Hearing Examiner Galt

BEFORE THE HEARING EXAMINER FOR THE CITY OF SAMMAMISH

King County DNRP Application for Shoreline Substantial Development Permit ELST Segment 2B	No. SSDP2016-00415 CITY OF SAMMAMISH'S CLOSING ARGUMENT

I. INTRODUCTION

The City recommends the Hearing Examiner not approve the SSDP without the recommended Conditions. King County has failed to provide the most basic of information necessary for approval of this SSDP. Requiring King County to analyze possible narrowing of the Trail in discrete locations to accommodate critical areas and authorized structures is a critical component of compliance with City's Shoreline Master Program and the Shoreline Management Act. Significantly, the Record of Decision ("ROD") and Final Environmental Impact Statement ("FEIS") prepared for the ELST do not support King County's claim that this segment of the Trail cannot be narrowed from the typical Corridor Alternative width, even for short distances. King County must also provide updated survey information showing structures in the project area so that locations for realignment or narrowing of the Trail can be identified. This is the most

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basic of information needed to approve an SSDP for the location and use of a project within the shoreline jurisdiction. The recommended Conditions impose only reasonable permitting and mitigation requirements that will require additional review only if King County later makes substantive changes that trigger review under WAC 173-27-100.

II. ARGUMENT

A. King County Erroneously Asserts that the Trail Cannot Be Narrowed for Short Distances, even When Physical Constraints such as Critical Areas and Permitted Structures Exist in the Trail's Pathway.

The City has recommended Conditions 9, which explains that the width of the current Trail design affects the extent to which regulated critical areas are impacted. As mandated by the mitigation sequencing requirements of state law and the SMP (*see* WAC 173-26-201(2)(e), SMC 25.06.020), King County can avoid or minimize the Trail's impacts to critical areas by narrowing the Trail in some locations. Condition 9 requires the County to "provide an updated Critical Areas Study ("CAS") and updated clearing and grading plans ("Project Plans") that address how Trail narrowing and clearing and grading limits reduction have been implemented in each instance where a critical area . . . has been impacted." Exhibit 1 at 000018. Evidence supporting Condition 9 is included in the Staff Report (Exhibit 1) and its exhibits; reports by Charles Alexander (Exhibit 66); the Final Environmental Impact Statement (Exhibit 70.9 – 70.11); the Record of Decision (Exhibit 9); and hearing testimony of Lindsey Ozbolt, Charles Alexander, and William Schultheiss.

During the hearing, the parties discovered that King County had mistakenly assumed that the City was recommending that the entire paved portion of Segment 2B be narrowed from the proposed 12 feet to 10 feet. Testimony of William Schultheiss.

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Lindsey Ozbolt explained in her testimony on November 7 that this was not the case, and instead, the City was only asking for narrowing of the Trail where physical constraints exist, such as regulated critical areas or authorized Permitted Structures. Testimony of Ozbolt; Exhibit 1 at 000017 – 18, Conditions 3 and 9.

During the hearing, the City and King County experts actually agreed on one thing: independent of Trail volume, under AASHTO guidelines, the Trail can be narrowed in locations to avoid physical constraints. Exhibit 66 at 005670, 005674; Exhibit 124 at 17 – 21; Schultheiss testimony (November 6), Alexander testimony (November 20). Condition 9 would require King County to analyze where the Trail could be narrowed to avoid or further minimize its impact on critical areas. Alexander explained in his testimony that the AASHTO Bike Guide provides that "[a] path of 8 ft may be used for a short distance due to a physical constraint such as an environmental feature, bridge abutment, utility structure, fence and such." Wetlands regulated under SMC 21A.50 and 25.06.020 are just the kind of "environmental feature" that justify narrowing the Trail. Addressing safety concerns related to varying Trail widths, Alexander also explained that a trail can be designed with striping and color to identify passing areas. Exhibit 66 at 005670.

Despite the consensus among the experts, King County continues to claim that Segment 2B of the Trail cannot be narrowed *anywhere* because reducing trail widths is not mitigation provided for under the Corridor Alternative that was chosen from the Final Environmental Impact Statement ("FEIS"). Jenny Bailey testimony (November 8). The plain language of the ROD and the FEIS, however refute Bailey's testimony and expressly provide that "Reducing Trail Widths" is a mitigation strategy that may be

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employed to avoid and minimize environmental impacts of the Trail. Exhibit 9 at 000220-221; Exhibit 10.9 at 1097, ¶ 3.3.7.1.

The City is not arguing any inadequacy in the FEIS. As prepared, it satisfies the purpose and intent of an Environmental Impact Statement ("EIS") to "provide an impartial discussion of significant environmental impacts, and reasonable alternatives and *mitigation measures that avoid or minimize* adverse environmental impacts." State Environmental Policy Act Handbook, Washington State Department of Ecology, Publication #98-114 at 51, ¶3.3 (emphasis added); see Solid Waste Alternative Proponents v. Okanogan County, 66 Wn. App. 439, 443, 832 P.2d 503 (1992). An EIS must state the mitigation measures, if any, that will be implemented as part of project design. WAC 197-11-440(6) specifies the mitigation requirement in an EIS:

> (6) **Affected environment, significant impacts, and mitigation measures.**
> (a) This section of the EIS shall describe the existing environment that will be affected by the proposal, analyze significant impacts of alternatives including the proposed action, and discuss reasonable mitigation measures that would significantly mitigate these impacts. . . .
> . . .
> (c) This section of the EIS shall:
> . . .
> (iii) Clearly indicate those mitigation measures (not described in the previous section as part of the proposal or alternatives), if any, that could be implemented or might be required, as well as those, if any, that agencies or applicants are committed to implement.

WAC 197-11-440(6)(a) and (c)(iii); Adams v. Thurston County, 70 Wn. App. 471, 476, 855 P.2d 284 (1993) (An EIS must analyze a proposal in light of its significant adverse impacts and consistency with local environmental policies and discuss alternatives to the proposal, mitigation measures, and unavoidable impacts.)

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The ROD shows that the Federal Highway Administrative ("FHWA") and Washington State Department of Transportation ("WSDOT") selected, with concurrence from King County, the Corridor Alternative for the Trail. Exhibit 9 at 000212. In terms of mitigating environmental impacts, the ROD expressly provides that in executing the Corridor Alternative, the FHWA, WSDOT, and King County:

> **will implement** the mitigation measures listed below. These measures represent all practicable measures to avoid or minimize environmental harm.
> . . .
>
> *Wetlands and Vegetation.*
> . . .
> • Continue to avoid and minimize wetland and vegetation impacts by **reducing trail widths** and turning radii for transitions, and shifting alignments to avoid wetlands and buffers.[1]

Exhibit 9 at 000220 – 221 (emphasis added). The Hearing Examiner should not permit King County to avoid doing what it committed to do in selecting the Corridor Alternative in the FEIS and ROD.

The FEIS provides that the "minimum *typical* sections" of the Corridor Alternative will have 12 feet of pavement with two 2-foot wide shoulders. Exhibit 70.9 at 0941 (emphasis added). But, in atypical sections, the mitigation of reducing trail width may be employed. Id. The FEIS thus acknowledges fluctuation and an ongoing commitment to comply with changing mitigation requirements. The FEIS acknowledges that the City has updated its critical area regulations increasing buffer widths for wetlands within the project area such that "the amount of buffer impacts and mitigation

[1]The identified mitigation measure is "reduction of trail width." The phrase "for transitions" does not modify "reduction of trail width. The discussion in the FEIS at 1097 shows that "reduction of trail width" is one mitigation measure and "reducing turning radii for transitions" is another.

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requirements have changed for the Corridor . . . Alternative." Exhibit 10.9 at 1082, ¶3.3.2. The FEIS promises to comply with "increasingly protective environmental regulations concerning wetlands and wetland buffers." Id. at 1096, ¶3.3.6.

The mitigation measure of reducing trail width as adopted in the ROD is more fully described, and is in fact "committed" to, in the FEIS's "Strategies to Avoid and Minimize Wetland Impacts" and "Environmental Commitments":

> Reducing Trail Widths
>
> In some locations, it may be possible to completely avoid or minimize wetland and buffer impacts by reducing the width of the trail through use of a narrower cross section. . .
>
> Mitigation Commitments
>
> • Continue to avoid and minimize wetland and vegetation impacts by reducing trails widths and turning radii for transitions, and shifting alignments to avoid wetlands and buffers.

Id. at 1097, ¶3.3.7.1; and at 1730, ¶4.1. It is disingenuous for King County to now assert that the Corridor Alternative was never meant to use trail-width reduction as a mitigation measure. It was analyzed in the FEIS and included as potential mitigation in the ROD. The City recommends Condition 9 so that King County is required to comply with the ROD and FEIS by providing an updated CAS and updated clearing and grading plans that address how Trail narrowing and reducing clearing and grading limits within Segment 2B have been implemented in each instance where a critical area is being impacted.

The State Environmental Policy Act ("SEPA") is supplemental authority for the City. RCW 43.21C.060. The City continues to have authority to enforce its code and specifically the requirement for mitigation sequencing in the Shoreline Master Program.

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> Environmental protection and conservation regulations.
> (1) All development projects shall include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with this program and other applicable regulations. Where required, mitigation measures shall be applied in the following order:
> (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
> (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
> (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
> . . .

SMC 25.06.020.

One of the most important aspects of SEPA information is the consideration of impacts and mitigation during agency decision making. WAC 197-11-400(4); SEPA Handbook, Washington State Department of Ecology, Publication #98-114 at 73. King County has refused to provide mitigation information to the City and the Hearing Examiner for the decision on the SSDP. Exhibit 36 at 5306; Exhibit 55 at 5546. King County refuses to show the City compliance with mitigation sequencing regarding Trail width, despite the FEIS saying that the identified mitigation would be "evaluated further" during the permitting stage of development. Exhibit 70.9 at 1097, ¶ 3.3.7.1. The Hearing Examiner expressed frustration that Condition 9 did not provide specific locations where the Trail could be narrowed. Testimony by Lindsay Ozbolt and Nell Lund explained, however, that the City cannot specify in Condition 9 exactly where along the Trail it is appropriate to narrow the Trail because King County has not provided the required analysis. Lund did testify on November 7 and 8 that narrowing is likely to be appropriate where there are wetlands on both sides of the Trail such as wetland 19A, 20A, 24B, 26A

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and C, and 29B and D. Exhibit 55 at 005549 - 50.

Proof of mitigation sequencing is the burden of the applicant, not the City. SMC 25.06.020. King County has refused to provide complete and adequate information thus driving the need for Condition 9. Condition 9 should be included in the Hearing Examiner's SSDP decision so there is assurance that mitigation sequencing has been properly included in King County's plans for the Trail.

B. King County Refuses to Provide Survey Information at the Level of Specificity Required by WAC 173-27-180(9)(f).

King County and the City agree that the decision on SSDP 2016-00415 must analyze and make decisions about the use and location of the Trail in the shoreline. Frank Overton testimony (November 3); Ozbolt testimony (November 7). For location analysis, the applicant must provide "[t]he 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." WAC 173-27-180(9)(f).

In Friends of Seaview v. Pacific County, SHB No. 05-017, the Shoreline Hearings Board (the "Board") ruled on this provision in the WAC. The Board had concerns with "the adequacy of the information as to a site development plan with elevation drawings to scale, dimensions and location of proposed structures and septic facilities, and the source and destination of fill material, as required by WAC 173-27-180," which provides the minimum information requirements." Id. at 11 – 12. The Board emphasized that there must be enough information in the application to allow for meaningful review under the Shoreline Management Act. Id. In Friends, the application submitted "was missing

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certain specifics," including the location of structures under subsection 173-27-180(9)(f). Id. at 12. The Applicant argued that it had shown "typical structures," but the Board was not satisfied that the omission of actual structures was harmless. The details could not be found anywhere in the application. The Board held that the application "lacked the sufficient detail that could reasonably support a conclusion that the project was in conformance with the SMA." Id. at 14.

For the Trail, Ozbolt testified that the survey submitted by King County did not show all structures in the Trail pathway, and this was required for the City's analysis of whether the application complied with the Shoreline Master Plan and Chapter 90.58 RCW. She explained that multiple instances had been brought to her attention by members of the public of a structure existing in the Project area, but not being shown on King County's survey. Ozbolt indicated that this information has the potential to affect Trail width and alignment. Bailey testified for the County that the survey identified all critical areas and significant trees. She stated that utility crossings and drainage had not been identified in the submitted survey, but that these would not change the location of the Trail[2]. Significantly, Bailey did **not** testify that all structures were shown on the survey. King County has not supplied sufficient information for a determination to be made on location of the Trail, as the survey provided by King County does not allow City

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[2] Frank Overton testified on November 20 that no change would be made to the Trail, but that existing utilities would be protected.

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Staff or the Hearing Examiner to see whether the Trail will need to be narrowed or realigned to avoid a pre-existing structure.[3]

Recommended Condition 3 attempts to rectify King County's omission while keeping the project moving. It would require King County to identify structures in the Project area. It does not require all structures be identified, but only those that were constructed pursuant to a permit that is non-revocable by the County. King County must then show the City how it will modify, narrow, or relocate the Trail to mitigate for the structures. Condition 3 is written narrowly to obtain the information needed that would affect the location of the Trail.[4] It is the Applicant's burden to supply a complete application,[5] and King County failed to honor requests made by the City to supplement its application with this information and in response to public comments submitted. Exhibit 36 at 5303. Condition 3 is the minimum needed to rectify the problem. The alternative is for the Hearing Examiner to follow the Board's example in Friends and deny the SSDP application.

The revised Condition 3 proposed by King County prolongs the wait for information that should have been provided prior to the hearing and does not commit King County to showing where the Trail will be narrowed or realigned to accommodate structures or other features identified in an updated survey. Exhibit 71 at 7.

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[3] The City acknowledges that there are disputes between King County and adjacent landowners about which structures within Segment 2B of the Trail Corridor are authorized to be there. The City takes no position on these private disputes, but does believe that the presence of authorized or "permitted" structures within the ELST Corridor should be acknowledged, identified, and accounted for by King County in the planning and permitting of the Trail.

[4] See Section II.A. of City Closing Argument for Trail narrowing analysis.

[5] WAC 173-27-180, SMC 25.08.080 and 20.05.040

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Leading to the recommendation of Conditions 3 and 9 is the County's failure to acknowledge, document, and provide solutions for the fact that it is trying to build a "cookie cutter" 12-foot paved trail in an "imperfect world, full of constraints." Alexander testimony (November 20). AASHTO provides flexibility and guidance for dealing with these kinds of "imperfect" situations in a safe manner. It isn't all or nothing. As Alexander explained, the Trail could be narrowed for long stretches to 11 feet with no effect on Level of Service ("LOS") and to 10 feet with marginal impacts on LOS. This would accommodate critical areas that are currently being impacted by King County's design. Otherwise, the opportunity to avoid the environmental impact will be lost. In short sections, an 8-foot width could accommodate physical constraints like the corner of a house, a fence, or a garage. Exhibit 124 at 39. Id.

C. King County's Revisions to Recommended Condition 5, with Minor Modifications, Would Help Bring the Application into Compliance with SSDP Criteria.

In King County's Response to DPD Staff Report dated November 3, 2017 (Exhibit 71), it proposed revisions to many of the conditions recommended by the City. The City is not in agreement with King County's alternative conditions, but the disagreement on Condition 5 is minor enough to perhaps allow a compromise position. The following is the County's proposed version of Condition 5 with the City's edits underlined:

> For that portion of the Project area that is owned by King County, and located within the Lake Sammamish Shoreline Setback, and that is not currently in use, the County shall update the Project plans to establish and maintain a Vegetation Enhancement Area (VEA) that is equal to the 15-foot 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

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> 25.06.020(10). Within that portion of the established VEA that is not in current use, the County shall maintain at least 75 percent of the area with vegetation consisting of native trees, shrubs, and groundcover designed to improve ecological functions.

D. An SSDP is a Type IV Process Under Sammamish Municipal Code.

The Hearing Examiner asked the parties to address Potala Village Kirkland, LLC v. City of Kirkland, 183 Wn. App. 191, 334 P.3d 1143 (2014), and its impact on the process Type used for the SSDP application. SMC 20.05.020. Washington's doctrine of vested rights entitles developers to have a land development proposal processed under the regulations in effect at the time a completed building permit application is filed, regardless of subsequent changes in zoning or other land use regulations. Erickson & Assoc., Inc. v. McLerran, 123 Wn.2d 864, 872 P.2d 1090 (1994). In 1987, the Legislature codified the vesting principles set out in common law to employ a "date certain" standard for vesting. Town of Woodway v. Snohomish Cnty., 180 Wn.2d 165, 172, 322 P.3d 1219 (2014). A date certain standard "ensures that new land-use ordinances do not unduly oppress development rights, thereby denying a property owner's right to due process under the law." Abbey Road Group, LLC v. City of Bonney Lake, 167 Wn.2d 242, 250, 218 P.3d 180 (2009). Importantly, the Legislature has never defined a "land use control ordinance." See Snohomish Cnty v. Pollution Control Hearings Bd., 187 Wn.2d 346, 386 P.3d 1064 (2016).

It is well settled in Washington that the statutory scheme defines the contours of the vesting doctrine. Potala Village Kirkland, LLC v. City of Kirkland, 183 Wn. App. 191, 334 P.3d 1143 (2014) (the scope of the vested rights doctrine is defined by the statutory scheme, which replaced, rather than supplemented, the common law). The

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vesting statutes govern building permits (RCW 19.27.095), subdivision applications (RCW 58.17.033), and development agreements (RCW 36.70B.180) only. Washington Courts have declined to extend the vested rights doctrine beyond what is set out in the aforementioned statutes, absent local vesting ordinances.[6] Moreover, "a party does not have a vested right to any particular form of procedure." In re Marriage of Hawthorne, 91 Wn. App. 965, 968, 957 P.2d 1296 (1998).

Several Washington Courts have determined that vesting does not apply if the subject matter is not included in the vested rights statutes and is not otherwise a land use control ordinance. For example, in New Castle Investments v. City of LaCenter, 98 Wn. App. 224, 232, 989 P.2d 569 (1999), the Court held that a city ordinance imposing a transportation impact fee was not a "land use control ordinance" under the vesting statutes because the ordinance "merely affect[ed] the ultimate cost of the development." The Court suggested that a "land use control ordinance" under the vesting doctrine was an ordinance that exerts a "restraining or directing influence" over land use. Id. at 229. Because the transportation fee did not "affect the physical aspects of development (i.e.,

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[6] SMC does not extend the vested rights doctrine to procedural requirements. The SMC provision entitled "Vesting" provides:

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

SMC 20.05.070.

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building height, setbacks, or sidewalk widths) or the type of uses allowed (i.e., residential, commercial, or industrial)," it was not subject to the vested rights doctrine. Id. at 237. Notably, not all regulations relating to land use are land use control regulations. Id. at 237-38.

Washington Courts have similarly held that shoreline substantial development permits do not vest, Potala Vill. Kirkland, LLC v. City of Kirkland, 183 Wn. App. 191, 334 P.3d 1143 (2014); preliminary site plan reviews do not vest, Valley View Indus. Park v. Redmond, 107 Wn.2d 621, 639, 733 P.2d 182 (1987); and even a Master Use Permit does not vest, Erickson, 123 Wn.2d at 874 – 876. The right to a particular type of permit decision process (Type II v. Type IV) is not recognized by the vesting statutes. This is consistent with the general principle that the vested rights doctrine not be applied more broadly than its intended scope. Graham Neighborhood Assoc., 162 Wn. App. at 116. A process Type is not a "land use control ordinance" because it does not restrain or direct influence over land use. New Castle Inves., 98 Wn. App. at 229.

E. The City is Not Precluding the Siting of an Essential Public Facility.

The Growth Management Act ("GMA") provides that "no local comprehensive plan or development regulation may preclude the siting of essential public facilities." RCW 36.70A.200(5). In City of Des Moines v. Puget Sound Regional Council, 98 Wn.App. 23, 988 P.2d 27 (1999), multiple cities surrounding Seattle Tacoma International Airport ("Sea-Tac") appealed the Port of Seattle's (the "Port") obligation to mitigate the siting of an essential public facility—the third runway. The Port Commission had passed a resolution "committing to mitigate the impacts of the improvements" resulting from hauling dirt through the appealing cities. Id. at 30. The

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Court held that GMA's prohibition against precluding essential public facilities did not prevent the cities from issuing permit conditions to mitigate impacts: "[T]he Port will have to comply with the Cities' reasonable permitting and mitigation requirements. The fact that these requirements may make the expansion more costly does not relieve the Port of these obligations." Id. at 35. To go so far as to "preclude" siting, a regulation must have the result of rendering impracticable the project. City of Airway Heights v. Eastern Washington Growth Management Hearings Bd., 193 Wn. App. 282, 313, 376 P.3d 1112 (2016) (citing City of Des Moines, 98 Wn. App. at 34.).

The recommended Conditions are not intended to, and by their plain meaning do not, render impossible or impractical construction of the Trail. The Conditions are reasonably necessary to bring this application into compliance with the SMC, SMP and SMA. Some Conditions may add cost, like survey work or arborist reports, but they are necessary if the SSDP application is to comply with state and local law. The Conditions by no means render construction of the Trail impossible or impracticable.

King County wants to avoid complying with the recommended Conditions and instead "promises" that any changes to the 60% plans will be done with "transparency." Baily testimony (November 20). In fact, King County has already made changes to the 60% plans based on public comment, but has not submitted those to the City or the Hearing Examiner for review. Overton testimony (November 20). King County "promises" to disclose its Trail changes to the City Staff and the public, but neither will have a part in the decision-making.

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This process and position is contrary to the criteria for granting an SSDP and WAC 173-27-100 for revisions to an SSDP permit. If "substantive changes" are proposed to the design, terms, or conditions of a SSDP project permit, a permit revision through the City is required. WAC 173-27-100. Substantive changes are defined as those that "materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of Chapter 90.58 RCW." Id. The City, and in the case of a Type IV permit, the Hearing Examiner, is the entity authorized to make the determination as to whether a proposed change is substantive or not. Id. at 173-27-100(1). Under the WAC, approved revisions are filed with the Department of Ecology and sent to parties of record. Id. at 173-27-100(5). The result of WAC 173-27-100 is that "substantive changes" that result from the imposition of recommended Conditions will be analyzed and a final decision made by the Hearing Examiner. But if, for instance, no alteration is made to the Trail width or alignment as a result of the survey showing all structures, no change will be needed to the permit, and no additional review will be required by the Hearing Examiner. This may seem a "bulky" process, but it is the result of King County's refusal to provide necessary information to fully evaluate the SSDP application.

III. CONCLUSION

The City respectfully recommends approval of the SSDP, but subject to the Conditions detailed in the Staff Report/Exhibit 1.

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DATED this 22nd day of December, 2017.

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DECLARATION OF SERVICE

I, Antoinette Mattox, declare and state:

1. I am a citizen of the State of Washington, over the age of eighteen years, not a party to this action, and competent to be a witness herein.

2. On the 22nd day of December, 2017, I served a true copy of the foregoing *City of Sammamish's Closing Argument*, on the following counsel of record using the method of service indicated below:

Barbara Flemming Sr. Deputy Prosecuting Attorney Devon Shannon Deputy Prosecuting Attorney CIVIL DIVISION King County Administration Bldg. 900 King County Administration Bldg. 500 4th Avenue Seattle, WA 98104	☐ First Class, U.S. Mail, Postage Prepaid ☐ Legal Messenger ☐ Overnight Delivery ☐ Facsimile ☒ E-Mail: Barbara.flemming@kingcounty.gov; devon.shannon@kingcounty.gov

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 22nd day of December, 2017, at Issaquah, Washington.

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