

SEP 16 2019

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

DECISION: REVISED AFTER RESUBMITTAL ¹

FILE NUMBER: SSDP2017-00383

APPLICANT: Jason Templeman
2662 East Lake Sammamish Parkway NE
Sammamish, WA 98074

TYPE OF CASE: Shoreline Substantial Development Permit to construct a fully grated, shared use dock in Lake Sammamish

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: GRANT subject to conditions

DATE OF DECISION: September 12, 2019

INTRODUCTION ²

Jason Templeman ("Templeman") seeks approval of a Shoreline Management Act ("SMA") Substantial Development Permit ("SSDP") to construct a fully grated, shared use dock in Lake Sammamish.

Templeman filed a Base Land Use Application on May 11, 2017. (Exhibit 8 ³) The Sammamish Department of Community Development ("Department") deemed the application to be complete on June 14, 2017. (Exhibit 10) The Department issued a Notice of Application on June 26, 2017. (Exhibit 11)

The subject property is a small vacant parcel between 2813 and 2807 East Lake Sammamish Parkway NE, lying between the eastern shoreline of Lake Sammamish and the East Lake Sammamish Trail ("ELST"). (Exhibit 3)

The Sammamish Hearing Examiner ("Examiner") viewed the subject property on July 24, 2018.

The Examiner convened an open record hearing on July 24, 2018. The Department gave notice of the hearing as required by the Sammamish Municipal Code ("SMC"). (Exhibit 23) Neither Templeman nor

¹ This written Decision memorializes and expands upon an oral Decision rendered on the record after completion of the open record predecision hearing on September 4, 2019.

² Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

³ Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner's Decision is based upon all documents in the record.

anyone representing Templeman appeared at the hearing. Therefore, the Examiner postponed the hearing indefinitely (without taking any testimony), with a requirement that the Department set a new date and provide notice thereof. The Department did so: The Examiner reconvened the open record hearing on September 28, 2018, (the “2018 Hearing”) after notice thereof had been issued by the Department. (Exhibit 27)

Subsection 20.05.100(1) SMC requires that decisions on SSDPs be issued within 120 net review days after the application is found to be complete. The open record 2018 Hearing most likely occurred after the 120th net review day, even if the delay between July 24th and September 28th is discounted. (2018 Hearing testimony) The SMC provides two potential remedies for an untimely decision: A time extension mutually agreed upon by the City and the applicant [SMC 20.05.100(2)] or written notice from the Department explaining why the deadline was not met [SMC 20.05.100(4)]. Templeman waived any timing irregularities. (2018 Hearing testimony)

The following exhibits were entered into the hearing record during the 2018 Hearing:

- Exhibits 1 - 23: As enumerated in Exhibit 1, the Department’s Staff Report
- Exhibit 24: E-mail, King County to City, May 24, 2018
- Exhibit 25: Revised dock plans (undated)
- Exhibit 26: Staff Report Addendum, September 10, 2018
- Exhibit 27: Notice of Public Hearing, issued August 27, 2018
- Exhibit 28: Revised Site Plan, submitted September 28, 2018
- Exhibit 29: Boundary Survey, submitted September 28, 2018

The Examiner held the hearing record open for submittal of a copy of a recorded document referred to in Exhibit 4. The 2018 Hearing record closed on October 1, 2018, with submittal of the following document:

- Exhibit 30: Declaration of Restrictions, June 16, 1970, King County Auditor’s Recording Number 6668013

On October 8, 2018, the Examiner denied the application without prejudice (the “2018 Decision”). Templeman filed a timely request for reconsideration. The Examiner denied that request on October 19, 2018. Templeman subsequently submitted additional materials, the Department issued a new Notice of Application, a new State Environmental Policy Act (“SEPA”) threshold determination was issued, and a new hearing was scheduled, noticed and held on September 4, 2019 (the “2019 Hearing”). During the 2019 Hearing the Examiner entered the following additional exhibits into the record:

- Exhibit 31: Hearing Examiner Decision, October 8, 2018
- Exhibit 32: Request for Reconsideration, filed by Jordan Sovich on Templeman’s behalf on October 17, 2018
- Exhibit 33: Order Denying Reconsideration, issued October 19, 2019
- Exhibit 34: Staff Report, dated July 25, 2019

- Exhibit 35: Revised project plans, dated October 17, 2018
- Exhibit 36: Vegetation Enhancement Plan, dated December 4, 2018
- Exhibit 37: Ordinary High Water Line Establishment, dated December 3, 2018
- Exhibit 38: E-mail exchange: Cui (Department) and Sandercock (Department of Ecology), July 8, 2019
- Exhibit 39: Revised SEPA Determination of Nonsignificance, issued July 25, 2019
- Exhibit 40: Review comments: Muckleshoot Indian Tribe; Department of Ecology and City of Bellevue
- Exhibit 41: Revised JARPA Form, dated March 7, 2019
- Exhibit 42: Revised SEPA Checklist, dated July 9, 2019
- Exhibit 43: Notice of Public Hearing, dated May 22, 2018 (Duplicate of Exhibit 23)
- Exhibit 44: Revised Notice of Application, dated January 14, 2019
- Exhibit 45: Revised Notice of Public Hearing, dated July 25, 2019

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner's knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

FINDINGS OF FACT

1. The subject unbuildable parcel on the east shore of Lake Sammamish (the "beach property") is jointly owned by the owners of/residents on four abutting lots on the east side of East Lake Sammamish Parkway NE ("Parkway"): Templeman/McNeely (2662 Parkway), Barnard (2642 Parkway), Wood (2668 Parkway), and Bishai (2674 Parkway). Each of the deeds to their residential lots conveys a fractional, undivided interest in the subject property: 2/6th to Templeman/McNeely, 2/6th to Barnard, 1/6th to Wood, and 1/6th to Bishai. (Exhibits 3; 4; 30) Those owners have joined together, with Templeman as the active participant, to seek an SSDP to construct a fully grated, shared use dock in Lake Sammamish in front of the beach property. Each owner has signed an Affidavit of Applicant Status. (Exhibits 8; 18; 19; and 2019 Hearing testimony)
2. Templeman uses a mooring buoy in front of the beach property to moor his 19-foot, inboard/outboard pleasure craft. Templeman testified during the 2018 Hearing that he believed that restrictions on the four residential lots limited the right to install a mooring buoy (and, by extension, the right to moor a boat at a dock) in front of the beach property to only the two owners holding a 2/6th interest in the beach property. The Examiner held the 2018 Hearing record open to allow Templeman to obtain a copy of the document that he believed contained that restriction. Thus it was that Exhibit 30 came to be entered into the hearing record.

Exhibit 30, a 1970 Declaration of Restrictions ("Declaration") that encumbers each of the four residential lots, does not contain any restriction on boat moorage. The Declaration restricts the use of

the beach property to “access to Lake Sammamish and use as a general recreational beach facility.” (Exhibit 30, Vol. 399 Page 329) The Declaration requires sharing all financial costs and liabilities associated with the beach property in proportion to ownership interest. The Declaration contains no other restrictions. (Exhibit 30)

Templeman testified during the 2019 Hearing that in the 10 years that he has owned his property, his boat is the only one that has been moored in front of the beach property. Other owners have based canoes, etc. on the beach property, but no one else to date has moored a boat there.

The July 25, 2019, Staff Report (“2019 Staff report”) asserts that an association of owners has “regulated [the proposed dock’s] use for exclusive, shared recreational use by the owners.” (Exhibit 34, p. 4, § I.7) In fact, Templeman said that there is no owners association and the owners have not executed any document regarding use of the proposed dock. (2019 Hearing testimony)

3. The beach property is a very small parcel sandwiched between two single-family residential lots located between the east shoreline of Lake Sammamish and the ELST right-of-way. The east end of the beach property abuts the ELST right-of-way for a distance of 10 feet. The ordinary high water mark (“OHWM”) at the west end of the beach property is not amenable to delineation by typical vegetation characteristics observation. The Department of Ecology concurs with Templeman’s environmental consultant (AOA, LLC) that the lake’s ordinary high water line (28.18 ft. NGVD 29) is an acceptable delineation of the OHWM under the circumstances here present. (Exhibits 37; 38) The distance between the ELST right-of-way and the OHWM varies from about 69 to 64 feet along the north and south property lines, respectively. The beach property flares out to a width of about 35 feet over that distance. (Exhibit 36) The beach property thus contains roughly 1,490 square feet (“SF”) of upland area east of the OHWM. (Area estimated by calculation from Exhibit 36)
4. Lake Sammamish and shorelands within 200 feet of the lake’s OHWM are within the jurisdictional area of the SMA. Lake Sammamish is a designated Shoreline of Statewide Significance under the SMA. The City’s Shoreline Master Program (“SMP”) designates the subject property Shoreline Residential. A private dock is a preferred water-oriented and water-dependent use under the SMP. An SSDP is required because the dock’s estimated cost (\$28,000) exceeds the established threshold requiring a permit. (Exhibit 34; and 2018 Hearing testimony)
5. The SMP contains extensive design and location standards for docks, referred to by the Department as the “Dock Design Requirements.” [SMC 25.07.050] The term “shared use dock” is used in but not defined in the SMP. [Chapter 25.02 SMC] Among the many Dock Design Requirements applicable to docks on Lake Sammamish are the following: Docks must be at least 15 feet from side property lines extended [SMC 25.07.050(1)(a)]; private docks must use “WDFW [Washington State Department of Fish and Wildlife] -approved methods and materials” [SMC 25.07.050(1)(f)]; no more than one dock is allowed per lot [SMC 25.07.050(2)(a)]; the “[m]aximum overwater area coverage for private docks” is 480 SF [SMC 25.07.050(2)(d)(i)]; maximum dock width is four feet with opportunity for an additional two feet of width 30 or more feet waterward of the OHWM [SMC

25.07.050(2)(e)]; the “first set of pilings for a dock shall be located no closer than 18 feet from the” OHWM [SMC 25.07.050(2)(g)]; and maximum dock length is 80 feet from the OHWM or as needed to reach a depth of eight feet measured from ordinary high water [SMC 25.07.050(2)(h)].

The Dock Design Requirements contain some special provisions applicable to shared use docks on Lake Sammamish: A shared use dock may straddle the common property line extended of the two properties sharing the dock, thus ignoring the 15-foot setback as pertains to the common property line extended [SMC 25.07.050(1)(a)]; contiguous lots using a shared use dock are allowed additional boat lifts, etc. [SMC 25.07.050(2)(b)]; if more than nine residential lots are sharing a dock, they may construct one additional dock under certain circumstances [SMC 25.07.050(2)(c)]; and the maximum overwater coverage area for a shared use dock is raised to 700 SF where it serves two to nine lots and to 1,000 SF where it serves more than nine lots [SMC 25.07.050(2)(d)(ii) and (iii)]. The Templeman proposal does not rely on any of the special shared use dock privileges.

6. Templeman has significantly revised his proposed dock since the 2018 Hearing. (Cf. Exhibits 25 and 28 with Exhibit 35) The prior proposal was described in Finding of Fact 7 in the 2018 Decision. (Exhibit 31, p. 4)

The current proposal begins at the OHWM and extends 80 feet into the lake. The first 40 feet of the dock will be 4 feet wide; the remainder will be 6 feet wide. Pile bents will be 20 feet apart; the first pile bent will be 20 feet from the OHWM. Pilings will be 3” steel; caps and stringers will be ACZA treated Fir. The dock surface will be 401 SF of flow-through grating.⁴ The dock will be 15’ 2” from each of the side property lines (extended). (Exhibit 35) No boat lifts or canopies are proposed. (2019 Hearing testimony)

Templeman states that access to the dock will be pedestrian only. (2018 Hearing testimony)

7. The SMP requires establishment of a Vegetation Enhancement Area (“VEA”) along a property’s shoreline whenever a project will disturb uplands within the established SMA setback area. [SMC 25.06.020(10)] Although the proposed dock will be located entirely waterward of the OHWM, as previously noted, Templeman is proposing to install a significant amount of native shoreline vegetation as mitigation based upon WDFW and United States Army Corps of Engineers permit requirements. (Exhibit 36; and 2019 Hearing testimony)
8. King County controls the abutting right-of-way within which the ELST is located. King County has advised that a Special Use Permit (“SUP”) must be obtained from it for any temporary construction access and for long-term pedestrian access across the ELST. (Exhibit 24)
9. The abutting home owner to the north (Audett) is very concerned about water safety around the dock because of the narrowness of the beach property. Audett argues that the dock would amount to

⁴ The “extra” 1 SF accounts for the flare from 4 to 6 feet wide. (2019 Hearing testimony)

inappropriate building on a recreation lot and that there would be inadequate maneuvering area beside the dock for more than one boat. (Exhibits 7.4; 7.5; and 2018 Hearing testimony)

10. The Department recommends approval subject to eight conditions listed in Exhibit 34, the July 25, 2019, Staff Report (“2019 Staff Report”).⁵ Templeman has no objection to the Department’s recommended conditions as listed in Exhibit 34. (2019 Hearing testimony)
11. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK⁶

The Examiner is legally required to decide this case within the framework created by the following principles:

Authority

An SSDP is a Type 4 procedures. A Type 4 land use application requires an open record hearing before the Examiner. The Examiner makes a final decision on Type IV applications which is subject to the right of reconsideration and appeal to the State Shorelines Hearings Board. [SMC 20.05.020, 20.10.240, 20.10.260, and 25.35.080(1)]

The Examiner’s decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications, and restrictions as the Examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including Chapter 43.21C RCW and the regulations, policies, objectives, and goals of the interim comprehensive plan or neighborhood plans, the development code, the subdivision code, and other official laws, policies and objectives of the City of Sammamish.

[SMC 20.10.070(2)]

Review Criteria

Section 20.10.200 SMC sets forth requirements applicable to all Examiner Decisions:

⁵ The Staff Report for the 2018 Hearing also recommended approval subject to the same eight conditions. (Exhibit 1, pp. 9 and 10) However, on September 10, 2018, the Department issued a Staff Report Addendum which added two recommended conditions to be fulfilled prior to building permit issuance: One requiring acquisition of a King County SUP; the other requiring a water depth survey. (Exhibit 26) The Staff Report Addendum is not mentioned in the 2019 Staff Report nor are its two recommended conditions included in the recommended conditions in the 2019 Staff Report. It is unclear from the record whether the Department intended the Staff Report Addendum to be a part of the 2019 Staff Report.

⁶ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

When the examiner renders a decision . . . , he or she shall make and enter findings of fact and conclusions from the record that support the decision, said findings and conclusions shall set forth and demonstrate the manner in which the decision . . . is consistent with, carries out, and helps implement applicable state laws and regulations and the regulations, policies, objectives, and goals of the interim comprehensive plan, the development code, and other official laws, policies, and objectives of the City of Sammamish, and that the recommendation or decision will not be unreasonably incompatible with or detrimental to affected properties and the general public.

Subsection 25.08.020(2) SMC requires that a proposed Substantial Development be “consistent with the policies and procedures of Chapter 90.58 RCW, the provisions of Chapter 173-27 WAC, and [the City of Sammamish Shoreline Master Program].”

Vested Rights

Sammamish has enacted a vested rights provision.

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

[SMC 20.05.070(1)] Therefore, this application is vested to the development regulations as they existed on June 14, 2017.

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [SMC 25.08.050(4) and City of Sammamish Hearing Examiner Rule of Procedure 316(a)]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. The 2018 Decision denied the application because the proposed dock plans failed to comply with the requirements of the SMP.

- A. The plans did not depict a fundamental requirement of the code: The location of the OHWM. (Exhibit 31, p. 7, Conclusion of Law 1.A) That deficiency has been properly corrected. (Exhibits 35; 37; 38)
 - B. The dock length (which has to be measured from the OHWM) undoubtedly exceeded the standard 80 feet set by code. (Exhibit 31, p. 7, Conclusion of Law 1.B) That deficiency has been properly corrected. (Exhibits 35; 37)
 - C. The methodology used to justify the extra length of the dock was flawed and unacceptable. (Exhibit 31, p. 7, Conclusion of Law 1.C) That deficiency is now moot as the currently proposed length complies with the SMP limit. (Exhibit 35)
 - D. The Examiner agreed with a neighbor (Toskey) who opined that placing stairs in the lake within 18 feet of the OHWM would violate SMC 25.07.050(2)(g). (Exhibit 31, p. 7, Conclusion of Law 1.D) That deficiency is now moot as the currently proposed dock has no stairs waterward of the OHWM. (Exhibit 35)
 - E. The mitigation plantings did not properly relate to the location of the OHWM. (Exhibit 31, p. 7, Conclusion of Law 1.E) That deficiency has been properly corrected. (Exhibit 36)
2. As far as Audett's congestion issue is concerned, the Examiner notes that the SMP allows each "residential lot on Lake Sammamish" to have "one residential dock, one float, two boat lifts, and two personal watercraft lifts." [SMC 25.07.050(2)(a)⁷] That provision clearly indicates that the legislative officials who adopted the regulation wanted to allow at least two boats to use each private dock on the lake: "two boat lifts". The next sentence in the SMP states that a shared use dock may have an additional boat lift, which would bring the allowable total of boat lifts to three.

The Examiner ended his analysis in 2018 at that point by concluding that "[u]nless Audett can produce better authority or substantially stronger evidence, the Examiner would have no choice but to allow three boats to 'home port' at the proposed shared use dock." (Exhibit 31, p. 8, Conclusion of Law 3)

Upon further reflection, the Examiner does not believe that to be the proper end of the boat use analysis. What the SMP is actually limiting is boat lifts, mechanical lifting structures located adjacent to a dock, not the number of boats that may tie up to a dock. The SMP as written does not limit the number of boats that may tie up to a permitted dock. To the extent that this Conclusion of

⁷ The use of the phrase "residential lot on Lake Sammamish" presents an interesting issue: Does the SMC allow private docks only in front of lots on which are located residences? In other words, are private docks prohibited in the lake in front of the many privately owned recreational lots which do not contain residences? The Examiner concludes that such a reading of the code would not be appropriate. Section 25.07.050 SMC regulates private docks and associated items; SMC 25.07.060 regulates public docks. Since there are no commercially-zoned lots along the lake shore, it seems likely that the ordinance drafters were seeking to differentiate privately owned lots from publicly owned lots. In any event, the Examiner declines to interpret current SMC 25.07.050(2)(a) in a way that would bar docks in front of recreational lots.

Law differs from Conclusion of Law 3 in the 2018 Decision, that prior Conclusion of Law is superseded.

Unfortunately for Audett, the only congestion limitation contained in the SMP is the required 15-foot setback requirement from side lot lines extended. Templeman's proposal meets that requirement on both its north and south sides. (Exhibit 35)

3. Lengthy, detailed Conclusions of Law are, unnecessary since this application is largely devoid of controversy. Audett's concerns from the 2018 Hearing do not challenge the proposal's compliance with any applicable SMP regulations. Therefore, except where in conflict with the Conclusions of Law set forth herein, the Examiner adopts the Department's analysis contained in Exhibit 34 by reference as if set forth in full.
4. The recommended conditions of approval as set forth in Exhibit 34 are reasonable, supported by the evidence, and capable of accomplishment except as noted below. Section 173-27-190 WAC contains certain content and format requirements for any SSDP which is issued:

(1) Each permit for a substantial development, conditional use or variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140(5)(a) and (b).

(2) Permits for substantial development, conditional use, or variance may be in any form prescribed and used by local government including a combined permit application form. Such forms will be supplied by local government.

(3) A permit data sheet shall be submitted to the department with each shoreline permit. The permit data sheet form shall be as provided in Appendix A of this regulation.

Subsection (2) allows this Decision to serve as the SSDP. Subsection (1) requires that an additional condition be added. The data sheet required by Subsection (3) will be prepared by the Department when it transmits the SSDP and supporting exhibits to the state as required by Chapter 90.58 RCW.

5. There is no justification based upon this SSDP to require any mitigation plantings. As described in Exhibit 34 and noted above, the SMP's Dock Design Requirements were developed to be self-mitigating. If other agencies have requirements that include mitigation, then such agencies may impose mitigation under their authority. But the City should not and cannot do it for them. Therefore, Recommended Condition 2 will be revised to delete reference to a mitigation plan and Recommended Conditions 4 and 6 will be deleted.

6. The Examiner will not add the two recommended conditions from the 2018 Staff Report Addendum. As the Examiner has noted in previous cases in which a King County SUP was a concern, the Examiner accepts King County's review comment as an advisory for the applicant/permittee. The water depth survey is now irrelevant as the dock length complies with the SMP's Dock Design Requirements.
7. The Examiner will add one additional condition which will specifically cite Exhibit 35 as the approved plan set for this SSDP.
8. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner **GRANTS** the requested Shoreline Substantial Development Permit to construct a fully grated, shared use dock in Lake Sammamish **SUBJECT TO THE ATTACHED CONDITIONS.**

Decision issued September 12, 2019.



John E. Galt
Hearing Examiner

HEARING PARTICIPANTS ⁸

Frank Sovich (2018 only)
Tracy Cui
George Toskey (2018 only)

Jason Templeman
Karen Audett (2018 only)
Gregory Ashley

NOTICE of RIGHT of RECONSIDERATION

This Decision 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 228th 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.

A request for reconsideration is not a prerequisite to judicial review of this Decision. [SMC 20.10.260(3)]

NOTICE of RIGHT of APPEAL

This Decision 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.

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."

⁸ The official Parties of Record register is maintained by the City's Hearing Clerk.

**CONDITIONS OF APPROVAL
TEMPLEMAN SHARED USE DOCK
SSDP2017-00383**

This Shoreline Substantial Development Permit is subject to compliance with all applicable provisions, requirements, and standards of the Sammamish Municipal Code, standards adopted pursuant thereto, and the following **SPECIAL CONDITIONS**:

1. **Exhibit 35** is the approved project plan set for this SSDP.
2. The Permittee shall comply with all city, county, state, and federal rules and regulations in effect on June 14, 2017, the vesting date of the subject application.
3. A building permit issued in accordance with SMC Title 16 must be approved prior to commencing project construction. Final construction plans showing the proposed dock shall be in substantial conformance with **Exhibit 35**.
4. No significant tree removal is allowed.
5. Final construction plans, including staging plan, shall be prepared and submitted to the City for review with application for the building permit. Site disturbance shall be the minimum necessary to accommodate the scope of work.
6. Prior to building permit issuance, a note shall be placed on the construction plans/permit regarding compliance with SMC 25.06.010 and requiring notification the Washington State Department of Archaeology and Historic Preservation if artifacts are discovered.
7. Pursuant to WAC 173-27-090, construction shall be commenced on the proposed dock within two (2) years of the date that the SSDP is issued (or becomes final following any reconsideration or appeal periods, if applicable). Authorization to conduct development activities under the SSDP shall terminate five (5) years after the effective date of this permit. The City may authorize a single extension for a period not to exceed one (1) year based on a showing of good cause to the Community Development Department Director of reasonable factors, if a request for extension has been filed before the expiration date, and notice of the proposed extension is given to parties of record and the City.