to improve fish passage; construction of rest areas with benches; improved intersections and sight triangles; mitigation and habitat enhancement; tree removal and replanting; landscaping and fencing; access and traffic control (bollards, striping, signage, etc.); and clearing and grading limits. These Project components are consistent with City of Sammamish Comprehensive Plan Shoreline Goals and Policies. The Project provides public view access to the shoreline, accounts for impacts to sensitive shoreline resources, must comply with current stormwater standards, includes appropriate site planning, and appropriately provides a circulation system for non-motorized recreational users. Additionally, the Project has been designed to meet the over-arching policy of no-net-loss of shoreline ecological functions. As designed and conditioned, the facilities proposed by the County are compliant with associated Shoreline Element Policies in the City of Sammamish Comprehensive Plan.

2. CHAPTER 25.05 – JURISDICTION AND ENVIRONMENT DESIGNATIONS:

a. 25.05.010 Shoreline jurisdiction.

Staff Analysis:

The County has mapped the extent of the Shoreline Jurisdiction and has demonstrated that the majority of the Project is located within Shoreline Jurisdiction. The City estimates that approximately one (1) mile of the Project is located outside of Shoreline Jurisdiction.

b. 25.05.020 Shoreline environment designations.

Staff Analysis:

The majority of the Project is located within the Shoreline Residential Environment of Lake Sammamish except for approximately one (1) mile of the Project which is not located within Shoreline Jurisdiction.

c. 25.05.030 Shorelines of statewide significance – Lake Sammamish.

Staff Analysis:

The Project is located along the shoreline of Lake Sammamish, which is a shoreline of statewide significance. In accordance with SMC 25.05.030, projects located within the Lake Sammamish Shoreline jurisdiction shall be designed with a longer-term vision to reflect a higher priority for the statewide interest over the local interest, promote public access, increase recreational opportunities, and preserve and protect the natural character and ecological function of this significant lakeshore. The Project, as conditioned, is compliant with SMC 25.05.030.

3. CHAPTER 25.06 – GENERAL SHORELINE REGULATIONS:

a. 25.06.010 Archaeological, historic and cultural resources regulations.

Staff Analysis:

The County has entered into a Programmatic Agreement with the Federal Highway Administration (FHWA), the Washington State Department of Transportation (WSDOT), the Washington State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation to implement the East Lake Sammamish Trail Master Plan. A copy of this Programmatic Agreement is included as **Exhibit 13**. The County has received Federal funding for this project and must comply with Section 106 of National Historic Preservation Act and the implementing regulations in 36 CFR 800. Through implementation of this Programmatic Agreement the County and Project are compliant with SMC 25.06.010.

b. 25.06.020 Environmental protection and conservation regulations.

Staff Analysis:

The Project, as conditioned, has been designed to implement the vision of the SMA and SMP of no-net-loss of ecological function. A memo from The Watershed Company (TWC), the City's consultant, outlining Project environmental review in compliance with SMC 25.06.020 is included as **Exhibit 65**. Additionally, pursuant to the memo provided by the City's consultant Transportation Engineer **(Exhibit 66)**, trails can be designed to minimize the impact to the existing natural and built environment by limiting trail width and clearing and grading to the minimum necessary to accommodate the Project. Through appropriate Project design, implementation of mitigation sequencing, minimization of impact, and appropriate mitigation measures, as conditioned, the Project is compliant with this section.

c. 25.06.030 Shoreline public access regulations.

Staff Analysis:

The Project is a public access facility and has been designed to provide visual access to the Lake Sammamish Shoreline (the project does not include water access). The Project is compliant with SMC 25.06.030.

d. 25.06.050 Water quality, stormwater, and nonpoint pollution regulations.

Staff Analysis:

The Project must incorporate all known required methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and water quality in accordance with Chapter 15.05 SMC (Surface Water Management), Chapter 21A.50 SMC, (Environmentally Critical Areas), and other applicable laws. For approval of the SSDP, the County is not required to demonstrate full compliance with technical standards in Chapters 15.05 and 21A.50 SMC, but rather must conceptually show that compliance can be achieved through provision of preliminary plans. Full compliance with technical requirements is evaluated through Construction Permit review. As part of the permit review process, the County and the City have entered into a Settlement Agreement dated April 6, 2017 providing the Project shall be vested to all codes and regulations in effect on March 15, 2017. As such, full compliance with the 2016 King County Surface Water Design Manual (KCSWDM) and City of Sammamish 2016 Addendum to the KCSWDM and 2016 Public Works Standards must be demonstrated prior to issuance of Construction Permit. Best management practices (BMPs) for controlling erosion and

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sedimentation and preventing pollutants from entering lakes must also be implemented through construction permit review and implementation. The Project, as conditioned, is compliant with SMC 25.06.050.

4. CHAPTER 25.07 - USE/DEVELOPMENT REGULATIONS:

a. SMC 25.07.090 – Public recreational use regulations.

Staff Analysis:

The proposed Trail, and associated activities which include rest stops (similar to picnic shelters) throughout the 3.5-mile trail are conceptually consistent with applicable regulations. The Project proposed provides visual access to the shoreline as well as public non-motorized connectivity to a completed segment of the East Lake Sammamish Trail. The majority of the Project is located landward of the 50-foot shoreline setback as shown in **Exhibit 7**. Additionally, where rest stops are located within the 50-foot shoreline setback, it is consistent with SMC 25.07.090 (2) (b) which allows such facilities for water-enjoyment uses. The use of native vegetation in the Project area will be reviewed at the construction permitting phase and is a condition of approval of this application. The Project, as conditioned, is compliant with SMC 25.07.090.

b. SMC 25.07.100 – Transportation regulations.

Staff Analysis:

The proposed Project is considered transportation infrastructure. As conditioned, the design at construction permit submittal will meet the 2016 King County Surface Water Design Manual (KCSWDM) and City of Sammamish 2016 Addendum to the KCSWDM and 2016 Public Works Standards, to ensure that water quality for receiving waters will be maintained or improved. The majority of the development activity will take place landward of the 50-foot shoreline setback. In those limited areas where the shoreline setback will be impacted by the Project, shoreline stabilization as defined by SMC 25.02.010 is not proposed or necessary. The County has addressed shoreline stabilization in their Critical Areas Study (CAS) included as **Exhibit 16** and in the Project plans included as **Exhibit 7.** Shoreline stabilization will be confirmed during Construction Permit review. Design compliance with Titles 14 (Public Works and Transportation) and 21A (Development Code) will be confirmed at the time of construction permitting. The Project, as conditioned, is compliant with SMC 25.07.100.

c. SMC 25.07.110 – Utilities regulations.

Staff Analysis:

Sammamish Plateau Water District reviewed the preliminary plan set and provided their initial comments and concerns **(Exhibits 39 through 41)**. Design requirements will be reviewed at the time of construction permitting. An updated survey of the Project area, which is a recommended condition of approval, will identify existing utilities. No new utilities are proposed at this time as part of the Project, however there is existing utility infrastructure located throughout the Project that may require relocation. Any utilities or utility relocations necessary for this proposal will be reviewed at construction permitting for conformance with SMC 25.07.110. The Project is compliant with this section as conditioned.

5. CHAPTER 25.08 – PERMIT CRITERIA AND ADMINISTRATIVE STANDARDS:

a. 25.08.020 Permits – Substantial development.

Staff Analysis:

The Project is not considered as exempt from SSDP requirement and the County has applied for an SSDP to construct the Project. The Project is compliant with this section.

b. 25.08.080 Permit process – Land use decisions.

Staff Analysis:

As it requires an SSDP, the Project is subject to the requirements of Chapter 20.05 SMC. SSDP Permits are Type 4 decisions made by the City of Sammamish Hearing Examiner on recommendation from the Department of Community Development Director in accordance with SMC 20.05.020. Type 4 decisions require compliance with the review process included in Chapter 20.05 SMC. The SSDP for this Project has met the requirements of Chapter 20.05 SMC for Type 4 decisions. The Project is compliant with SMC 25.08.080.

c. 25.08.130 Initiation of development.

Staff Analysis:

Development pursuant to an SSDP shall not begin and shall not be authorized until 21 days after the date of filing of the final City decision with DOE, or until all appeal proceedings before the Shoreline Hearings Board have terminated. To date, the Project is compliant with SMC 25.08.130.

6. **WAC 173-27-180 – APPLICATION REQUIREMENTS FOR SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, OR VARIANCE PERMIT:**

Staff Analysis:

As conditioned, the County has conformed to all application requirements as outlined in WAC 173-27-150 and 173-27-180, and the SMC. The one item that will need to be further addressed at submittal of any Construction Permits is WAC 173-27-180(9)(f), which requires the dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities to be shown on the site development plans. This information is expressly and specifically required as an element of an SSDP permit application under WAC 173-27-180(9)(f). The County's submittal information is non-compliant because it is incomplete and out of date. The City requested this information in the first review letter **(Exhibit 36)** sent to the County on April 12, 2017. The County responded on July 11, 2017 **(Exhibit 49 and 62)** that this updated information was not relevant to the City's review of the shoreline substantial development permit application and that the County will separately establish compliance during the relevant permit review. For review of this shoreline substantial development permit, the City has determined that some of the necessary information was provided; however, at construction permitting, more detailed and updated survey information is necessary, and the City is recommending approval of the SSDP be conditioned on provision of same.

V. DIRECTORS RECOMMENDATION:

With conditions as listed below, the **Director of Community Development finds the Project meets all applicable requirements and hereby recommends approval of the proposed Shoreline Substantial Development Permit** to improve 3.5 miles of the existing soft-surface interim East Lake Sammamish Trail, extending from SE 33rd Street to Inglewood Hill Road by widening the interim trail to 12 feet of paved surface with 2-foot gravel shoulders and a 1-foot clear zone on both sides including the following associated activities: earthwork; drainage improvements related to the Trail; culvert replacements to improve fish passage; construction of rest areas with benches; improved intersections and sight triangles; mitigation and habitat enhancement; tree removal and replanting; landscaping and fencing; access and traffic control (bollards, striping, signage, etc.); and infrastructure improvements and adjustments associated with the Project in accordance with the Project limits established in the associated Project plans and as adjusted by the recommended conditions of approval.

VI. RECOMMENDED CONDITIONS OF APPROVAL:

The Director of Community Development, in making a recommendation of approval, hereby requests the following conditions be included in the SSDP decision in accordance with SMC 25.08.020(2) and WAC 173-27-150(2):

1. All required Construction Permits must be issued in accordance with SMC Titles 14 and 16 before the County may commence Project construction. Final construction plans approved for Construction Permits showing the proposed Project shall be in substantial conformance with **Exhibit 7** and subject to applicable conditions of approval specified by the Hearing Examiner.

2. An updated survey (conducted no later than one year prior to submittal or resubmittal of any construction permit applications) must be provided at submittal of the Construction Permit application(s) to show all dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities as required by WAC 173-27-180(9)(f).

3. The County shall identify all structures not owned and controlled by the County, and existing within the Project area that were constructed or installed pursuant to a permit that is not revocable by the County ("Permitted Structures"). For each Permitted Structure, if any, the County shall identify where the Project will be modified, narrowed, or relocated to mitigate for conflicts with Permitted Structures.

4. For those segments of the Project that are located within the shoreline setback (located at approximately Stations: 600+00, 328+00 through 335+00, 340+00 through 344+00, 356+00 through 357+00, and 374+00 on the plan set provided by the County in **Exhibit 7**) the County shall update the plan set to depict that no development, including clearing and grading limits, will occur waterward of the current interim trail alignment. In compliance with SMC 25.06.020(1) and SMC 25.06.020(5), this section of the Project must be minimized by either locating expanded improvement landward of the current interim trail alignment or by narrowing the Trail section. No further reduction of the current interim trail shoreline setback will be allowed.

5. For that portion of the Project that is located within the Lake Sammamish Shoreline Setback, the County shall update the Project plans to establish and maintain a Vegetation Enhancement Area (VEA) that is equal to the 15-foot wide portion of the 50-foot Lake Sammamish Shoreline Setback immediately landward of the Ordinary High Water Mark (OHWM). SMC 25.06.020(9) and SMC 25.06.020(10). At least 75 percent of the VEA area must be planted with vegetation consisting of native trees, shrubs, and groundcover designed to improve ecological functions.

6. In accordance with SMC 25.07.090(6), an updated and final landscaping plan shall be provided at the time of Construction Permit submittal to ensure that native, self-sustaining vegetation is utilized throughout the Project area and to illustrate conformance with VEA requirements pursuant to SMC 25.06.020(10).

7. The Project proposes to remove Significant trees; therefore, all tree removal shall be in substantial conformance with the arborist report **(Exhibit 61)** and tree preservation plans **(Exhibit 62)** and the City's tree regulations, Chapter 21A.37 SMC. An updated arborist report and tree inventory will be required at submittal of the Construction Permit(s) to account for any growth that occurred since approval of this SSDP.

8. The Project proposes to remove trees and vegetation. SMC 21A.30.210(3) and SMC 25.06.020(5) require that clearing and grading be the minimum necessary to accommodate the allowed use/development. The proposed Trail width is the primary driver of the amount (width) of clearing and grading required. The extent of clearing and grading directly impacts the quantity of trees to be removed. The County shall provide an updated clearing and grading plan that includes adequate tree protection in accordance with SMC 21A.37.270(5). The Trail shall be narrowed as necessary to fully comply with tree protection barrier and grading/grubbing limit restrictions in 21A.37.270(5). The clearing and grading plan shall properly reflect adequate and compliant tree protection barriers and grading/grubbing limits for all trees and vegetation to be retained pursuant to Chapter 21A.37 SMC. No grading or grubbing shall be allowed within the prescriptive tree protection areas as defined by SMC 21A.37.270(5)(b). If adequate and compliant tree protection measures in accordance with SMC 21A.37.270(5) cannot be applied, the tree shall not be counted as retained and must be considered as removed.

9. The Project proposes to impact critical areas regulated under Chapter 21A.50 SMC and Title 25 SMC. Under SMC 21A.30.210(3), SMC 21A.50.135, SMC 25.06.020(1), and SMC 25.06.020(5), clearing and grading shall be the minimum necessary to accommodate the allowed use/development. The proposed Trail width is the primary driver of the amount (width) of clearing and grading required. The extent of clearing and grading directly impacts the extent to which critical areas regulated under Chapter 21A.50 SMC and Title 25 SMC are impacted. The Trail can be narrowed in locations to reduce required clearing and grading limits and correspondingly reduce then minimize impacts to a level that is below what is currently proposed. The County shall provide an updated Critical Areas Study (CAS) and updated clearing and grading plan (Project Plans) that address how Trail narrowing and clearing and grading limits reductions have been implemented in each instance where a critical area regulated under Chapter 21A.50 SMC and Title 25 SMC has been impacted and how the project is compliant with the Project FEIS, SMC 25.06.020(1), SMC 25.06.020(5), SMC 21A.30.210(3), and SMC 21A.50.135. The updated CAS shall also include more specific information about how impacts on shoreline ecological functions are avoided and minimized.

10. An updated final project mitigation plan meeting the requirements of SMC 21A.50.145 and demonstrating how the proposed mitigation for impacts to shoreline features will ensure no net loss of shoreline ecological functions shall be provided at the time of Construction Permit submittal. To provide the greatest benefit, off□site mitigation should be in the same basin as feasible. The County should work with the King County MRP to identify an in□lieu site that is most beneficial on a landscape scale. If an in□lieu site is available within the East Lake Sammamish Basin, where the impacts will occur, it should be given priority. The updated final project mitigation plan must include a detailed analysis of mitigation compliance with SMC 21A.50.310 and SMC 21A.50.350. If off-site mitigation is proposed the updated final project mitigation plan must demonstrate how it is compliant with SMC 21A.50.310(4) and SMC 21A.50.350(2). The updated final mitigation plan shall also clearly document significant tree replacements within the shoreline overlay.

11. To ensure critical area functions and values are maintained through the proposed on□site mitigation, in addition to standard mitigation monitoring and maintenance requirements, prior to issuance of Construction Permits, the County shall complete an ELST 2B segment□specific update to the ELST Vegetation Management Plan and King County trail maintenance program to ensure avoidance of impact to proposed mitigation sites through native plant clearing, pruning, gravel placement or other measures.

12. Where fences, retaining walls, or a combination of fence and retaining wall exceed four feet in height, adequate provisions shall be made to allow wildlife passage at intervals along the Trail if existing driveways are not sufficient.

13. Fences over six (6) feet tall and retaining walls exceeding 48 inches in height, as shown in the Project plans **(Exhibit 7)** will require structural review during the Construction Permit review process.

14. Following complete mitigation installation, the County shall provide to the City an as-built report of the restoration and compensatory mitigation installed for the Project. After the City inspects and approves the as-built report, a required maintenance and monitoring period will begin pursuant to SMC 21A.50.145 (7) and in accordance with the final approved Project mitigation plan. A monitoring report shall be prepared by a qualified professional and provided to the City for review by October 31st of each monitoring year for the duration of the maintenance and monitoring period. Due to Project size and complexity, and pursuant to SMC 21A.50.045, the City will require use of an on□call consultant to carry out a review of annual mitigation monitoring reports to verify compliance with project goals and performance standards.

15. The grading, temporary erosion and sediment control, and drainage plans as shown on the approved Shoreline Substantial Development Permit (SSDP) are not approved for construction. Construction Permit(s) are required. Further detailed review of proposed construction plans by the City and County response to City comments and required corrections is required for Construction Permit issuance.

16. Pursuant to WAC 173-27-090 construction shall be commenced on the proposed Trail and associated activities within two (2) years of the date that the SSDP is issued (or becomes final following any reconsideration or appeal periods, if applicable). Authorization to conduct development activities under the SSDP shall terminate five (5) years after the effective date of this permit. The City may authorize a single extension for a period not to exceed one (1) year based on a showing of good cause to the Director of reasonable factors, if a request for extension has been filed before the expiration date, and notice of the proposed extension is given to parties of record and the City.

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