

City of Sammamish Planning Commission



Regular Meeting

October 19, 2017

6:30 – 8:30 pm

Location:

Planning Commission meetings are held at City Hall in Council Chambers unless otherwise posted.

Public Access:

All meetings are open to the public and include opportunities for public comment.



PLANNING COMMISSION REGULAR MEETING
October 19, 2017 6:30 – 8:30 PM
SAMMAMISH CITY HALL 801-228TH AVE SE

AGENDA

	<u>Approx. start time</u>
CALL TO ORDER	6:30 pm
ROLL CALL	
APPROVAL OF THE AGENDA	
APPROVAL OF THE MINUTES: October 5, 2017	
PUBLIC COMMENT: Non Agenda (3 minutes per person / 5 minutes if representing an organization)	
<u>OLD BUSINESS</u>	6:45 pm
Erosion Hazards Near Sensitive Water Bodies Overlay No-Disturbance Area Pilot Program	
<ul style="list-style-type: none">• Public Hearing• Deliberation	
<u>NEW BUSINESS</u>	7:45 pm
Application of Current Density to Land Division Code	
<ul style="list-style-type: none">• Work Session	
PUBLIC COMMENT: Agenda (7 minutes per person)	8:15 pm
ADJOURN	8:30 pm

Note: This is an opportunity for the public to address the Planning Commission. For non-agenda items, three (3) minutes are granted per person, or five (5) minutes if representing the official position of a recognized community organization. Seven (7) minutes are granted per person for agenda items.

If you are submitting written material, please supply 8 copies (7 for Planning Commission; 1 for the record). If you would like to show a video or PowerPoint, it must be submitted or emailed by 5pm the day of the meeting to Kevin Johnson at kjohnson@sammamish.us. Please be aware that Planning Commission meetings are videotaped and available to the public.

The City of Sammamish Planning Commission is appointed and is the advisory board to the City Council on the preparation and amendment of land use plans and implementing ordinances such as zoning. Planning Commissioners are selected to represent all areas of the City and as many "walks of life" as possible. The actions of the Planning Commission are not final decisions; they are in the form of recommendations to City Council who must ultimately make the final decision.

THE COMMISSION MAY ADD OR TAKE ACTIONS ON ITEMS NOT LISTED ON THIS AGENDA.

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

PLANNING COMMISSION AGENDA CALENDAR

Date	Time	Type	Staff	Topics
November 2	6:30 PM	Regular Meeting	Ryan Harriman David Goodman	Public Hearing / Deliberation: Application of Current Density to Land Division Code Work Session: 2018 Comprehensive Plan Amendments – Docket Requests
November 16	6:30 PM	Regular Meeting	David Goodman	Public Hearing / Deliberation: 2018 Comprehensive Plan Amendments – Docket Requests
December 7	6:30 PM	Regular Meeting	Doug McIntyre ARCH Staff Parks Staff	Work Session: Housing Strategy Update Work Session: Updates to the Parks, Recreation and Open Space (PRO) Plan
December 21	Cancelled	Regular Meeting		
January 4	6:30 PM	Regular Meeting	Parks Staff	Public Hearing / Deliberation: Updates to the Parks, Recreation and Open Space (PRO) Plan
January 18	6:30 PM	Regular Meeting	Doug McIntyre ARCH Staff	Work Session: Housing Strategy Update



MINUTES OF THE MEETING

MEETING SUMMARY

Regular Bi-monthly Meeting
Thursday, October 5, 2017, 6:30 PM
City of Sammamish Council Chambers

COMMISSIONERS PRESENT

Eric Brooks, Pos. 1
Roisin O'Farrell, Pos. 2
Shanna Collins, Pos. 3, Chair
Larry Crandall, Pos. 4, Vice-Chair
Jane Garrison, Pos. 5
Matthew Petrich, Pos. 6
Nancy Anderson, Pos. 7

COMMISSIONERS ABSENT

None

STAFF PRESENT

Jeffrey Thomas, Director of Community Development
David Pyle, Deputy Director of Community Development
Kellye Hilde, Planning Manager
Tawni Dalziel, Senior Stormwater Program Manager

CALL TO ORDER

Chair Collins called the Sammamish Planning Commission meeting to order at 6:30 PM

APPROVAL OF AGENDA

Chair Collins moved to approve the October 5, 2017 meeting agenda - **Approved 7:0.**

APPROVAL OF THE MINUTES

Chair Collins moved to approve the September 21, 2017 meeting minutes - **Approved 7:0**

PUBLIC COMMENT: NON-AGENDA

No Public Comment

OLD BUSINESS 6:33 PM ([Bookmarked Video Link](#))

Storm Water Code Update

Kellye Hilde, Planning Manager and Tawni Dalziel, Senior Stormwater Program Manager gave a brief presentation recapping the Public Hearing and deliberation held on September 21, 2017 and provided a review of the summary matrix highlighting code amendment changes to the drainage review threshold.

Staff proposed code amendments to Chapters 13.10, 13.20, 21A.15 SMC, and Sammamish Addendum to the 2016 King County Surface Water Design Manual (KCSWDM) for deliberation, recommendation and hand off to City Council. Link to packet material can be found [here](#)

Public Hearing

Public Hearing opened at 6:41 PM and closed at 7:17 PM ([Bookmarked Video Link](#))

Debbie Treen – 1825 E Lk Sammamish Parkway SE

Topic: Protecting Critical Areas with strong regulations and land acquisition

Kent Treen – 1825 E Lk Sammamish Parkway SE

Topic: Subdivision Pilot Program

Jeffery Weems – 941 206th PL NE

Topic: Inglewood and Tamarack plats

Loreen Lapenna – 905 206th PL NE

Topic: Impervious surface limit

Peter Kelly – 19418 SE 21st ST

Topic: Critical area protections

Sheila Kelly – 19418 SE 21st ST

Topic: Critical area protections

Jay Rokneddini – 1218 206th PL NE

Topic: Impervious surface limit

Mary Victor – 408 208th Ave NE

Topic: Critical area maps

Cindy Taylor – 250 208th Ave NE

Topic: Historic plat code protection

Planning Commission Deliberation ([Bookmarked Video Link](#))

Vice-Chair Crandall moved that the Planning Commission rescind the motion that did not pass at the September 26, 2017 meeting relating to the proposed amendments to Chapters 13.10, 13.20, 13.30, 21A.15 SMC, and the Sammamish Addendum to the 2016 King County Surface Design Manual. Seconded. **APPROVED 7:0**

Vice-Chair Crandall moved to recommend to the City Council staff proposed amendments to SMC 13.10 which includes adding a new definition for Municipal Separate Storm Sewer Systems (MS4). Seconded. **APPROVED 7:0**

Commissioner Brooks moved to recommend to the City Council staff proposed amendments to SMC 21A.15 which revises the definition of Critical Drainage Area to reference “city-wide” standards. Seconded. **APPROVED 7:0**

Commissioner O’Farrell moved to recommend to the City Council staff proposed amendments to SMC 13.20 which removes duplicate language for Core Requirements, Special Requirements, and Drainage Adjustments already found in the adopted Surface Water Design Manual. Seconded. **APPROVED 7:0**

Commissioner Anderson moved to recommend to the City Council staff proposed amendments to SMC 13.20 which requires development subdivisions to provide low impact development education and outreach to new single family residential homeowners. Seconded. **APPROVED 7:0**

Commissioner Brooks moved to recommend to the City Council staff proposed amendments to SMC 13.20.040 which allows exemptions in Critical Drainage Areas from Core Requirements 3 through 8. Seconded. **APPROVED 7:0**

Vice-Chair Crandall moved to recommend to the City Council that Inglewood Historic Plat Ordinance 2015-389 be repealed to allow consistent requirements in all landslide hazard drainage areas. Seconded. **APPROVED 7:0**

Chair Collins recuses herself from the last two motions due to a potential conflict of interest.

Vice-Chair Crandall moved to recommend to the City Council staff proposed amendments to drainage review under SMC 13.20.020 which includes a revision of the threshold for drainage review in critical drainage areas to 500 SF of new impervious surface. Seconded. **APPROVED 6:0**

Commissioner Garrison moved to recommend to the City Council staff proposed amendments to SMC 13.20.040 and the Sammamish Addendum to the 2016 King County Surface Water Design Manual (KCSWDM) which would require a tightline system in areas located in a Landslide Hazard Drainage Area unless exemptions can be met in accordance to Core Requirement No. 1 in the 2016 KCSWDM including an approved alternate drainage system that considers cumulative impacts and less than 1000 SF of new impervious surface is proposed. Seconded. **APPROVED 6:0**

OLD BUSINESS 7:31 PM ([Bookmarked Video Link](#))

Erosion Hazards Near Sensitive Water Bodies Overlay No-Disturbance Area Code

David Pyle, Deputy Director of Community Development provided a review of the Erosion Hazards Near Sensitive Water Bodies Overlay No-Disturbance Area Pilot Program and proposed elimination of the program in anticipation of the October 19, 2017 Public Hearing.

No action taken

PUBLIC COMMENT: AGENDA

Public Comment on agenda items started at 8:22 PM and ended at 8:27 PM ([Bookmarked Video Link](#))

Mary Wictor – 408 208th AVE NE
Topic: Pilot Program & Maps

Dennis Malone – SE 21st PL
Topic: Pilot Program

Vice-Chair Crandall motioned to extend the meeting to 8:45 Seconded. **APPROVED 7:0**

REPORTS 8:29 PM ([Bookmarked Video Link](#))

Director Report

Jeffrey Thomas, Director of Community Development provided the Planning Commission with information about the emergency ordinance adopting a six-month moratorium on all new development by City Council on Tuesday October 3, 2017. Mr. Thomas also asked for volunteers to serve on an ad hoc committee to discuss public outreach and neighborhood meetings associated with a subdivision application. Commissioner O’Farrell and Commissioner Petrich volunteered to serve on this committee.

Chair Report

Chair Collins proposed amendments to the Planning Commission Bylaws related to meeting minutes and public comment.

Chair Collins moved to authorize city staff to record action minutes of the meetings of the Planning Commission in accordance with Article V of the Planning Commission Bylaws to stream line implementation of SMC 2.60.030 (4), Seconded. **APPROVED 7:0**

Chair Collins moved to revise article VI public involvement of the Planning Commission bylaws to allow 3 minutes per person for public comment for agenda and non-agenda topic or 5 minutes per person if representing the official position of a recognized community organization, Seconded. **FAILED 1:6**

Chair Collins adjourned the meeting at 8:47 PM.

Chair: Shanna Collins

PC Coordinator: Kevin Johnson

[Video Audio Record 10/05/2017](#)

Roberts Rules of Order applied: [RONR (10TH ed

DRAFT



PLANNING COMMISSION AGENDA ITEM

October 19, 2017

SUBJECT

Code Amendments to Sammamish Municipal Code SMC 21A.50.225 addressing Erosion Hazard Near Sensitive Waterbodies – No Disturbance Areas – Pilot Program regulations

STAFF CONTACTS

David Pyle, Deputy Director, Community Development
425-295-0521, dpyle@sammamish.us

DIRECTION NEEDED FROM PLANNING COMMISSION

- Action
- Discussion
- Information

SUMMARY STATEMENT

The Department of Community Development staff is recommending that the City's Erosion Hazard Near Sensitive Waterbodies Overlay (EHNSWB) No Disturbance Areas (NDA) Pilot Program be permanently eliminated from the SMC 21A.50.225(5).

BACKGROUND

Citing concerns that the requirements and development regulations of the Pilot Program are inadequate to protect against potentially significant adverse impacts within the NDA, City Council requested staff to prepare interim development regulations removing the Pilot Program from the SMC while the content of the Program is evaluated. On May 22, 2017, City Council declared an emergency and adopted these interim regulations under Ordinance O2017-438. Shortly thereafter, City Council directed staff to evaluate the components of the Pilot Program and to engage the Planning Commission in consideration of potential permanent changes to this specific section of the City's environmentally critical areas regulations.

At the October 5, 2017 meeting, the Planning Commission was presented with a recommendation by staff to permanently eliminate the City's EHNSWB NDA Pilot Program. Staff presented this recommendation after making a finding that the Pilot Program artificially increases risk of erosion and degraded water quality within the EHNSWB NDA by indirectly promoting larger subdivision projects contradicting the intent of the EHNSWB NDA overlay. Subdivision within the EHNSWB NDA is and has been prohibited. The EHNSWB NDA Pilot Program only allowed four (4) projects, did not provide for an appropriate method to facilitate subdivision, and should be discontinued. The basis for this recommendation is presented in the October 5, 2017 Planning Commission Agenda Item (**Exhibit 2**).

ACTION REQUIRED

The Planning Commission will hold a public hearing on the proposed amendments to the EHNSWB NDA Pilot Program at the October 19, 2017 meeting. After closing the public hearing, Planning Commission should

consider public input, deliberate, and take action on the proposal to permanently remove the EHNSWB NDA Pilot Program by striking SMC 21A.50.225(5) in its entirety (and making any required conformance edits) as shown in **Exhibit 1**.

RECOMMENDED MOTION

Move to recommend to the City Council the permanent removal of the EHNSWB NDA Pilot Program from SMC 21A.50.225.

EXHIBITS

1. Proposed Amended SMC 21A.50.225
2. October 5, 2017 EHNSWB NDA Pilot Program Planning Commission Agenda Item
3. Summary Matrix

21A.50.225 Erosion hazards near sensitive water bodies overlay.

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

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

(a) The one-acre exemption in the storm water design manual addendum shall not apply within the erosion hazards near sensitive water body overlay.

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

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

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

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

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

(3) No-Disturbance Area Development Standards. The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the no-disturbance area:

(a) Development shall not occur in the no-disturbance area, except for the development activities listed in subsection (3)(a)(i) of this section. Development activities listed in subsection (3)(a)(i) of this section shall only be permitted if they meet the requirements of subsection (3)(a)(ii) of this section.

(i) Development activities may be permitted as follows:

(A) For single-family residences, associated landscaping and any appurtenances on preexisting separate lots;

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

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

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

(ii) The development activities listed in subsection (3)(a)(i) of this section may be permitted only if the following requirements are met:

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

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

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

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

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

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

(ii) Development proposals that meet the goals of low impact development, as follows:

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

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

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

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

(iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements in existence before January 1, 2006, that do not increase the existing total footprint of the residence and associated impervious surface by more than 400 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this subsection.

(4) Development Standards for Properties Draining to the No-Disturbance Area. The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the erosion hazards near sensitive water body overlay that drain to a no-disturbance area:

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

(i) Infiltration of all site runoff shall be required in granular soils as defined in the adopted surface water design manual and SMC Title 13, Surface Water Management;

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

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

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

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



PLANNING COMMISSION AGENDA ITEM

October 5, 2017

SUBJECT

Code Amendments to Sammamish Municipal Code [SMC] 21A.50.225 addressing Erosion Hazard Near Sensitive Waterbodies – No Disturbance Areas – Pilot Program regulations

STAFF CONTACTS

David Pyle, Deputy Director, Community Development
425-295-0521, dpyle@sammamish.us

DIRECTION NEEDED FROM PLANNING COMMISSION

- Action
- Discussion
- Information

SUMMARY STATEMENT

The Planning Commission will consider changes to the City's Erosion Hazard Near Sensitive Waterbodies overlay (SMC 21A.50.225) to address program concerns. To prepare the Commission for this discussion, staff provided an overview of the City's Environmentally Critical Areas section of the SMC (Chapter 21A.50 SMC) at the September 21, 2017 meeting. The presentation included a summary of critical areas regulations enacted by the Washington State Growth Management Act (GMA), direction established by the Sammamish Comprehensive Plan, the structure of the SMC with regard to Environmentally Critical Areas regulations (Chapter 21A.50 SMC), and the different tools used to regulate these resources.

During the October 5, 2017 meeting, the Commission will begin a discussion regarding permanent regulations associated with the Erosion Hazard Near Sensitive Waterbodies Overlay (EHNSWB) No Disturbance Area (NDA). To support this conversation, Department of Community Development staff have assembled background information related to this topic.

ACTION REQUIRED

No formal action is required although Commission feedback to staff is needed to guide preparation of draft regulations on this subject. This meeting is intended to provide an opportunity for the Commission to consider the direction given by the City Council during their discussions on this topic, to build an understanding of the purpose of the Erosion Hazard Near Sensitive Waterbodies Overlay (SMC 21A.15.417 and SMC 21A.225), and for the Commission to discuss different options regarding permanent regulations associated with the Erosion Hazard Near Sensitive Waterbodies Overlay No Disturbance Area Pilot Program (SMC 21A.225[5]).

There will be time provided for questions to staff and discussion by the Commission. As this is the last item on the Commissions' agenda for the evening, staff are requesting the meeting end with specific direction on changes to SMC 21A.50.225(5).

BACKGROUND

The EHNSWB NDA Pilot Program - SMC 21A.50.225(5) - was added to the SMC in 2013 through adoption of the City's updated Environmentally Critical Areas (ECA) regulations under Ordinance O2013-350. Although the Pilot Program was incorporated into the SMC with the passing of Ordinance O2013-350, use of the program remained restricted until the content of the updated Critical Areas regulations were integrated into a Washington State Department of Ecology (DOE) approved update to the City's Shoreline Master Program (SMP). The required update to the City's SMP was not adopted by DOE and made effective until March of 2017. The Pilot Program therefore opened for application in March 2017.

Following the March 2017 activation of the Pilot Program, the City Council began discussion on Program adequacy during its May 2017 meetings (relevant excerpts from Council meeting minutes are included as **Exhibit 1**). On May 16, 2017, the Council, citing concerns that the requirements and development regulations of the Pilot Program are inadequate to protect against potentially significant adverse impacts within the NDA, requested Staff prepare interim development regulations removing the Pilot Program from the SMC while the content of the Program is evaluated.

On May 22, 2017 the Council declared an emergency and adopted interim development regulations under Ordinance O2017-438 (**Exhibit 2**). Ordinance O2017-438 removed the Pilot Program from SMC 21A.50.225 as an interim measure. In accordance with RCW 35A.63.220, on July 18, 2017 a public hearing was held within 60 days of passing of the interim development regulations ordinance. Following the public hearing Council directed staff to evaluate the components of the Pilot Program as previously found in SMC 21A.50.225 and engage the Planning Commission in consideration of potential permanent changes to this section of the City's ECA regulations.

DEVELOPMENT ACTIVITY AND THE EROSION HAZARDS NEAR SENSITIVE WATER BODIES OVERLAY (EHNSWB)

The purpose of the EHNSWB overlay is to protect sloped areas posing erosion hazards that drain directly to waterbodies particularly sensitive to increased erosion and sediment loads from development. The EHNSWB is broken into two areas, those Properties Draining to the No-Disturbance Areas (PDNDA) and the NDA. The NDA is intended to restrict activity within the most crucial (sloped) portion of the EHNSWB overlay to prevent damage from erosion and the PDNDA is intended to limit surface water flowing into the NDA from uphill properties. Similar to other ECAs, only specific and necessary activities are allowed in the NDA, although activities are generally unrestricted in the PDNDA. The SMC definition of the EHNSWB overlay and corresponding NDA and PDNDA are included as **Exhibit 3**. A copy of SMC 21A.50.225 (EHNSWB, PDNDA, and NDA regulations) is included as **Exhibit 4**.

To better comprehend application of EHNSWB, PDNDA, and NDA restrictions, understanding of the phases of development with regard to surface impacts is required. With a typical development project where an undeveloped vegetated site is developed, we first see site clearing, then site grading and utility installation, then interim finished conditions are applied, and finally finished surface conditions are provided and the site is 'finished.'

The most susceptible stage in development to erosion in the EHNSWB overlay is within the first two phases of development. During the first phase, clearing and grading activity is managed by construction crews on a macro site scale. During the second phase, as utilities, roads, and other amenities are constructed, significant earthwork is still ongoing, presenting a high risk of erosion due to exposed soils. During these first two phases clearing and grading is restricted under Federal, State, and local rules and each project must have an appropriate Temporary Erosion and Sedimentation Control Plan (TESC), Construction Stormwater Pollution Prevention Plan (CSWPPP), and Wet Season work permit if work is proposed to occur during the rainy season. The City has recently updated and augmented these regulations through the National Pollution and Discharge Elimination System permit (NPDES) as required by the Federal Clean Water Act.

The third phase of development is less susceptible to erosion as areas of exposed soils have been reduced, interim surface conditions have been set, and the site is able to withstand weather events that would cause erosion. This typically comes in the form of surface treatments such as placement of compost, bond matrix, hydro-seeding, gravel, or other more durable erosion control measures. Areas of excavation or open earthwork are also more limited in scope and the site is managed on a micro scale. Often these surface treatments and construction

activities are still accompanied by a TESC or CSWPPP. Stormwater facilities are also typically complete and operational with this phase of development and the development site has the capacity to handle stormwater, effectively limiting site runoff.

The fourth and final phase of development is when the final surface condition is applied and represents the lowest risk of all of the phases (aside from the no-action original condition). This typically includes the placement of compost, topsoil, mulch, landscaping, concrete, pavement, etc. as the final designed condition. The surface treatments applied with this phase of the development are very durable and are able to withstand large weather events. This phase is considered low risk as a final surface treatment has been applied and there is a low risk of erosion with a sizeable weather event.

The phases of a development are important to understand when considering the purpose of the EHNSWB and NDA regulations. As the fourth phase of development and the final built condition represent a low risk of erosion (exposed soils have been eliminated), and any development project is required to meet applicable stormwater regulations, the purpose of the EHNSWB overlay and the NDA appear to directly address the earlier phases of construction when erosion risk is high due to the presence of exposed soils. The purpose of the EHNSWB overlay and NDA is not to govern long term operation of facilities within development, but rather to address construction activity and the potential impacts it represents.

EROSION HAZARD NEAR SENSITIVE WATERBODIES (EHNSWB) GENERAL DEVELOPMENT REGULATIONS

All land development activity within the EHNSWB is regulated by general development standards that are oriented at enhanced surface and stormwater management during and after construction. The general focus of these standards is that the development project will not subject downstream channels to increased risk of landslide or erosion and the development project will not subject the nearest sensitive water body to additional hazards resulting from erosion. See SMC 21A.225(2) – **Exhibit 4. General development standards applicable to the EHNSWB are not proposed to be changed.**

PROPERTIES DRAINING TO THE NO DISTURBANCE AREA (PDNDA)

The purpose of the PDNDA is to protect the NDA from erosion risks caused by subdivision development generated surface water to reduce erosion risk uphill of the NDA. The PDNDA only regulates new subdivision development. See SMC 21A.225(4) – **Exhibit 4. Development standards applicable to the PDNDA are not proposed to be changed.**

NO DISTURBANCE AREA (NDA)

As stated above, the NDA is intended to restrict activity within the most crucial (sloped) portion of the EHNSWB overlay to prevent erosion. There are currently 1,171 parcels located within the NDA. 886 of those are considered developed and 285 are considered undeveloped. Of the 285 undeveloped parcels, a majority (82%) are located within the R-4 zone where the median parcel size is 9,914. Further, of the 285 undeveloped parcels located in the NDA, only 84 can be potentially subdivided (the actual number is likely much smaller after other constraints are considered). 86% of the undeveloped parcels in the NDA are also restricted by Landslide Hazard regulations. A full reporting on the characteristics of the EHNSWB and NDA will be provided at the October 5, 2017 meeting.

While necessary development activities (e.g. utilities, access drives, public facilities) are allowed within the NDA, and construction of a new single-family home on an existing parcel is also allowed, subdivision of land is not permitted. The NDA Pilot Program (currently suspended under interim regulations) was intended to allow for four (4) subdivisions to occur within the NDA. See SMC 21A.225(3) – **Exhibit 4. General development standards applicable to the NDA are not proposed to be changed.**

PILOT PROGRAM

The Pilot Program was designed to address both construction activity during development and the final built condition. The stated purpose of the program is to allow for and evaluate limited development within the NDA without affecting the water quality of Lake Sammamish. The components of the program include limitations on clearing and requirements related to managing stormwater. A total of four (4) projects were allowed under the

Pilot Program. Two (2) of the subdivision projects would be served by a tight-line drainage system (pipe conveying water to Lake Sammamish), and two (2) would require strict application of Low Impact Development (LID) practices. Further, all four (4) projects would be subject to restrictive construction windows, restrictive clearing limits, and comprehensive monitoring requirements. See SMC 21A.225(5) – **Exhibit 4**.

Under either scenario (tight-line or LID) the cost of subdivision development within the NDA is high, indirectly limiting these projects to larger subdivisions where the cost of compliance with development requirements is absorbed by the size of the project. This is counterintuitive to the intent of the EHNSWB, PDNDA, and NDA rules in that a larger project is required to make the project financially viable and larger projects are also more prone to causing erosion impacts. Smaller projects with limited impact are more appropriate in the NDA as they can be managed at the level necessary to meet the objectives of the EHNSWB. A large scale subdivision within the NDA is not appropriate and presents a high level of erosion risk and is contrary to the intent of the EHNSWB overlay.

DEVELOPABLE PARCELS

If a parcel is located within the NDA it is developable in accordance with SMC 21A.225(3). A new single family home may be constructed on an existing residentially zoned parcel within the NDA. Different than other ECAs, the NDA does not detract from available density (pursuant to SMC 21A.25.080). Further, that portion of a parcel that is not within the NDA is eligible for subdivision development (unless there are other site constraints that restrict development). Parcels with surplus units of density may also be eligible to participate in the City's Transfer of Density Rights (TDR) program (Chapter 21A.80 SMC).

For clarity, the EHNSWB NDA prohibits subdivision development. There are approximately 285 undeveloped lots in the NDA, of which 84 can potentially be subdivided. The Pilot Program only allowed for 4 subdivision projects. Removal of the Pilot Program from the SMC will not cause a change to the general developability of parcels within the NDA. Property owners will retain the right to develop existing parcels located within the NDA with new single family residences, although subdivision within the NDA would remain prohibited.

CONCLUSION

The EHNSWB NDA Pilot Program artificially increases risk of erosion and degraded water quality within the NDA by indirectly promoting larger subdivision projects contradicting the intent of the EHNSWB overlay. Subdivision within the EHNSWB NDA is prohibited. The EHNSWB NDA Pilot Program only allowed four (4) projects, did not provide for an appropriate method to facilitate subdivision, and should be discontinued.

RECOMMENDATION

Staff recommend the Planning Commission permanently remove the EHNSWB NDA Pilot Program from the SMC.

NEXT STEPS

Following Commission consideration and discussion regarding appropriateness of the EHNSWB NDA Pilot Program, the Commission will provide direction to staff. A Public Hearing regarding the permanent changes to the Pilot Program is scheduled for October 19, 2017.

EXHIBITS

1. Relevant Excerpts from Council meeting minutes
2. Ordinance O2017-438 – Emergency Declaration and Interim Regulations
3. SMC 21A.15.417 – EHNSWB, PDNA, and NDA Definitions
4. SMC 21A.50.225 - Erosion Hazard Near Sensitive Waterbodies Overlay Regulations

EHNSWB No Disturbance Area Pilot Program City Council Meeting Minutes

May 16

Update: Pilot Project Program – Mr. Thomas and Mr. Pyle gave the staff report. Mr. Thomas explained that there is not an application for the Parker Plat (as mentioned in public comment) at this time. He said he will not know if the neighborhood meeting was noticed properly until after the meeting occurs and the applicant turns in the mailing list. If the mailing list is incorrect, they will have to re-notice the meeting.

Mr. Pyle explained the Pilot Program. As part of their review of the update of the critical areas codes in 2012, the Planning Commission recommended a Pilot Program to allow for more flexibility for properties that would be severely affected by the new codes. The Council approved the Pilot Program with restriction for one application for subdivision using tightlines for drainage and one project using Low Impact Development. The program did not become effective until March 1, 2017. The program can only occur in the No Disturbance Area in the Erosion Hazard Areas Near Sensitive Water Bodies area. The Parker Plat meets these requirements.

MOTION: Councilmember Hornish moved to direct staff to prepare an interim development regulation ordinance to eliminate the Pilot Program from the Environmentally Critical Areas regulations for the next Council meeting. Councilmember Huckabay seconded. Motion carried unanimously 6-0.

May 22

Ordinance: Adopting Interim Development Regulations As Authorized By The Growth Management Act Relating To The Pilot Program In The Erosion Hazards Near Sensitive Water Bodies Overlay; Providing For Severability; And Declaring An Emergency

Jeff Thomas, Director of Community Development and David Pyle, Deputy Director of Community Development, gave the staff report. Mr. Thomas explained that the Pilot Program was adopted as part of the Shoreline Master Plan, which became effective March 1, 2017. The program has not been used. Based on Council direction at the May 16, 2017, Council meeting, staff developed the proposed ordinance that would impose interim regulations on the Pilot Project for six months. Adoption of the emergency ordinance will require a public hearing. Staff is suggesting that the public hearing occur on July 18, 2017.

Councilmember Valderrama would like to see a two-step process for application for development in this area; first determine what types of projects should be done and then, perhaps, a lottery method for allotting the permits. Councilmember Hornish would like to see how NPDES regulations would affect development in the overlay area. How do Low Impact Development regulations affect this type of development and how are other cities dealing with this? The zoning of these areas should be reevaluated based on newer science.

MOTION: Deputy Mayor Keller to approve the proposed ordinance, as amended by the City Attorney and sent to the City Council earlier today, declaring an emergency, adopting interim development regulations removing the Erosion Hazards Near Sensitive Water Bodies Overlay No Disturbance Area Pilot Program from Sammamish Municipal Code 21A50.225 as detailed in Attached A of the ordinance and setting the matter for further discussion at a public hearing on July 18, 2017. Councilmember Malchow seconded. Motion carried unanimously 6-1 with Mayor Gerend dissenting (O2017-438). As part of the full legislative review of this matter to adopt permanent regulations, the City Council

directs staff, during the next six months, to research and evaluate other possible examples, metrics and/or standards which may assist staff in drafting proposed permanent regulations, the Planning Commission in formulating recommendations and City Council in making a final decision.

Mayor Gerend feels that the pilot program was thoroughly vetted previously. He thinks that this would be an unwise use of staff, Council and Planning Commission when there is probably only one project that would be permitted under the Pilot Program.

Deputy Mayor Keller feels that the staff should develop the framework of what should be sent to the Planning Commission to reassess.

July 18

Ordinance: An Ordinance Of The City Of Sammamish, Washington, Adopting Interim Development Regulations As Authorized By The Growth Management Act Relating To The Pilot Program In The Erosion Hazards Near Sensitive Water Bodies Overlay; Providing For Severability; And Declaring An Emergency - Previously adopted (O2017- 438)

Jeff Thomas, Director of Community Development and David Pyle, Deputy Director of Community Development spoke regarding the previously adopted ordinance O2017-438. Staff is not asking for any action from Council at this time.

Public Hearing opened at 8:30 pm and closed at 9:16 pm.

Riley M. Parker, PO Box 638, Quilcene, WA, spoke about property at 1818 & 1820 193rd Ave SE property that he and his brother own and would like to be able to subdivide into 30 lots on 15 acres.

Panfilo Morelli, 11911 NE 1st Street, Suite 101, Bellevue, WA, showed a presentation and submitted a written report. (available upon request to the City Clerk, manderson@sammamish.us)

James Eastman, 15544 SE 169th Street, Renton WA, showed a presentation and submitted a written report. (available upon request to the City Clerk, manderson@sammamish.us)

Debbie Treen, 1825 E Lk Sammamish Pkwy SE, spoke regarding her property and the emergency moratorium has affected her. She is concerned about the landslide potential from the lands above her property. She is concerned about the Director's ability to modify application requests.

April Stevens and Denise Darnell, Sammamish Woods representatives, spoke in favor of the moratorium and they are concerned with the issues with erosion control and sensitive area overlays.

Mary Wictor, 408 208th Ave NE, spoke in regards to the no disturbance zone and maps. Suggested hiring/working with King county maps to update the Sammamish maps. She would like to see the latest maps added to the Sammamish website.

Deputy Mayor Malchow asked about the maps Ms. Wictor has referenced, that should be added to the City website. Mr. Howard will check with staff and get back to Council at the next Council meeting. It was suggested to change the colors on the Sammamish maps to match King County maps.

City Manager Howard encouraged Citizens to continue to be involved in the Planning Commission process.

**CITY OF SAMMAMISH
WASHINGTON
ORDINANCE NO. O2017-438**

**AN ORDINANCE OF THE CITY OF SAMMAMISH,
WASHINGTON, ADOPTING INTERIM DEVELOPMENT
REGULATIONS AS AUTHORIZED BY THE GROWTH
MANAGEMENT ACT RELATING TO THE PILOT PROGRAM
IN THE EROSION HAZARDS NEAR SENSITIVE WATER
BODIES OVERLAY; PROVIDING FOR SEVERABILITY; AND
DECLARING AN EMERGENCY**

WHEREAS, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt interim development regulations; and

WHEREAS, to promote the public health, safety, aesthetics, and welfare, the City of Sammamish ("City") adopted an erosion hazard near sensitive water bodies overlay to provide a means to designate sloped areas posing erosion hazards that drain directly to lakes or streams of high resource value that are particularly sensitive to the impact of increased erosion and the resulting sediment loads from development. Sammamish Municipal Code (SMC) section 21A.50.225; and

WHEREAS, the City Council has established a pilot program in section 21A.50.225(5) SMC to allow pilot project subdivisions within the erosion hazard near sensitive water body overlay allowing limited development in the no-disturbance area; and

WHEREAS, the City Council has determined that the requirements and development regulations of the pilot program may be inadequate to protect against potentially significant adverse impacts within the no-disturbance area, and that further analysis of those issues should be undertaken; and

WHEREAS, amendments to the pilot program development regulations may be required, and the City is interested in preventing the approval of pilot program applications until such time as the pilot program regulations can be thoroughly reviewed and amended; and

WHEREAS, the City has determined that interim development regulations adopted under the provisions of RCW 36.70A.390 are necessary in order to allow adequate time for the City to effectively analyze and determine if the current development regulations are sufficient to provide for pilot programs within the City;

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

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as the City Council's initial findings of fact in support of the interim development regulations adopted herein. The City Council may, in its discretion, adopt additional findings after the public hearing referenced in Section 4 of this Ordinance.

Section 2. Adoption of Interim Zoning Regulations. The City Council hereby adopts the interim development regulations amending Sammamish Municipal Code Chapter 21A.50 to delete the pilot program as set forth in Attachment A to this Ordinance.

Section 3. Effective Duration of Interim Development Regulations. The interim development regulations set forth in this Ordinance shall be in effect for a period of six (6) months from the effective date of this Ordinance and shall automatically expire at the conclusion of that six-month period unless sooner repealed.

Section 4. Public Hearing. The City Council will hold a public hearing at the City Council's regular meeting beginning at 6:30 p.m. on July 18, 2017 or as soon thereafter as the business of the City Council shall permit, in order to take public testimony and to consider adopting further findings of fact.

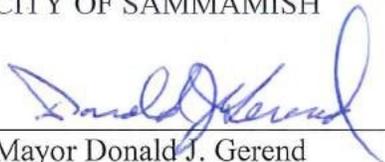
Section 5. Referral to the City Manager. The City Council requests that the City Manager and his staff work diligently with the Planning Commission and City Council to formulate and adopt permanent regulations.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force on its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the "WHEREAS" clauses, above, all of which are adopted by reference as findings of fact as if fully set forth herein.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 22ND DAY OF MAY, 2017.

CITY OF SAMMAMISH



Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:



Melonie Anderson, City Clerk

Approved as to form:



Michael R. Kenyon, City Attorney

Filed with the City Clerk:	May 19, 2017
First Reading:	May 22, 2017
Passed by the City Council:	May 22, 2017
Date of Publication:	May 26, 2017
Effective Date:	May 22, 2017

21A.50.225 Erosion hazards near sensitive water bodies overlay.

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

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

(a) The one acre exemption in the storm water design manual addendum shall not apply within the erosion hazards near sensitive water body overlay.

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

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

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

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

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

(3) No-Disturbance Area Development Standards. The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the no-disturbance area:

(a) Development shall not occur in the no-disturbance area, except for the development activities listed in subsection (3)(a)(i) of this section. Development activities listed in subsection (3)(a)(i) of this section shall only be permitted if they meet the requirements of subsection (3)(a)(ii) of this section.

(i) Development activities may be permitted as follows:

(A) For single-family residences, associated landscaping and any appurtenances on preexisting separate lots;

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

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

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

~~(E) Work authorized pursuant to the pilot program.~~[DP1]

(ii) The development activities listed in subsection (3)(a)(i) of this section may be permitted only if the following requirements are met:

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

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

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

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

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

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

(ii) Development proposals that meet the goals of low impact development, as follows:

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

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

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

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

(iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements in existence before January 1, 2006, that do not increase the existing total footprint of the residence and associated impervious surface by more than 400 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this subsection.

(4) Development Standards for Properties Draining to the No-Disturbance Area. The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the erosion hazards near sensitive water body overlay that drain to a no-disturbance area:

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

(i) Infiltration of all site runoff shall be required in granular soils as defined in the adopted surface water design manual and SMC Title 13, Surface Water Management;

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

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

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

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

~~(5) Pilot Program.~~[DP2]

~~(a) Establishment of Pilot Program. A pilot program is hereby established to allow pilot project subdivision, including clearing and development projects within the no-disturbance area as set forth herein, on land that has slopes of less than 40 percent grade and that is located outside of environmentally critical area buffers. The provisions of this pilot program shall not apply, and pilot projects shall not be authorized, within the mapped Ebright Creek, Pine Lake Creek, Zaccuse Creek, and "mid-Monohon" sub-basins.~~

~~(b) Effective Date. The terms of this pilot program related to pilot projects authorized under subsection (5)(d)(i) of this section, and to properties within the shoreline jurisdiction, shall take effect following the adoption of the pilot program into a Department of Ecology approved Sammamish shoreline master program.~~

~~(c) Purpose. The purpose of this pilot program is to allow for limited development within the no-disturbance area under strict limitations in order to evaluate the ability to allow increased development within the no-disturbance area without adversely affecting the water quality of Lake Sammamish. Projects qualifying for this pilot program are subject to the requirements below, and are not subject to the preceding subsections of this section.~~

~~(d) Eligibility. A maximum of four subdivision projects are authorized by this pilot program. A maximum of two projects may be authorized under subsection (5)(d)(i) of this section and a maximum of two projects may be authorized under subsection (5)(d)(ii) of this section. Projects eligible for inclusion in this pilot program shall meet the provisions of subsection (5)(d)(i) or (5)(d)(ii) of this section:~~

~~(i) Tightline Drainage Design. Where direct access to Lake Sammamish is available, the applicant shall install permanent water quality treatment per the adopted surface water design manual and a tightline storm drain system discharging directly into Lake Sammamish designed by a professional engineer using the adopted surface water design manual and technologies. The applicant shall also install temporary erosion sediment control improvements, including active water quality treatment. The tightline system shall extend through the property and be available by extension or easement upstream to properties that naturally drain to the subject property; or~~

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

(A) Sixty-five percent of the site shall remain as forested open space. Revegetation shall be required to convert nonforested open space to forested as part of the project approval.

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

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

(e) Pilot Program Administration.

(i) Application. Applications for eligible projects meeting the provisions of subsection (5)(d) of this section shall be administered as follows:

(A) Within two years of the effective date of this subsection, a maximum of one project eligible for the pilot program under subsection (5)(d)(i) of this section and a maximum of one project eligible for the pilot program under subsection (5)(d)(ii) of this section may be accepted subject to the provisions of subsection (5) of this section. Following completion and acceptance of all required infrastructure necessary to support the proposed project, and barring any failure of the required infrastructure that causes an environmental failure, an additional one project eligible for the pilot program under subsection (5)(d)(i) of this section and an additional one project eligible for the pilot program under subsection (5)(d)(ii) of this section may be accepted subject to the provisions of subsection (5) of this section. For the purposes of this subsection, infrastructure necessary to support the proposed project shall include, at a minimum, all public or private storm water improvements, and all public or private roads improvements associated with the project.

(B) Application for eligible projects shall be accepted in the order received. To qualify for application, an applicant must have a complete application as described in the City's application material and Chapter 20.05 SMC, and an applicant must have completed any necessary preliminary steps prior to application as set forth in Chapter 20.05 SMC.

(C) In the event that an application for a project accepted into the pilot program is withdrawn by the applicant or cancelled by the City prior to the expiration of the pilot program, the next submitted application for the same development type shall be accepted into the pilot program.

(D) The City shall use its authority under SMC 20.05.100 to ensure expeditious processing of subdivision applications. In particular, the director shall set a reasonable deadline for the submittal of corrections, studies, or other information when requested; an extension may be provided based upon a reasonable request. Failure by the applicant to meet a deadline shall be cause for the department to cancel/deny the application.

(E) Site development construction shall begin no later than 18 months from the date of preliminary plat approval. The director may authorize a one-year extension based upon extenuating circumstances.

(ii) Pilot Program Expiration. The pilot program shall expire and no further applications shall be accepted after the period established in subsection (5)(e)(i) of this section. Projects for which applications are accepted into the pilot program may be reviewed, approved and constructed under the terms of the pilot program, even if such review, approval, or construction occurs after the pilot program has expired.

(f) Development Requirements. Projects accepted under this pilot program may conduct clearing and development in the no-disturbance area, and shall not be subject to subsection (2) of this section so long as projects accepted under this pilot program and associated clearing and development meet the following requirements:

(i) The development shall comply with the adopted surface water design manual and SMC Title 13, Surface Water Management;

(ii) The total project area shall be limited to 30 acres per project. For the purposes of this subsection, pilot projects on adjoining lots shall be considered one project;

(iii) Pilot projects proposed pursuant to subsection (5)(d)(ii) of this section, Low Impact Design, shall incorporate Level 3 flow control, or equivalent, as approved by the director, in addition to the volume control standard specified in subsection (5)(d)(ii) of this section;

(iv) Pilot projects proposed pursuant to subsection (5)(d)(i) of this section, Tightline Drainage Design, shall incorporate an energy dissipater in the tightline system, or equivalent, as approved by the director;

(v) Clearing of the site shall be limited based on the treatment capacity designed into the permanent and temporary water quality treatment systems installed;

(vi) Post-Development Phosphorous Control. The proposed storm water facilities shall be designed to remove 80 percent of all new total phosphorus loading on an annual basis due to new development (and associated storm water discharges) where feasible or utilize AKART if infeasible. At a minimum, post development water quality treatment shall be designed to achieve a goal of 60 percent total phosphorus (TP) removal for the water quality design flow or volume (defined in Section 6.2.1, p. 6-17 of the adopted KCSWDM);

(vii) Drainage systems shall be designed to accommodate the 100-year storm, consistent with the requirements of the adopted surface water design manual;

(viii) Low impact design techniques shall be incorporated into the design of homes constructed on the resultant lots to the maximum extent practically feasible; provided, that infiltration of storm water shall be prohibited except where there are no erosion hazard areas located downslope of the infiltration system;

(ix) Pilot projects shall set aside 50 percent of the gross site area as a permanent open space tract. Revegetation shall be required to convert nonforested open space to forest as part of the project approval. For the purposes of this subsection, the gross site area shall be the entire area of a property associated with a pilot project participating in the pilot program;

(x) Lots shall be clustered to the maximum extent feasible to minimize site grading in the no-disturbance area;

(xi) No more than 30 percent of the net developable area within a pilot project shall be covered by impervious surfaces. Required street improvements are included in this impervious surface limitation. For the purposes of this subsection, the net developable area shall be the entire area of a property participating in the pilot program minus any environmentally critical areas and buffers;

(xii) Construction Season Work Limits. Land clearing and grading may only occur between June 1st to August 30th with the phases of construction limited as follows:

(A) On or after June 1st, site clearing and grading necessary for the installation of permanent and temporary water quality treatment and conveyance may occur. Clearing and grading shall be limited to those portions of a site where such work is necessary to install tight line storm water conveyance, permanent and temporary storm water detention, and/or water quality facilities. For the purposes of temporary erosion and sediment control, the required tightline system may be either a portion of the permanent storm water conveyance system if feasible, or a temporary tightline system to be replaced by the permanent system as construction progresses;

(B) Following installation and approval of the permanent and temporary water quality treatment described in subsection (5)(f)(xii)(A) of this section, development of the remainder of the site may occur;

~~(C) No later than August 30th, all site clearing and grading activity must be completed and the site fully prepared for winter rains, through techniques such as hydroseeding or stabilization as set forth in an approved construction season work limit plan;~~

~~(D) The director may extend the seasonal construction limitations described above if, in the director's determination, appropriate erosion control measures and practices are in place and then prevailing weather patterns permit. The director shall not authorize work prior to May 1st or after September 30th;~~

~~(xiii) Construction Season Work Limit Implementation. City approval of a temporary erosion and sediment control plan consistent with this section, SMC 21A.50.220, and other laws and regulations is required prior to any site work. The temporary erosion and sediment control plan shall comply with grading limits, shall include construction season work limits that comply with the construction season limitations, and shall include a close out plan identifying the actions that will be taken to ready the site for winter weather. The close out plan shall include the following:~~

~~(A) By July 15th, City approval of any proposed changes to the close out plan to assure that the site will be prepared for winter weather by August 30th is required.~~

~~(B) By August 1st, review and approval of any revisions to the close out plan is required.~~

~~(C) By August 15th, City inspection is required of the site to confirm that all mandatory elements of the close out plan are being implemented. Following inspections, the City shall direct the applicant to take any additional actions that are necessary and may order all construction work to be stopped other than work to prepare the site for winter weather.~~

~~(D) By August 30th, all site work to prepare the site for winter weather shall be completed.~~

~~(E) The director may extend these seasonal construction limitations if, in the director's determination, appropriate erosion control measures and practices are in place and then prevailing weather patterns permit. The director shall not authorize work prior to May 1st or after September 30th;~~

~~(xiv) Early Installation of Permanent Storm Water Management System. In addition to installation of all required temporary sediment and erosion control measures, and prior to any grading, other than grading necessary for installation of the storm water management system, the applicant shall construct the project's storm water management systems in accordance with plans approved by the City. Storm water systems shall include permanent and temporary water quality treatment and detention facilities specified in the latest approved version of the surface water design manual and the pipes and outlet facilities necessary to convey storm water to the approved discharge location.~~

~~(A) Temporary water quality treatment facilities shall be sized to treat runoff generated by cleared areas during the 10 year storm event during May through September and the 25 year storm event for the remainder of the year and release treated runoff with a measured turbidity of no more than 25 NTU.~~

~~(B) Temporary water quality treatment facilities shall include active sediment controls, such as chemical treatment, enhanced filtration or a combination of both per DOE guidelines (Sections C250 and C251, Volume II, Department of Ecology Stormwater Management Manual).~~

~~(g) Monitoring and Reporting on Pilot Program Projects. The purpose of collecting, monitoring, and reporting information on the pilot program projects is to inform the eventual legislative decision on development in the no-disturbance area. Projects authorized by this pilot program shall collect and report the following:~~

~~(i) Monitoring Data. Water quality monitoring data collected pursuant to this section shall include the following:~~

~~(A) Turbidity;~~

~~(B) Total phosphorous;~~

~~(C) Total suspended solids;~~

(D) Temperature;

(E) Flow rate; and

(F) Volume.

Pilot program projects authorized under subsection (5)(d)(ii) of this section, Low Impact Design, shall not be required to collect flow rate or volume data. Water quality monitoring data shall be retained by the project applicant for a period of five years after final inspection of the last house built.

(ii) ~~Prior to Construction.~~ Prior to any site construction activity, the project applicant shall be responsible for completing visual inspections of the site and downstream properties to identify possible sources of erosion before, during, and after construction to provide a baseline condition for other data collection.

(iii) ~~During Construction.~~ During any site construction activity the project applicant shall be responsible for collecting monitoring data in accordance with the frequency established by the NPDES permit at the natural discharge location. Monitoring data shall be collected prior to the start of construction, through the construction period and until the last house has been built on the site.

(iv) ~~Following Construction.~~ Following the final inspection of the last house built, the project applicant shall be responsible for collecting monitoring data for five years. Data collection shall occur at a frequency of seven times a year between the months of October and June. Monitoring shall not be required following construction if the pilot program is adopted as a permanent amendment to the erosion hazard near sensitive water body overlay.

(v) ~~Water Quality Reporting.~~ Monitoring data shall be summarized in annual water quality reports submitted to the City. Annual reports shall evaluate the effect on King County water quality data from Lake Sammamish.

(vi) ~~Administrative Rules.~~ The director is authorized to adopt administrative rules to ensure the successful water quality data collection, monitoring, and reporting to the City.

(h) ~~Pilot Program Evaluation.~~ The City shall monitor the pilot program through the submitted annual reports and shall summarize the report findings in a report evaluating how well each project achieved the pilot program's purpose and goals and present the report to the City council along with a recommended legislative action. (Ord. O2016-410 § 1 (Att. A); Ord. O2013-350 § 1 (Att. A); Ord. O2009-250 § 1; Ord. O2005-193 § 1)

21A.15.417 Erosion hazard near sensitive water body overlay.

The “erosion hazard near sensitive water body overlay” means an area within the City where sloped areas posing erosion hazards, or contributing to erosion hazards, that drain directly to lakes or streams of high resource value that are particularly sensitive to the impacts of increased erosion and the resulting sediment loads from development. The department of community development shall maintain a map of the boundaries of the erosion hazard near sensitive water bodies overlay district.

The erosion hazard near sensitive water body overlay is divided into two areas:

(1) The No-Disturbance Area. The no-disturbance area shall be established on the sloped portion of the special district overlay to prevent damage from erosion. The upslope boundary of the no-disturbance area lies at the first obvious break in slope from the upland plateau over onto the valley walls. For the purposes of locating the first obvious break in slope, the first obvious break shall generally be located at the top of the erosion hazard area associated with the slope. The downslope boundary of the no-disturbance area is the extent of those areas designated as erosion or landslide hazard areas. The department shall maintain maps, supported by LIDAR (light detection and ranging) data or other suitable technology, of the approximate location of the no-disturbance areas, which shall be subject to field verification for new development proposals.

(2) Properties Draining to the No-Disturbance Area. Properties draining to the no-disturbance area are within the erosion hazard near sensitive water body overlay that drain to the no-disturbance area. (Ord. O2013-350 § 1 (Att. A))

21A.50.225 Erosion hazards near sensitive water bodies overlay.

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

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

(a) The one acre exemption in the storm water design manual addendum shall not apply within the erosion hazards near sensitive water body overlay.

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

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

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

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

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

(3) No-Disturbance Area Development Standards. The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the no-disturbance area:

(a) Development shall not occur in the no-disturbance area, except for the development activities listed in subsection (3)(a)(i) of this section. Development activities listed in subsection (3)(a)(i) of this section shall only be permitted if they meet the requirements of subsection (3)(a)(ii) of this section.

(i) Development activities may be permitted as follows:

(A) For single-family residences, associated landscaping and any appurtenances on preexisting separate lots;

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

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

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

(E) Work authorized pursuant to the pilot program.

(ii) The development activities listed in subsection (3)(a)(i) of this section may be permitted only if the following requirements are met:

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

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

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

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

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

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

(ii) Development proposals that meet the goals of low impact development, as follows:

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

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

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

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

(iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements in existence before January 1, 2006, that do not increase the existing total footprint of the residence and associated impervious surface by more than 400 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this subsection.

(4) Development Standards for Properties Draining to the No-Disturbance Area. The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the erosion hazards near sensitive water body overlay that drain to a no-disturbance area:

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

(i) Infiltration of all site runoff shall be required in granular soils as defined in the adopted surface water design manual and SMC Title [13](#), Surface Water Management;

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

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

(b) For the portions of proposed subdivisions, short subdivisions and binding site plans that cannot infiltrate runoff up to the 100-year peak flow, at least 25 percent of the portion of the site that cannot infiltrate shall remain undisturbed and set aside in an open space tract consistent with SMC [21A.50.160](#) through [21A.50.190](#). The open space tract shall be located adjacent to any required critical area tracts and shall be designed to maximize the amount of separation between the critical area

and the proposed development. If no critical areas tracts are required, the open space tract shall be located to provide additional protection to the no-disturbance area.

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

(5) Pilot Program.

(a) Establishment of Pilot Program. A pilot program is hereby established to allow pilot project subdivision, including clearing and development projects within the no-disturbance area as set forth herein, on land that has slopes of less than 40 percent grade and that is located outside of environmentally critical area buffers. The provisions of this pilot program shall not apply, and pilot projects shall not be authorized, within the mapped Ebright Creek, Pine Lake Creek, Zaccuse Creek, and "mid-Monohon" sub-basins.

(b) Effective Date. The terms of this pilot program related to pilot projects authorized under subsection (5)(d)(i) of this section, and to properties within the shoreline jurisdiction, shall take effect following the adoption of the pilot program into a Department of Ecology approved Sammamish shoreline master program.

(c) Purpose. The purpose of this pilot program is to allow for limited development within the no-disturbance area under strict limitations in order to evaluate the ability to allow increased development within the no-disturbance area without adversely affecting the water quality of Lake Sammamish. Projects qualifying for this pilot program are subject to the requirements below, and are not subject to the preceding subsections of this section.

(d) Eligibility. A maximum of four subdivision projects are authorized by this pilot program. A maximum of two projects may be authorized under subsection (5)(d)(i) of this section and a maximum of two projects may be authorized under subsection (5)(d)(ii) of this section. Projects eligible for inclusion in this pilot program shall meet the provisions of subsection (5)(d)(i) or (5)(d)(ii) of this section:

(i) Tightline Drainage Design. Where direct access to Lake Sammamish is available, the applicant shall install permanent water quality treatment per the adopted surface water design manual and a tightline storm drain system discharging directly into Lake Sammamish designed by a professional

engineer using the adopted surface water design manual and technologies. The applicant shall also install temporary erosion sediment control improvements, including active water quality treatment. The tightline system shall extend through the property and be available by extension or easement upstream to properties that naturally drain to the subject property; or

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

(A) Sixty-five percent of the site shall remain as forested open space. Revegetation shall be required to convert nonforested open space to forested as part of the project approval.

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

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

(e) Pilot Program Administration.

(i) Application. Applications for eligible projects meeting the provisions of subsection (5)(d) of this section shall be administered as follows:

(A) Within two years of the effective date of this subsection, a maximum of one project eligible for the pilot program under subsection (5)(d)(i) of this section and a maximum of one project eligible for the pilot program under subsection (5)(d)(ii) of this section may be accepted subject to the provisions of subsection (5) of this section. Following completion and acceptance of all required infrastructure necessary to support the proposed project, and

barring any failure of the required infrastructure that causes an environmental failure, an additional one project eligible for the pilot program under subsection (5)(d)(i) of this section and an additional one project eligible for the pilot program under subsection (5)(d)(ii) of this section may be accepted subject to the provisions of subsection (5) of this section. For the purposes of this subsection, infrastructure necessary to support the proposed project shall include, at a minimum, all public or private storm water improvements, and all public or private roads improvements associated with the project.

(B) Application for eligible projects shall be accepted in the order received. To qualify for application, an applicant must have a complete application as described in the City's application material and Chapter [20.05](#) SMC, and an applicant must have completed any necessary preliminary steps prior to application as set forth in Chapter [20.05](#) SMC.

(C) In the event that an application for a project accepted into the pilot program is withdrawn by the applicant or cancelled by the City prior to the expiration of the pilot program, the next submitted application for the same development type shall be accepted into the pilot program.

(D) The City shall use its authority under SMC [20.05.100](#) to ensure expeditious processing of subdivision applications. In particular, the director shall set a reasonable deadline for the submittal of corrections, studies, or other information when requested; an extension may be provided based upon a reasonable request. Failure by the applicant to meet a deadline shall be cause for the department to cancel/deny the application.

(E) Site development construction shall begin no later than 18 months from the date of preliminary plat approval. The director may authorize a one-year extension based upon extenuating circumstances.

(ii) Pilot Program Expiration. The pilot program shall expire and no further applications shall be accepted after the period established in subsection (5)(e)(i) of this section. Projects for which applications are accepted into the pilot program may be reviewed, approved and constructed under the terms of the pilot program, even if such review, approval, or construction occurs after the pilot program has expired.

(f) Development Requirements. Projects accepted under this pilot program may conduct clearing and development in the no-disturbance area, and shall not be subject to subsection (2) of this section so long

as projects accepted under this pilot program and associated clearing and development meet the following requirements:

- (i) The development shall comply with the adopted surface water design manual and SMC Title [13](#), Surface Water Management;
- (ii) The total project area shall be limited to 30 acres per project. For the purposes of this subsection, pilot projects on adjoining lots shall be considered one project;
- (iii) Pilot projects proposed pursuant to subsection (5)(d)(ii) of this section, Low Impact Design, shall incorporate Level 3 flow control, or equivalent, as approved by the director, in addition to the volume control standard specified in subsection (5)(d)(ii) of this section;
- (iv) Pilot projects proposed pursuant to subsection (5)(d)(i) of this section, Tightline Drainage Design, shall incorporate an energy dissipater in the tightline system, or equivalent, as approved by the director;
- (v) Clearing of the site shall be limited based on the treatment capacity designed into the permanent and temporary water quality treatment systems installed;
- (vi) Post Development Phosphorous Control. The proposed storm water facilities shall be designed to remove 80 percent of all new total phosphorus loading on an annual basis due to new development (and associated storm water discharges) where feasible or utilize AKART if infeasible. At a minimum, post development water quality treatment shall be designed to achieve a goal of 60 percent total phosphorus (TP) removal for the water quality design flow or volume (defined in Section 6.2.1, p. 6-17 of the adopted KCSWDM);
- (vii) Drainage systems shall be designed to accommodate the 100-year storm, consistent with the requirements of the adopted surface water design manual;
- (viii) Low impact design techniques shall be incorporated into the design of homes constructed on the resultant lots to the maximum extent practically feasible; provided, that infiltration of storm water shall be prohibited except where there are no erosion hazard areas located downslope of the infiltration system;
- (ix) Pilot projects shall set aside 50 percent of the gross site area as a permanent open space tract. Revegetation shall be required to convert nonforested open space to forest as part of the project

approval. For the purposes of this subsection, the gross site area shall be the entire area of a property associated with a pilot project participating in the pilot program;

(x) Lots shall be clustered to the maximum extent feasible to minimize site grading in the no-disturbance area;

(xi) No more than 30 percent of the net developable area within a pilot project shall be covered by impervious surfaces. Required street improvements are included in this impervious surface limitation. For the purposes of this subsection, the net developable area shall be the entire area of a property participating in the pilot program minus any environmentally critical areas and buffers;

(xii) Construction Season Work Limits. Land clearing and grading may only occur between June 1st to August 30th with the phases of construction limited as follows:

(A) On or after June 1st, site clearing and grading necessary for the installation of permanent and temporary water quality treatment and conveyance may occur. Clearing and grading shall be limited to those portions of a site where such work is necessary to install tight-line storm water conveyance, permanent and temporary storm water detention, and/or water quality facilities. For the purposes of temporary erosion and sediment control, the required tightline system may be either a portion of the permanent storm water conveyance system if feasible, or a temporary tightline system to be replaced by the permanent system as construction progresses;

(B) Following installation and approval of the permanent and temporary water quality treatment described in subsection (5)(f)(xii)(A) of this section, development of the remainder of the site may occur;

(C) No later than August 30th, all site clearing and grading activity must be completed and the site fully prepared for winter rains, through techniques such as hydroseeding or stabilization as set forth in an approved construction season work limit plan;

(D) The director may extend the seasonal construction limitations described above if, in the director's determination, appropriate erosion control measures and practices are in place and then prevailing weather patterns permit. The director shall not authorize work prior to May 1st or after September 30th;

(xiii) Construction Season Work Limit Implementation. City approval of a temporary erosion and sediment control plan consistent with this section, SMC [21A.50.220](#), and other laws and regulations is required prior to any site work. The temporary erosion and sediment control plan shall comply with grading limits, shall include construction season work limits that comply with the construction season limitations, and shall include a close out plan identifying the actions that will be taken to ready the site for winter weather. The close out plan shall include the following:

(A) By July 15th, City approval of any proposed changes to the close out plan to assure that the site will be prepared for winter weather by August 30th is required.

(B) By August 1st, review and approval of any revisions to the close out plan is required.

(C) By August 15th, City inspection is required of the site to confirm that all mandatory elements of the close out plan are being implemented. Following inspections, the City shall direct the applicant to take any additional actions that are necessary and may order all construction work to be stopped other than work to prepare the site for winter weather.

(D) By August 30th, all site work to prepare the site for winter weather shall be completed.

(E) The director may extend these seasonal construction limitations if, in the director's determination, appropriate erosion control measures and practices are in place and then-prevailing weather patterns permit. The director shall not authorize work prior to May 1st or after September 30th;

(xiv) Early Installation of Permanent Storm Water Management System. In addition to installation of all required temporary sediment and erosion control measures, and prior to any grading, other than grading necessary for installation of the storm water management system, the applicant shall construct the project's storm water management systems in accordance with plans approved by the City. Storm water systems shall include permanent and temporary water quality treatment and detention facilities specified in the latest approved version of the surface water design manual and the pipes and outlet facilities necessary to convey storm water to the approved discharge location.

(A) Temporary water quality treatment facilities shall be sized to treat runoff generated by cleared areas during the 10-year storm event during May through September and the 25-year storm event for the remainder of the year and release treated runoff with a measured turbidity of no more than 25 NTU.

(B) Temporary water quality treatment facilities shall include active sediment controls, such as chemical treatment, enhanced filtration or a combination of both per DOE guidelines (Sections C250 and C251, Volume II, Department of Ecology Stormwater Management Manual).

(g) Monitoring and Reporting on Pilot Program Projects. The purpose of collecting, monitoring, and reporting information on the pilot program projects is to inform the eventual legislative decision on development in the no-disturbance area. Projects authorized by this pilot program shall collect and report the following:

(i) Monitoring Data. Water quality monitoring data collected pursuant to this section shall include the following:

- (A) Turbidity;
- (B) Total phosphorous;
- (C) Total suspended solids;
- (D) Temperature;
- (E) Flow rate; and
- (F) Volume.

Pilot program projects authorized under subsection (5)(d)(ii) of this section, Low Impact Design, shall not be required to collect flow rate or volume data. Water quality monitoring data shall be retained by the project applicant for a period of five years after final inspection of the last house built.

(ii) Prior to Construction. Prior to any site construction activity, the project applicant shall be responsible for completing visual inspections of the site and downstream properties to identify possible sources of erosion before, during, and after construction to provide a baseline condition for other data collection.

(iii) During Construction. During any site construction activity the project applicant shall be responsible for collecting monitoring data in accordance with the frequency established by the

NPDES permit at the natural discharge location. Monitoring data shall be collected prior to the start of construction, through the construction period and until the last house has been built on the site.

(iv) Following Construction. Following the final inspection of the last house built, the project applicant shall be responsible for collecting monitoring data for five years. Data collection shall occur at a frequency of seven times a year between the months of October and June. Monitoring shall not be required following construction if the pilot program is adopted as a permanent amendment to the erosion hazard near sensitive water body overlay.

(v) Water Quality Reporting. Monitoring data shall be summarized in annual water quality reports submitted to the City. Annual reports shall evaluate the effect on King County water quality data from Lake Sammamish.

(vi) Administrative Rules. The director is authorized to adopt administrative rules to ensure the successful water quality data collection, monitoring, and reporting to the City.

(h) Pilot Program Evaluation. The City shall monitor the pilot program through the submitted annual reports and shall summarize the report findings in a report evaluating how well each project achieved the pilot program's purpose and goals and present the report to the City council along with a recommended legislative action. (Ord. O2016-410 § 1 (Att. A); Ord. O2013-350 § 1 (Att. A); Ord. O2009-250 § 1; Ord. O2005-193 § 1)

Planning Commission Question	Staff Response
<p>What is a Pilot Program and how many are included in the SMC?</p>	<p>A pilot program is a short or limited term program that helps the City learn how a larger-scale project might work in practice.</p> <p><u>City of Sammamish Pilot Programs</u></p> <ul style="list-style-type: none"> • Electronic Reader Board Pilot Program (established 2009, expired 2014) • Cottage Housing (established 2011, duration of up to 50 units or 5 years, expired 2016) • Subdivisions within the Erosion Hazard Near Sensitive Water Body Overlay (established 2013) • Isolate Wetlands Pilot Program (established 2013)



PLANNING COMMISSION AGENDA ITEM

October 19, 2017

SUBJECT

Amendments to Sammamish Municipal Code (SMC) 19A.08.190 prohibiting the circumvention of zoning density with the division of land

STAFF CONTACTS

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DIRECTION NEEDED FROM PLANNING COMMISSION

- Action
- Discussion
- Information

SUMMARY STATEMENT

On September 5, City Council declared an emergency related to prohibiting the circumvention of zoning density with the division of land and adopted Ordinance O2017-442 (Exhibit 1). Specifically, Sammamish Municipal Code (SMC) 19A.08.190 was amended to include language that this section applies to further division of all land so that current zoning densities in the City would apply in all appropriate instances.

This emergency Ordinance is valid for a period of 6 months. City Council has directed staff to conduct a complete legislative review of the amendments to SMC 19A.08.190 during this period. Generally, 3 options can be considered in this legislative review:

1. Revert to the original code language of SMC 19A.08.190 prior to the emergency Ordinance.
2. Permanent adoption of the amendments to SMC 19A.08.190 contained in the emergency Ordinance.
3. Permanent adoption of the amendments to SMC 19A.08.190 contained in the emergency Ordinance with additional amendments.

The Planning Commission is scheduled to hold a Public Hearing on November 2 and make a recommendation to City Council.

BACKGROUND

In 2005, the City Council adopted Ordinance O2005-174 requiring density to be calculated on a net basis as opposed to a gross basis as previously done under the jurisdiction of King County. Calculating density on a net basis in Sammamish removes environmentally sensitive areas and associated buffers as well as road areas and associated improvements from the gross amount of land available for a development.

In 2010, the City Council adopted Ordinance O2010-284 replacing SMC Title 19, Subdivisions with SMC Title 19A, Land Division. The intent of this Ordinance was to improve clarity and completeness and make appropriate revisions to the provisions governing land division in the City. SMC 19A.08.190 was included in this Ordinance. Subsequently, the City has received requests regarding the potential division of tracts into buildable lots. The City's response has been to apply SMC 19A.08.190 equally to both "lots" and "tracts" to prohibit the circumvention of zoning density with the division of land. It has been the understanding of staff this was the intent when City Council adopted the 2010 Ordinance in order that net densities be observed.

One such request occurred in 2015 for a tract in "The Laurels" subdivision. In this case, the subdivision was submitted prior to City incorporation and density was calculated using the gross density basis under King County code. The gross density yield was 117 lots. In The Laurels, a total of 107 lots were built out over a period of years. Under state subdivision statute, the vesting for The Laurels expired in early 2013, thereby requiring any new application for subdivision to conform with the net density basis under the City of Sammamish code. The core problem for this tract in The Laurels is the net density yield for the original subdivision boundaries is 88 lots – far less than what has already been built.

When informed of how the City applied SMC 19A.08.190 to tracts and that the net density had already been exceeded, a formal request for a Director's Code Interpretation was made in March 2016 ("Interpretation"). The City issued an Interpretation in August 2016 consistent with its historic application of SMC 19A.08.190, which was subsequently appealed to the Hearing Examiner. In November 2016, the Hearing Examiner affirmed the Interpretation, which was subsequently appealed to Superior Court. Finally, in September 2017 a Court Order was issued, in summary stating that tracts are not lots for the purposes of application for SMC 19A.08.190 and therefore tracts may be divided without regard for the density previously used.

The key amendment contained in the emergency Ordinance to amend SMC 19A.08.190 to address this Court Order was the addition of a specific reference to the further division "or alteration of a future development tract/reserve tract."

As highlighted in the Summary Statement, 3 options can be considered for the amendments to SMC 19A.08.190 in this legislative review as follows:

1. Revert to the original code language of SMC 19A.08.190 prior to the emergency Ordinance.

19A.08.190 Circumvention of zoning density prohibited.

A legal lot, which has been created through a legally recognized process and is of sufficient land area to be subdivided at the density applicable to the lot, may be further subdivided. However, such further division of a lot shall not be permitted if the total number of lots contained within the external boundaries of the original short subdivision, subdivision or binding site plan exceeds the density allowed under current zoning.

2. Permanent adoption of the amendments to SMC 19A.08.190 contained in the emergency Ordinance.

19A.08.190 Circumvention of zoning density prohibited.

A legal lot, which has been created through a legally recognized process and is of sufficient land area to be subdivided at the density applicable to the lot, may be further subdivided. Provided, However, such further division of a lot or alteration of a future development tract/reserve tract shall not only be permitted if to the extent that the total number of lots contained within the external boundaries of the original short subdivision, subdivision or binding site plan does not exceeds the density allowed under current zoning.

3. Permanent adoption of the amendments to SMC 19A.08.190 contained in the emergency Ordinance with additional amendments.

19A.08.190 Circumvention of zoning density prohibited.

A legal lot, which has been created through a legally recognized process and is of sufficient land area to be subdivided at the density applicable to the lot, may be further subdivided. Provided, However, such further division of a lot or alteration of a ~~future development tract/reserve tract~~ shall ~~not only~~ be permitted if to the extent that the total number of lots contained within the external boundaries of the original short subdivision, subdivision or binding site plan does not exceeds the density allowed under current zoning.

On November 2, staff will be recommending Option (3.) to the Planning Commission for its recommendation to the City Council. Since the adoption of the emergency Ordinance, planning staff and legal staff have completed additional analysis of the language in SMC 19A.08.190. This analysis concluded that the words “future development tract/reserve” when removed from the amendment allows 19A.080.190 to apply to all tracts.

The definition of tracts in SMC 19A.04.340 explains that a tract can be used for a multitude of purposes including, but not limited to reserve, recreation, open space, critical areas, stormwater facilities, utility facilities and access. The amendments in the emergency Ordinance unnecessarily restricted tracts intended for “future development/reserve” purposes, hence the staff recommendation to remove this specificity.

CONCLUSION

Given the substantial legislative history – through policy and regulation the City of Sammamish has developed, including Ordinance O2005-174 requiring density to be calculated on a net basis as opposed to a gross basis, staff will be recommending Option (3.) to the Planning Commission on November 2 for its recommendation to the City Council.

As the Planning Commission considers during the next few weeks the 3 options for amending SMC 19A.08.190 in this legislative review, the fundamental question to ask is, “Does the Planning Commission want to ensure the City of Sammamish continues to consistently develop to net density?”

ACTION REQUIRED

No action is required by the Planning Commission at this meeting. The Planning Commission is scheduled to hold a Public Hearing on November 2 and vote on a recommendation to City Council.

RECOMMENDED MOTION

N/A

EXHIBITS

1. Emergency Ordinance O2017-442

**CITY OF SAMMAMISH
WASHINGTON**

ORDINANCE NO. O2017-442

**AN ORDINANCE OF THE CITY OF SAMMAMISH,
WASHINGTON, ADOPTING INTERIM DEVELOPMENT
REGULATIONS AS AUTHORIZED BY THE GROWTH
MANAGEMENT ACT RELATING TO TITLE 19A AND
PROHIBITING THE CIRCUMVENTION OF ZONING
DENSITY; PROVIDING FOR SEVERABILITY; AND
DECLARING AN EMERGENCY**

WHEREAS, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt interim development regulations; and

WHEREAS, in 2010, to promote the public health, safety, aesthetics, and welfare, the City of Sammamish (“City”) adopted section 19A.08.190, Circumvention of zoning density prohibited, of the Sammamish Municipal Code (“SMC”) to prevent further subdivision of land that had been previously divided when the new division of land would exceed the density allowed under current City zoning; and

WHEREAS, it was the City Council’s intent that section 19A.08.190 SMC would apply to further division of all land so that current zoning densities in the City would apply rather than prior King County zoning densities or former City zoning densities; and

WHEREAS, the City has determined that an interim development regulation adopted under the provisions of RCW 36.70A.390 is necessary in order to allow adequate time for the City to effectively analyze and determine if the current code language is sufficient to prevent the circumvention of the City’s zoning densities; and

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

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as the City Council’s initial findings of fact in support of the interim development regulation adopted herein. The City Council may, in its discretion, adopt additional findings after the public hearing referenced in Section 4 of this Ordinance.

Section 2. Adoption of Interim Development Regulations. The City Council hereby adopts the following interim development regulation amending section 19A.08.190 of the Sammamish Municipal Code:

19A.08.190 Circumvention of zoning density prohibited.

A legal lot, which has been created through a legally recognized process and is of sufficient land area to be subdivided at the density applicable to the lot, may be further subdivided. Provided, however, further division of a lot or alteration of a future development tract/reserve tract shall not be permitted if the total number of lots contained within the external boundaries of the original short subdivision, subdivision or binding site plan exceeds the density allowed under current zoning.

Section 3. Effective Duration of Interim Development Regulations. The interim development regulations set forth in this Ordinance shall be in effect for a period of six (6) months from the effective date of this Ordinance and shall automatically expire at the conclusion of that six-month period unless sooner repealed.

Section 4. Public Hearing. The City Council will hold a public hearing at the City Council's regular meeting beginning at 6:30 p.m. on October 3, 2017 or as soon thereafter as the business of the City Council shall permit, in order to take public testimony and to consider adopting further findings of fact.

Section 5. Referral to the City Manager. The City Council requests that the City Manager and his staff work diligently with the City Council to formulate and adopt permanent regulations.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force on its adoption. Pursuant to Matson v. Clark County Board of Commissioners, 79 Wn. App. 641, 904 P.2d 317 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the "WHEREAS" clauses above, all of which are adopted by reference as findings of fact as if fully set forth herein.

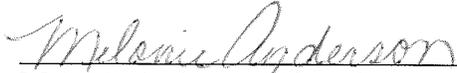
ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 5TH DAY OF SEPTEMBER 2017.

CITY OF SAMMAMISH



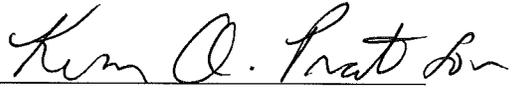
Bob Keller, Mayor

ATTEST/AUTHENTICATED:



Melonie Anderson, City Clerk

Approved as to Form:



Michael R. Kenyon, City Attorney

Filed with the City Clerk:	August 31, 2017
First Reading:	September 5, 2017
Passed by the City Council:	September 5, 2017
Date of Publication:	September 8, 2017
Effective Date:	September 5, 2017