

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

**ORDER of SUMMARY DISMISSAL**

FILE NUMBERS: SSDP2015-00274/-00275

APPELLANT: Bill Way  
3451 E Lake Sammamish Shore Lane NE  
Sammamish, WA 98074  
bill.sammamish@gmail.com

RESPONDENT: City of Sammamish  
C/o Kim Adams Pratt/Ann Marie Soto  
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APPLICANT: Steve Burnstead Co.  
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TYPE OF CASE: Appeal from issuance of two Shoreline Substantial Development Permits

**WHEREAS**, on November 3, 2016, the City of Sammamish Hearing Examiner (Examiner) received from the Deputy City Clerk a copy of an appeal filed by Bill Way on November 1, 2016, from the City's approval of Shoreline Substantial Development Permits under City file numbers SSDP2015-00274 and SSDP2015-00275; and

**WHEREAS**, in the Summer of 2015 several appeals were filed with the Examiner from the City's approval of SSDP2014-00171, a Shoreline Substantial Development Permit (SSDP) for upgrading the South Sammamish Segment A of the East Lake Sammamish Trail. On August 11, 2015, the City filed a Motion to Dismiss All Appeals for Lack of Jurisdiction; project applicant King County supported that Motion. On August 25, 2015, the Examiner issued an Interlocutory Order Denying Motion to Dismiss. The appeal process proceeded before the Examiner. On February 8, 2016, the Examiner issued a Decision; and

**WHEREAS**, the several parties in that proceeding then filed appeals with the State Shorelines Hearings Board (SHB). King County filed a Motion with the SHB seeking summary judgment on two of the

eight issues then before the SHB, one of which was “Whether, under the SMC, the Examiner has jurisdiction to hear challenges to SSDPs?”; and

**WHEREAS**, on May 18, 2016, the SHB “conclude[d] that the Examiner lacked jurisdiction to review the SSDP”. [SHB No. 15-012c, Order Granting Partial Summary Judgment to King County, p. 10, ll. 9 and 10] In a footnote, the SHB stated “that the Examiner also made a reasonable analysis of the same [SMC] provisions and reached the opposite conclusion. *See* Examiner’s Order on Motion. The [SHB] encourages the City to clarify its regulations on this point to avoid confusing the public in the future.” [*Op. Cit.*, p. 9, Footnote 3]; and

**WHEREAS**, the City has revised its regulations regarding jurisdiction to hear and decide SSDP applications [Ordinance No. 2016-410], but, under state law, those revisions will not become effective unless and until approved by the State Department of Ecology (Ecology) which has not yet given its approval. If and when Ordinance No. 2016-410 is approved by Ecology, SSDP applications will join Shoreline Variance and Shoreline Conditional Use Permits as Type 4 applications. The Examiner has original jurisdiction over Type 4 applications. The Examiner’s decision on Type 4 applications is final for the City subject to the right of reconsideration and appeal to the SHB; and

**WHEREAS**, any challenge to the Examiner’s action in the current appeal would go to the SHB, which has already concluded that, under currently applicable City regulations, the Examiner lacks jurisdiction to entertain SSDP appeals; and

**WHEREAS**, SMC 20.10.090 provides that “[o]n its own motion or on the motion of a party, the examiner shall dismiss an appeal for untimeliness or lack of jurisdiction.” [Emphasis added]; and

**WHEREAS**, it would be a waste of all parties’ time, energy, and resources to pursue an appeal before the Examiner when the SHB has ruled that the Examiner lacks jurisdiction to hear such an appeal.

**NOW, THEREFORE**, the Hearing Examiner issues the following:

### **ORDER**

The appeal(s) from SSDP2015-00274 and SSDP2015-00275 filed by Bill Way on November 1, 2016, is (are) herewith **SUMMARILY DISMISSED** due to the Examiner’s lack of jurisdiction.

This Order constitutes the Examiner’s final disposition of this appeal.

**ORDER** issued November 4, 2016.

\s\ John E. Galt (Signed original in official file)

JOHN E. GALT  
Hearing Examiner



## **NOTICE of RIGHT of RECONSIDERATION**

This Order is final subject to the right of any party of record to file with the Examiner (in care of the City of Sammamish, ATTN: Lita Hachey, 801 228<sup>th</sup> Avenue SE, Sammamish, WA 98075) a written request for reconsideration within 10 calendar days following the issuance of this Decision in accordance with the procedures of SMC 20.10.260 and Hearing Examiner Rule of Procedure 504. Any request for reconsideration shall specify the error which forms the basis of the request. See SMC 20.10.260 and Hearing Examiner Rule of Procedure 504 for additional information and requirements regarding reconsideration.

## **NOTICE of RIGHT of APPEAL SUBSTANTIAL DEVELOPMENT PERMIT**

This Order is final and conclusive subject to the right of review before the State Shorelines Hearings Board in accordance with the procedures of Chapter 90.58 RCW, the Shoreline Management Act of 1971. See SMC 20.35.080, Chapter 90.58 RCW, and Washington Administrative Code regulations adopted pursuant thereto for further guidance regarding Hearings Board appeal procedures.