

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

DECISION

FILE NUMBERS: SVAR2016-00376 and ZONV2016-00377

APPLICANT: Jyotirmoy Paul
10700 NE 4th Street, Unit 3802
Bellevue, WA 98004

TYPE OF CASE: Consolidated: 1) Shoreline Management Act Variances to reduce shoreline setback from 50 feet minimum to not less than 33 feet and reduce one Type F stream buffer from 150 feet to not less than 37.5 feet and a second Type F stream buffer from 150 feet to not less than 112 feet; and 2) Zoning variance to reduce street setback from 10 feet minimum to not less than 5 feet

STAFF RECOMMENDATION: Approve both applications subject to conditions

EXAMINER DECISION: GRANT both applications subject to conditions

DATE OF DECISION: March 14, 2018

INTRODUCTION ¹

Jyotirmoy Paul (“Paul”) seeks approval of Shoreline Management Act (“SMA”) Variances (“Shoreline Variances”) to reduce shoreline setback from 50 feet minimum to not less than 33 feet and reduce one Type F stream buffer from 150 feet to not less than 37.5 feet and a second Type F stream buffer from 150 feet to not less than 112 feet and a zoning code variance to reduce street setback from 10 feet minimum to not less than 5 feet.

Paul filed a Base Land Use Application on October 5, 2016. (Exhibit 2 ²) Paul filed revised application materials on March 6 and 28, 2017, and on May 25, 2017. (Exhibit 7) The Sammamish Department of Community Development (“Department”) deemed the applications to be complete on October 5, 2016. (Exhibit 3) The Department issued a Notice of Application on October 28, 2016, and a Revised Notice of Application on June 5, 2017. (Exhibits 4; 7)

¹ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.
² 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.

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 2 of 23

The subject property is located in the 3100 block of East Lake Sammamish Parkway NE ("Parkway"), directly south of 3105 Parkway.

The Sammamish Hearing Examiner ("Examiner") viewed the subject property on February 13, 2018.

The Examiner convened an open record hearing on February 13, 2018. The Department gave notice of the hearing as required by the Sammamish Municipal Code ("SMC"). (Exhibit 33)

Subsection 20.05.100(1) SMC requires that decisions on SVARs and ZONVs be issued within 120 net review days after the application is found to be complete. The open record hearing was held within the required time limit. (Testimony)

The following exhibits were entered into the hearing record during the February 13, 2018, hearing:

- Exhibits 1 – 33: As enumerated in Exhibit 1, the Departmental Staff Report
- Exhibit 34: Data submitted by Paul on February 13, 2018
- Exhibit 35: Materials submitted by Mark Cross on February 13, 2018
- Exhibit 36: Materials submitted by A. William Way on February 13, 2018
- Exhibits 37.1 – 37.7: Materials submitted by Aurora Purcell on February 13, 2018

Following a brief recess at the conclusion of direct testimony, Paul asked that the hearing be continued so that he could review the materials submitted by Mark Cross ("Cross"), A. William Way ("Way"), and Aurora Purcell ("Purcell") during the hearing. The hearing was continued to February 28, 2018. The Examiner gave notice of the continuance on the record before recessing the hearing.

The following exhibits were entered into the hearing record during the February 28, 2018, continuance:

- Exhibits 38.1 – 38.4: Materials submitted by Paul on February 28, 2018

The hearing record closed when the hearing was adjourned on February 28, 2018.

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

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 3 of 23

1. Paul wants to build a single-family residence on King County Assessor's Parcel 202506-9151 ("Parcel 9151"³). Parcel 9151 backs up to the east shore of Lake Sammamish and fronts on the west side of King County's East Lake Sammamish Trail ("ELST") right-of-way, which in turn abuts the west side of the Parkway right-of-way.⁴ Parcel 9151 contains 11,068 square feet ("SF") above the lake's ordinary high water mark ("OHWM"). Parcel 9151 has a north-south length of approximately 123 feet and a depth between the Lake Sammamish OHWM and the west edge of the ELST right-of-way that varies between about 80 to 85 feet. A Type F stream (Stream 0143 F) crosses Parcel 9151 from east to west about 20 feet south of the north property line; a second Type F stream (Stream 0143G) flows across the abutting property to the south (the Chan Parcel, Parcel 9041) about 122 feet south of the south property line. (Exhibit 38.3, Sheet C1.1) The code-required buffers of the two Type F streams completely encumber the entirety of Parcel 9151.⁵
2. Exhibit 10 is the site development plan which was considered during the February 13, 2018, hearing. In general, that plan proposed constructing a single-family residence with a 1,905 SF footprint (including a 400 SF garage) in the southeast corner of Parcel 9151, providing a five foot setback from the ELST right-of-way and the south property line and a setback of not less than 33 feet from the OHWM. A 1,101 SF pervious driveway would enter the property near its northeast corner and cross the on-site Type F stream using a concrete box culvert to reach the garage.⁶ A lawn up to 20% of the "shoreline jurisdiction area" was depicted between the residence and the OHWM. (The plan includes a conceptual depiction of a dock. The dock is not included in the application.) (Exhibit 10)

At the February 28, 2018, hearing continuation, Paul presented an alternative site development plan. That plan reduces the building footprint to 1,808 SF, eliminates the lawn, and adds a 97 SF deck on the west side of the residence. The enhancement planting plan plant mix has also been revised as suggested by tribal review comments. (The alternate plan also includes a conceptual depiction of a dock. The dock is not included in the application.) (Exhibit 38.3; and testimony)

Both alternatives would impact 3,006 SF of the parcel or 27% of the lot area. (Exhibits 10; 34; 38.3)

³ All of the parcels referenced within this Decision have a ten-digit parcel number, the first six digits of which are the same: "202506." For simplicity, the Examiner will hereinafter refer to individual parcels using only their last four digits and, where appropriate to the context, the name of the owner.

⁴ As can most clearly be seen on Exhibit 12, the Lake Sammamish shoreline in the vicinity of Parcel 9151 is oriented along a more-or-less northwest-southeast axis. To simplify and standardize directional references, the following convention will be followed throughout this Decision: The lake shoreline is west; the ELST and Parkway lie to the east and the long axis of Parcel 9151 runs north to south.

⁵ Prior to 2008, Parcel 9151 was a part of Parcel 9141. Parcel 9151 was created by testamentary division after the death of the previous owner of Parcel 9141. Between 1994 and 2007, Parcel 9141 was enrolled in the Open Space Tax deferral program. Parcel 9141 was removed from that program in 2007 (most likely after the death of the prior owner), at which time deferred taxes in the amount of \$71,631.29 were paid as required by law. (Exhibit 37.7) None of the facts in this footnote have any bearing on the Paul application.

⁶ Chan denied Paul's request to cross his property to reach Parcel 9151 from the south; King County has denied Paul's request to create a new crossing of the ELST. (Testimony)

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 4 of 23

Because neither of Paul's proposed site plans complies with the 50-foot setback from Lake Sammamish and the 150-foot Type F stream buffers required under the City's adopted Shoreline Master Program ⁷ ("SMP") regulations nor with the 10-foot street setback required under the City zoning regulations, Paul has made application for a variance from each: 33- v. 50-foot minimum lake setback, 37.5- to 75-foot v. 150-foot minimum buffer for the on-site Type F stream, 112- v. 150-foot minimum buffer for the off-site Type F stream, and 5- v. 10-foot ELST setback. (Exhibits 10 or 38)

The Exhibit 10 site development plan requires an additional Shoreline Variance. The code requires a 15-foot "Building Setback Line" ("BSBL") between the edge of a required sensitive area buffer and any building. The BSBL on Exhibit 10 is as little as 5-feet in some areas. The 15-foot BSBL is provided on the Exhibit 38 alternative.

3. Parcel 9151 lies within the jurisdictional area of the SMP. (Exhibit 12) Lake Sammamish is a designated Shoreline of Statewide Significance under the SMP. ⁸ [SMC 25.05.030] The SMP assigns one of two "Environment" designations to all SMP-regulated shorelines within the City: Either Urban Conservancy ("UC") or Shoreline Residential ("SR"). [SMC 25.05.020(1)] Approximately 86% of the City's Lake Sammamish shoreline is designated SR; the remaining 14% is designated UC. The UC designation occurs in three pockets near the north end of the lake. Parcel 9151 is located within one of those pockets. (Exhibit 12; official notice)

The purpose of the urban conservancy environment is to protect and restore relatively undeveloped or unaltered shorelines to maintain open space, floodplains, or habitat, while allowing a variety of compatible uses. This designation shall apply to shorelines that retain important ecological functions, even if partially altered. These shorelines are suitable for low intensity development, uses that are a combination of water-related or water-enjoyment uses, including single-family residential use, or uses that allow substantial numbers of people to enjoy the shoreline.

[SMC 25.05.020(1)(b), emphasis added]

⁷ The standard buffer width for a Type F stream is 150 feet. [SMC 21A.50.330(1)] Stream buffers may be administratively reduced up to 50% if certain conditions are met. [SMC 21A.50.330(6)] The 15-foot BSBL from the outer edge of a stream buffer is a requirement of Chapter 21A.50 SMC, Environmentally Critical Areas. [SMC 21A.50.210] There is no mechanism within Chapter 21A.50 SMC by which a BSBL may be reduced or eliminated. Most provisions within Chapter 21A.50 SMC, including those relevant to this proceeding, have been incorporated by reference into the SMP. [SMC 25.01.070] It should be noted that the reasonable use provisions of SMC 21A.50.070 were expressly excluded from incorporation into the SMP. [*Ibid.*] Therefore, the stream buffer and BSBL are SMP regulations for properties subject to the SMP and a request to reduce or eliminate either must be handled as a Shoreline Variance for such properties.

⁸ The current version of the SMP was adopted by Ordinance No. O2009-265 as amended by Ordinance No. O2011-308 and became effective on August 31, 2011, after approval by Ecology. The critical areas provisions within the SMP were amended by Ordinance No. O2016-410 and became effective on March 1, 2017, after approval by Ecology. Variance applications do not benefit from vested rights. Therefore, the current SMC provisions apply.

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 5 of 23

4. Single-family residences are a permitted use in the UC designation. [SMC 25.07.010, Table 25.07.010-1] The single-family residential height limit, side setback requirement, shoreline setback requirement, and vegetation enhancement area (“VEA”) requirement are the same for both UC and SR designated areas: 35 feet maximum height, 15% of lot width side setback with minimum of 5 feet, 50 foot minimum shoreline setback, and 15 foot VEA, respectively. [SMC 25.06.020(9); 25.07.010, Table 25.07.010-2] The 50 foot shoreline setback may be administratively reduced to 20 feet under certain circumstances for all uses in the SR designation, but only for public uses in the UC designation. [SMC 25.06.020(11)]

“Single-family residential use is a preferred shoreline use and shall be permitted when consistent with this program and the Act, including the goal to ensure no net loss of shoreline ecological functions.” [SMC 25.07.080(1)] The undeveloped area requirement for parcels designated UC is essentially 60% of the lot area above the OHWM. [SMC 25.07.080(2)(d)]

5. Parcel 9151 is zoned R-4. (Exhibit 11) Single-family residences are a permitted use in the R-4 zone. [SMC 21A.20.030] The required “street” setback in the R-4 zone is 10 feet. [SMC 21A.25.030(A)]

All properties between the Parkway and Lake Sammamish from the northern City limit to the southern City limit are zoned R-4, as are most of the upland properties on the east side of the Parkway, including all properties in the vicinity of Parcel 9151. [Exhibit 11; Official notice, Official City zoning map, viewed at <https://www.sammamish.us/attachments/pagecontent/36868/17013.pdf>, last visited March 10, 2017]

6. Parcel 9151 is the next-to-southern-most of 14 parcels in the middle UC designation.⁹ It is one of the deeper parcels, but by no means the largest parcel. Three of those 14 parcels contain existing single-family residences whose lot coverage ranges from 4,879 SF to 5,140 SF (including garages) which works out to 56% - 61% of lot area. Three of the remaining parcels recently received Shoreline Variances and zoning variances to construct new single-family residences: Parcel 9085 (Ogren) was approved for a 1,844 SF building footprint (including garage) with a 2,271 SF (36% of lot area) impact area; Parcel 9071 (Baerwald) was approved for a 2,215 SF building footprint (including garage) with a 2,916 SF (36% of lot area) impact area; and Parcel 9041 (Chan) was approved for a 6,305 SF (24% of lot area) impact area. (Exhibit 34; and official notice of Ogren, Baerwald, and Chan Shoreline Variances)
7. Parcel 9151 is an undeveloped parcel which slopes very gently downward toward the lake shoreline. Common vegetation above the OHWM of Lake Sammamish includes bigleaf maple, black cottonwood, pacific madrone, Oregon ash, nootka rose, himalayan blackberry, thimbleberry, beaked hazelnut, english holly, and english ivy. The understory has been largely overrun by invasive ivy and blackberry. The area between the on-site Type F stream and the north property line has been

⁹ Evidence in some recent Shoreline Variance cases in this area stated that there were 13 parcels in this UC-designated area, others said 14 parcels. [Official notice] Evidence in this record states that there are 14 UC-designated parcels in this area. (Exhibit 34) The Examiner cannot explain the difference.

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 6 of 23

significantly denuded of native vegetation, apparently by the adjoining property owner. Currently there is little to no overstory vegetation in that area; only invasive species and a picnic table. Below the OHWM, willow, hardstem bulrush, and garden loosestrife are the primary vegetation. The hydrophytic vegetation community is limited to areas below the OHWM. The site contains no regulated wetlands. (Exhibit 1, pp. 10 – 12; 15; 17; 20; 28, Photo Plates 1 & 2; 36, p. 7; and testimony)

8. The review criteria for a Shoreline Variance depend upon where the proposal is located. Paul's proposal is located landward of the OHWM and any associated wetland. For a proposal located landward of the OHWM and landward of any associated wetland, the criteria are contained in WAC 173-27-170(1), (2), (4), and (5). "Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect." [WAC 173-27-170(1)] The criteria in WAC 173-27-170(2), (4), and (5) and the facts relating to each are as follows:

- A. "That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;" [WAC 173-27-170(2)(a)]

Facts: As explained above, the combination of required shoreline setback, stream buffers, and BSBL associated with Lake Sammamish, Stream 0143F, and Stream 0143G encumber the entirety of Parcel 9041 and render it unbuildable unless relief is granted.

- B. "That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;" [WAC 173-27-170(2)(b)]

Facts: Neither Paul nor any prior owner of Parcel 9151 did anything to create the hardship: The hardship is entirely due to the requirements of the SMP and the natural features of the parcel. It is the size and shape of the property, combined with the required 50-foot shoreline setback, and stream buffers/buffer BSBL requirements, which cause the hardship.¹⁰

- C. "That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;" [WAC 173-27-170(2)(c)]

Facts: The proposed residence and driveway will impact half as much area as will the Chan project on a lot that is approximately half the size of the Chan parcel. Its impact area will be

¹⁰ Parcel 9151 was created 10 years ago by testamentary division. Creation of the parcel that long ago is not a proximate cause of the current hardships.

less than any of the three developed lots to its north, its OHWM setback will be about twice as great as on those lots. The proposed shoreline setback of not less than 33 feet is greater than that of recently approved Shoreline Variances and of most, if not all, existing residences in the area which were constructed prior to the current regulations. (Exhibit 34; and testimony)

The area's R-4 zoning matches the adopted Comprehensive Plan's goal for this area: Single-family residences. The SMP's UC designation of Parcel 9151 (and the adjoining parcels along this stretch of the lake shoreline) specifically allows single-family residential use. Paul is not asking for any relief from use provisions of either the zoning code or the SMP. (Exhibit 1)

Paul's proposal includes significant mitigation. All invasive species will be removed. Native species will be planted throughout the entire parcel; there will be no lawn in the Exhibit 38.3 alternative. Impact on the Type F stream will be minimized by narrowing the driveway to nine feet, using pervious pavement for the driveway, and crossing the stream via a concrete box culvert. Planting/enhancement will occur on approximately 7,000 SF of the site. Eighteen trees are proposed to be removed and replaced. The immediate shoreline area, which is well-vegetated, will remain as is except for a narrow active use area near the southwest corner of the site. Most of the parcel will be placed in a Native growth Protection Easement once construction has been completed. Both alternatives include a 15-foot BSBL from the edge of the slightly reduced buffer of Stream 0143G. The alternative plan (Exhibit 38.3) includes a 15-foot BSBL for the reduced Stream 0143F buffer. The end result will be a better shoreline habitat than presently exists. (Exhibits 10, Sheets W1.0 & W2.0; 15; 38.3, Sheets W1.0 & W2.0; 38.4)

- D. "That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;" [WAC 173-27-170(2)(d)]

Facts: Of the 14 parcels in this segment of UC-designated shoreline, three have homes that existed prior to adoption of the SMP, three have recently approved Shoreline Variances for single-family residential construction, and most of the rest are so narrow as to render any residential development extremely problematic. (Exhibit 12; and testimony)

The following table compares the recently approved Shoreline Variances (Parcel 9085/Ogren, Parcel 9071/Baerwald, and Parcel 9041/Chan):

	Code	Parcel 9085	Parcel 9071	Parcel 9041
Lot area (above OHWM)		5,760	7,858	25,765
Lot depth		43' - 75'	37' - 60'	65' - 75'
Non-encumbered area		143 SF	0 SF	0 SF
Street setback	10'	1'	2'	5'

Shore setback	50'	20' – 44'	20'	33' min.
Building footprint		1,844 SF	2,215 SF	3,561 SF
Residence footprint		1,360 SF	1,735 SF	2,251 SF
Garage footprint		484 SF	480 SF	886 SF
Covered patio		n/a	n/a	424 SF
Total impervious area		2,271 SF	3,223 SF	6,959 SF

Sources: Parcel 9041 – Exhibit 2; Parcels 9085 and 9071 – official notice

Neither Parcel 9085 nor Parcel 9071 involved a stream buffer and associated BSBL. [Official notice]

- E. “That the variance requested is the minimum necessary to afford relief;” [WAC 173-27-170(2)(e)]

Facts: The 5-foot street setback has been negotiated with King County, the agency which controls the ELST right-of-way. The 33-foot shoreline setback will place the west edge of the structure inside of the lake’s regulatory floodplain. The proposed first floor elevation will be above the elevation of the regulatory flood plain and all portions of the structure within the floodplain will be constructed over an open crawlspace designed to allow flood waters to freely flow under the residence. (Exhibits 28; 38.3, Sheet C3.0)

- F. “That the public interest will suffer no substantial detrimental effect.” [WAC 173-27-170(2)(f)]

Facts: The existing shoreline is degraded and restoration of the shoreline environment is a high public priority that would be addressed by this project. Because utilities such as sewer, water, and electricity are nearby or already serve the site, and because partial street access is already provided, there will be no additional burden to the public from construction of a single-family residence. Leaving the parcel in its existing degraded condition would not further the interests of the public because restoration of the shoreline would not be accomplished. In addition, the proposed development will fit in with surrounding developed land uses within the immediate vicinity. (Exhibit 1, p. 28)

A Shoreline Restoration Plan was developed as part of the City’s recent update of its SMP. The plan calls for restoration along portions of the Lake Sammamish shoreline, both voluntarily and as mitigation for development impacts. A concurrent Cumulative Impacts Analysis was prepared that concluded that although additional development would occur along the Lake Sammamish shoreline, the net effect of development combined with the standards prescribed by the SMP, other regulations, and mitigation efforts would prevent a net loss in shoreline ecological functions. (Exhibit 1, p. 30)

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 9 of 23

- G. “In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.” [WAC 173-27-170(4)]

Facts: Paul’s proposal will impact a smaller percentage of Parcel 9151 than will the Ogren and Baerwald residences when they are built, and only slightly more than was approved for Chan. (Exhibit 34) The Paul proposal does not set a harmful precedent.

- H. “Variances from the use regulations of the master program are prohibited.” [WAC 173-27-170(5)]

Facts: No relief from the SMP’s use regulations has been requested.

9. The review criteria for zoning variances are contained in SMC 21A.110.030. “A variance shall be granted by the City, only if the applicant demonstrates” compliance with each of 12 criteria. [SMC 21A.110.030] The criteria and the facts relating to each are as follows:

- A. “The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;” [SMC 21A.110.030(1)]

Facts: If the required 10-foot setback from the ELST right-of-way were applied, either the structure would be five feet closer to the lake shoreline or its depth would have to be reduced by five feet. Since the near edge of the actual ELST is about 35 feet east of the edge of the right-of-way, the lake setback is more sensitive than is the “street” setback. (Exhibit 38.3, Sheet C1.0) The house could be narrowed, but that would create an even skinnier structure for little to no gain.

- B. “The variance is necessary because of the unique size, shape, topography, or location of the subject property;” [SMC 21A.110.030(2)]

Facts: Parcel 9151 is located directly adjacent to the Lake Sammamish shoreline and is entirely encumbered with the standard 50-foot shoreline setback and the 150-foot stream buffers. A separate Shoreline Variance is required to reduce the shoreline setback and stream buffers. (No BSBL relief is required for the Exhibit 38.3 alternate.) However, even with the reduction of the shoreline setback, there is not adequate room for a reasonably sized residence when complying with the 10-foot street setback. (Exhibits 1; 21; 38.3)

- C. “The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;” [SMC 21A.110.030(3)]

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 10 of 23

Facts: The R-4 zone applies to the entire surrounding area, both lots sandwiched between the lake shoreline and the ELST and those located east of the Parkway. This criterion requires comparison of Parcel 9151 with all of those similarly zoned lots, not just with those between the lake and the ELST. Once that code requirement is considered in its proper context, it is evident that Parcel 9151 is deprived of the right to have a reasonably sized house because of the extreme shallowness of the lot. The requirement for a large shoreline setback only exacerbates the problem. (Exhibits 1; 21)

- D. “The variance does not create health and safety hazards, is not materially detrimental to the public welfare or is not unduly injurious to property or improvements in the vicinity;” [SMC 21A.110.030(4)]

Facts: The house and garage will be 40 or more feet from the actual edge of the ELST. Landscaping will be planted between the residence and the ELST right-of-way. (Exhibits 21; 38.3)

- E. “The variance does not relieve an applicant from any of the procedural provisions of this title;” [SMC 21A.110.030(5)]

Facts: Paul has not requested any relief from the procedural requirements of Title 21A SMC. (Exhibit 1)

- F. “The variance does not relieve an applicant from any standard or provision that specifically states that no variance from such standard or provision is permitted;” [SMC 21A.110.030(6)]

Facts: Street setback variances are not prohibited by Title 21A.

- G. “The variance does not relieve an applicant from conditions established during prior permit review or from provisions enacted pursuant to SMC 21A.50.225, Erosion hazards near sensitive water bodies – Special district overlay, SMC 21A.50.322, Wetland management area – Special district overlay, or SMC 21A.50.355, Lake management areas – Special district overlay;” [SMC 21A.110.030(7)]

Facts: The record does not disclose any “conditions established during prior permit review.” Paul will have to comply with any and all applicable provisions of the listed regulations; the setback variance does not seek relief from any of those provisions. Parcel 9151 is not located within the EHNSWB overlay area, is not within a wetland management area, and is not in a lake management area. (Testimony)

- H. “The variance does not allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located;” [SMC 21A.110.030(8)]

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 11 of 23

Facts: This is not a use variance. Parcel 9151 is zoned R-4. Single-family residences are a permitted use in the R-4 zone.

- I. “The variance does not allow the creation of lots or densities that exceed the base residential density for the zone by more than 10 percent;” [SMC 21A.110.030(9)]

Facts: The proposed variance is not creating or altering any lot.

- J. “The variance is the minimum necessary to grant relief to the applicant;” [SMC 21A.110.030(10)]

Facts: A lesser street setback zoning variance would require a larger Shoreline Variance in order to accommodate a reasonably sized residence given the depth of Parcel 9151. Given the sensitivity of the lake and the substantial distance (40± feet) between the east face of the proposed residence and the actual ELST, the requested zoning setback variance is the minimum necessary for reasonable relief. (Exhibits 1; 21)

- K. “The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities; and” [SMC 21A.110.030(11)]

Facts: The record contains no evidence of any easements or covenants affecting Parcel 9151.

- L. “The variance does not relieve an applicant from any provisions of Chapter 21A.50 SMC, Environmentally Critical Areas, except for the required building setbacks set forth in Chapter 21A.50 SMC.”

Facts: The requested setback variance does not seek any relief from the requirements of Chapter 21A.50 SMC.

10. Sammamish’s State Environmental Policy Act (“SEPA”) Responsible Official issued a threshold Determination of Nonsignificance (“DNS”) for the Paul proposal on November 13, 2017. (Exhibit 32) The DNS was not appealed. (Testimony)
11. In addition to the plans which have been referenced throughout these Findings of Fact, Paul submitted various materials supporting the application. (Exhibits 13 – 16; 19 – 22; 27; 28; 30; 31; 34; 38; and testimony)
12. The Department’s Staff Report (Exhibit 1) contains a recitation of the facts of this application in greater detail than summarized above. The following correction was made to Exhibit 1 during the hearing:

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 12 of 23

Page 27. The number “13” in the first full paragraph under “WAC 173-27-170(2)(d)” should be “14”. (Testimony)

The Findings and Analysis in the Staff Report were not challenged. Therefore, except to the extent they may conflict with this Decision, the Findings and Analysis contained in Exhibit 1, as amended, are incorporated herein by reference as if set forth in full.

17. The Department recommends approval of both the Shoreline Variances and the zoning variance, each subject to recommended conditions. (Exhibit 1, pp. 20 and 34) Paul has no objection to any of the Department’s recommended conditions. (Testimony)
18. The Snoqualmie Indian Tribe expressed concern about potential cultural resources on Parcel 9151. (Exhibit 5.1) Paul had a Cultural Resource Survey of Parcel 9151 performed which found no archeological resources. (Exhibit 20) The Snoqualmie Indian Tribe did not comment further on cultural resources.

The Snoqualmie Indian Tribe also objected to any development of the narrow lots along the lake shoreline. (Exhibit 5.4) Prohibiting any development of privately owned parcels along the lake shoreline would constitute an unconstitutional taking of private property.

19. The Muckleshoot Indian Tribe questioned the typing of the on-site stream (which at the time of the comment had been called a Type Np stream). (Exhibit 5.2) The stream was retyped as a Type F stream. Even after that correction, the Muckleshoot Indian Tribe opposed the requested stream buffer width reduction. (Exhibit 8.5)
20. Save Lake Sammamish (“SLS”), a non-profit corporation formed to protect Lake Sammamish and its environs, believed that the reasonable use exception process should be used to evaluate the Paul request. SLS opposes the stream buffer reduction. (Exhibit 5.3) As noted above, the reasonable use process is not legally applicable within the SMP jurisdictional area.
21. The Department of Ecology submitted technical comments, but took no position on the application. (Exhibit 5.5)
22. Way opposed the extent of relief requested by Paul. He cited a Shoreline variance case in which the Shorelines Hearings Board allowed only a much smaller structure. (Exhibits 5.6; 36; and testimony)
23. The owner of the parcel to the north (Selitrennikoff) advised that in his 16 years living next door he had never seen Stream 0143F run dry. Thus, he believed it would be a Type F stream requiring a 150 foot buffer. (Exhibit 8.2) The Selitrennikoff residence is located about 50 feet north of Stream 0143F. (Exhibit 38.2, sheet 1)

24. Purcell and Vince Mendillo object to residential development of UC-designated parcels. (Exhibits 8.3; 8.4; 37; and testimony)
25. Cross objects to the lack of City peer review of Paul's latest mitigation plan. He also contends that a 1,228 SF building footprint could be constructed without need for any shoreline variance. He also contends that the stream buffer variance should be denied. (If the stream buffer variances were denied, then no development of the site could occur at all as the buffers completely encumber the Paul property. An unconstitutional taking would occur.) Finally, he believes that the "no net loss" standard is not being met. (Exhibit 35; and testimony)
26. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK ¹¹

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

Authority

A Shoreline Variance is a Type 4 procedure. A Type 4 land use application requires an open record hearing before the Examiner. According to the SMC, 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)] However, state law requires that the local action on a Shoreline Variance (and Shoreline Conditional Use Permit) is technically subject to approval by the Washington State Department of Ecology ("Ecology"), whose decision may be appealed to the Shorelines Hearings Board, a state quasi-judicial review board. [RCW 90.58.140(10)]

A zoning variance is normally a Type 2 procedure in which the Department acts administratively. [SMC 20.05.020, Exhibit A] An appeal from the Department's action on a Type 2 land use application requires an open record hearing before the Examiner. The Examiner makes a final decision on the appeal which is subject to the right of reconsideration and appeal to Superior Court. [SMC 20.05.020, 20.10.240, 20.10.250, and 20.10.260]

When applications are consolidated for processing, they follow the highest numbered process type; in this case, Type 4. [SMC 20.05.020(2)] However, neither Ecology nor the Shorelines Hearings Board have any jurisdiction over zoning variances. Therefore, the Examiner's Decision on the zoning variance portion of this consolidated application is final subject to the right of reconsideration and appeal to Superior Court.

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

¹¹ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 14 of 23

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:

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 25.08.050(1) SMC adopts the WAC 173-27-170 Shoreline Variance review criteria. The review criteria for a Shoreline Variance depend upon whether the proposal is located landward or waterward of the OHWM. [WAC 173-27-170] The applicable criteria have been set forth in Finding 8, above.

The review criteria for zoning variances are set forth in SMC 21A.110.030. The applicable criteria have been set forth in Finding 9, above.

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), emphasis added] Therefore, this application has no vested rights.

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. When considering whether a requested variance meets the “minimum relief” criterion, one must relate that criterion to the nature of the relief requested. Here, Paul seeks relief from the lake shore setback requirement, the Streams 0143F and 0143G buffer requirement, and the ELST setback requirement. Paul does not seek relief from the lot area coverage requirements, requirements which typically regulate the area of the lot that may be covered (in other words, the size in square feet of the building). In fact, the proposed lot coverage percentage is very small (27%). When considering the setback variance requests, the question is whether the extent of setback relief requested is the minimum required to afford reasonable relief, not whether the resulting building envelope meets some arbitrary notion of an appropriately-sized residence.
2. Each of the variance elements will be addressed separately. The Snoqualmie Tribe argues, as it has in previous Shoreline Variance cases, that structures close to the lake shoreline can damage fish habitat. (Exhibit 5.4) However, the SMP specifically allows as little as a 20 foot lake shoreline setback for properties within the SR designation. Those properties account for the vast majority of the City’s Lake Sammamish shoreline. It is thus apparent that the City’s legislative officials believed that a 20 foot Lake Sammamish shoreline setback was generally adequate. The efficacy of that legislative policy cannot legally be challenged in the context of this quasi-judicial permit process. The proposed development will maintain a shoreline setback that is 50% greater than the 20-foot minimum allowed in most of the City.

Only one existing tree is proposed to be removed within 20 feet of the lake’s OHWM: Tree #36, a 6” Oregon ash. (Exhibits 16; 38.3) When asked by the Examiner why that tree was proposed for removal, Paul stated that it was to enhance the active use area and lake access. The Examiner finds that to be an inadequate reason to remove the tree: The fewest trees necessary should be removed so as to minimize shoreline impact. Tree #36 is shown to be 15 feet from the near edge of the proposed residence and about seven feet from the near edge of the proposed deck. It does not need to be removed for building reasons. The Examiner will require that it be retained.

The extent and density of shoreline enhancement exceeds that required for reduction of the lake setback to 20 feet in the areas designated SR. While some lawn area is allowed in the SR designated area with a setback reduction, none is proposed here in the alternative site plan. The preponderance of the evidence demonstrates that the functional values of the shoreline will be enhanced substantially over the present condition, especially if the alternative plan is followed.

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 16 of 23

3. Frankly, the Examiner would prefer a larger buffer for Stream 0143F. But anything less than that proposed begins to make the project infeasible. If the “standard” maximum of a 50% buffer width reduction were enforced, the resulting house and garage could be only about 15 feet wide – too narrow to allow for a garage given the only possible access location. Paul is proposing (especially in the alternative site plan) to preserve the 15-foot BSBL. Thus the effective minimum buffer is more on the order of 52.5 feet. The BSBL could be omitted, but at what gain or cost? The Examiner concludes on balance that the alternative proposal meets the criteria for approval.

There can be little question that removal of all the invasive ivy and blackberries together with revegetation of the highly disturbed area between Stream 0143F and the north property line will significantly improve the habitat associated with Stream 0143F. The Examiner concludes that it will be improved over the present condition, even considering the reduced stream buffer (which will still be twice as wide as the existing buffer on the north side of the stream).

It should also be noted that Stream 0143F’s channel downstream of the ELST is a straight channel. (Exhibit 38.2, Exhibit C, p. 4-9) Upstream of the ELST, Stream 0143F passes beneath the Parkway. (Exhibit 28, Fig. 1) No salmonid use has been associated with Stream 0143F. (Exhibits 37.3; 38.2, Exhibit C, p. 4-9)

According to the Biological Assessment prepared in 2007 for the ELST, it was Stream 0143G, not Stream 0143F, which had been diverted to supply a fish incubator. (Exhibit 38.2, Exhibit C, p. 4-9) Stream 0143G is on the Chan property, not on Parcel 9151. The information and arguments about the former incubator contained in the record have little to nothing to do with the requested Paul Shoreline Variances. Suggestions to the contrary and suggestions that Stream 0143G is located on Parcel 9151 are incorrect.

4. A word or two about the “cumulative impact” criterion (See Finding of Fact 8.G, above.) is warranted here. The Department’s Deputy Director testified in the recent Ogren hearing that the Department insists that shoreline permit applicants demonstrate “no net loss” of shoreline habitat and functions, and encourages applicants to achieve a net gain of shoreline habitat and functions. [Official notice] The evidence in this case clearly demonstrates a net gain in shoreline habitat and functions from the proposed enhancement/mitigation. If every development along the shoreline met that objective, then the cumulative impact would be beneficial, not detrimental. Given that the UC environment designation specifically allows single-family residences, it is neither logical nor legally defensible to argue that single-family residences should not be allowed on UC-designated parcels.
5. The ELST setback reduction is justified if only because it allows for a greater lake shore setback.
6. The preponderance of the evidence, summarized in Finding of Fact 8, above, demonstrates compliance with all criteria for approval of Shoreline Variances for lake shore setback and stream buffer widths.

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 17 of 23

7. The recommended conditions of approval for the Shoreline Variance as set forth in Exhibit 1 at page 34 are reasonable, supported by the evidence, and capable of accomplishment with the following changes:
- A. Recommended Condition 1. The Examiner believes that all variance approvals should verbally state the limits of the approval. This condition relies on a reference to Exhibit 10 to provide that specificity. However, the Examiner has concluded that the alternative plan, Exhibit 38.3, is preferable. The condition will be revised to cite that exhibit.
 - B. Recommended Conditions 3 and 5. The Examiner does not like to use the word “applicant” in permit conditions. “Applicant” may be read by some to refer only to the party which initially applied for the variance. Land use permits run with the land; that is, the permit remains valid even if title to the property changes hands.¹² In order to avoid any future misunderstanding, the Examiner prefers to use words such as “owner,” “developer,” etc. depending upon context. In this case the Examiner will substitute “owner/developer” for “applicant.”
 - C. Recommended Condition 4. Land use permits run with the land; that is, the permit remains valid even if title to the property changes hands. This statement does not conflict with the Department’s statement in Recommended Condition 4 that the variance “runs with the project.” That statement merely means that a variance is project-specific.
 - D. Section 173-27-190 WAC contains certain content and format requirements for any Shoreline Variance 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.

¹² This statement does not conflict with the Department’s statement in Recommended Condition 4 that the variance “runs with the project.” That statement merely means that a variance is project-specific.

HEARING EXAMINER DECISION

RE: SVAR2016-00376 and ZONV2016-00377 (Paul)

March 14, 2018

Page 18 of 23

Subsection (2) allows this Decision to serve as the Shoreline variance. 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 Shoreline Variance and supporting exhibits to the state as required by Chapter 90.58 RCW.

8. The preponderance of the evidence, summarized in Finding of Fact 9, above, demonstrates compliance with all criteria for approval of a zoning variance.
9. The recommended conditions of approval for the Shoreline Variance as set forth in Exhibit 1 at page 20 are reasonable, supported by the evidence, and capable of accomplishment with the following changes:
 - A. Recommended Condition 1. The Examiner believes that all variance approvals should verbally state the limits of the approval. This condition relies on a reference to Exhibit 10 to provide that specificity. However, the Examiner has concluded that the alternative plan, Exhibit 38.3, is preferable. The condition will be revised to cite that exhibit.
 - B. Recommended Condition 2. Land use permits run with the land; that is, the permit remains valid even if title to the property changes hands. This statement does not conflict with the Department's statement in Recommended Condition 2 that the variance "runs with the project." That statement merely means that a variance is project-specific.
10. 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:

- A. **GRANTS** the requested zoning variance under file number ZONV2016-00377 from SMC 21A.25.030(A) to relax the street setback **SUBJECT TO THE ATTACHED CONDITIONS.**
- B. **GRANTS** City approval of the requested Shoreline Variances under file number SVAR2016-00376 from SMC 25.06.020(9) and 25.07.010, Table 25.07.010-2 to relax the shoreline setback and from SMC 21A.50.330 to relax the buffer widths from Streams 0143F and 0143G **SUBJECT TO CONDITIONS SET FORTH WITHIN THE ATTACHED PERMIT;**

Decision issued March 14, 2018.



John E. Galt
Hearing Examiner

HEARING PARTICIPANTS ¹³

Charles Horner (sworn attorney)
Ryan Harriman
Mark Cross
Mark Rigos

Jyotirmoy Paul
Aurora Purcell
Albert William Way

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 JUDICIAL REVIEW ZONING VARIANCE

The zoning variance portion of this Decision is final and conclusive subject to the right of review in Superior Court in accordance with the procedures of Chapter 36.70C RCW, the Land Use Petition Act.. See Chapter 36.70C RCW and SMC 20.10.250 for additional information and requirements regarding judicial review.

NOTICE of RIGHT of APPEAL SHORELINE VARIANCE

The ultimate decision by the Washington State Department of Ecology on the Shoreline Management Variance portion of this Decision is final subject to the right of appeal to the State Shorelines Hearings Board. Please see RCW 90.58.180 and Chapter 173-27 WAC for guidance regarding Hearings Board appeal procedures.

¹³ The official Parties of Record register is maintained by the City's Hearing Clerk.

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."

**CONDITIONS OF APPROVAL
ZONV2016-00377
JYOTIRMOY PAUL**

This Zoning Variance 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. The zoning variance granted herein is limited solely to that requested, to wit: Reduction of the SMC 21A.25.030(A) street setback from 10 feet to not less than 5 feet for the residence as generally depicted on Exhibit 38.3. No other variance is either expressed or implied.
2. A notice on title shall be recorded for this property that reflects the zoning variance and designated setback. The notice shall stipulate that the zoning variance runs with the project.

CITY of SAMMAMISH

**SHORELINE MANAGEMENT ACT
VARIANCE**

File No.: SVAR2016-00376

Applicant: Jyotirmoy Paul
10700 NE 4th Street, Unit 3802
Bellevue, WA 98004

A Shoreline Management Variance is granted pursuant to the Shoreline Management Act of 1971 [Chapter 90.58 RCW] to reduce shoreline setback from 50 feet minimum to not less than 33 feet and reduce one Type F stream buffer from 150 feet to not less than 37.5 feet and a second Type F stream buffer from 150 feet to not less than 112 feet.

This variance applies to the property legally described in Exhibit 23 which is generally located in the 3100 block of East Lake Sammamish Parkway NE between the East Lake Sammamish Trail and the shoreline of Lake Sammamish in Section 20, Township 25 N, Range 6 E, W.M.

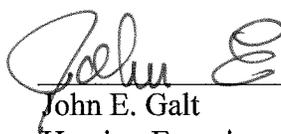
This variance is subject to all applicable regulations of the Sammamish Shoreline Master Program. In addition, this permit is subject to the following **SPECIAL CONDITIONS**:

1. The Shoreline Variance granted herein is limited solely to relaxation of SMC 25.06.020(9) and 25.07.010, Table 25.07.010-2 to reduce the shoreline setback and from SMC 21A.50.330 to reduce the buffer widths from Streams 0143F and 0143G as generally depicted on Exhibit 38.3.
2. This proposal does not include work waterward of the Ordinary High Water Mark. A dock is shown on the approved plan set to demonstrate that the proposed site plan is forward compatible with a future dock. However, the dock is not included as part of the current proposal and will require separate permit.
3. The owner/developer shall retain the trees within the reduced shoreline setback. Any tree removed from the reduced setback shall be replaced at a 2:1 ratio. Tree #36 shall not be removed under this permit.
4. Prior to approval of the subsequent building permit, a notice on title shall be recorded for this property that reflects the reduced shoreline setback that runs with the project, as well as reflects information about the mitigation project required for development of this property.

5. Prior to approval of the subsequent building permit, the owner/developer shall record the native growth protection easement (See Exhibit 31) on the property title.
6. Prior to approval of the subsequent building permit, a bond quantity worksheet must be supplied for city review. A financial security device guarantee must be posted to ensure completion (performance) of mitigation work. After mitigation installation, the project biologist must document installed mitigation in an as-built report and plan that is supplied for City review. After the City accepts the as-built condition, the performance bond will be released and the mitigation project will shift into the required 5-year mitigation monitoring period after a maintenance and defect bond is posted to replace the performance bond.
7. If cultural resources are unearthed during the development process, immediately cease and desist ALL operations and contact the City of Sammamish, the Washington State Department of Archeology and Historic Preservation (DAHP) Historic Preservation Officer, regional Native American Tribes, and King County concerning the appropriate treatment of archaeological and historic resources. Do not resume work until appropriate approvals are received and the City of Sammamish has authorized development to resume.

EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a) AND (b), CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN AND IS NOT AUTHORIZED UNTIL TWENTY-ONE DAYS FROM THE DATE THIS PERMIT IS FILED WITH THE WASHINGTON STATE DEPARTMENT OF ECOLOGY AND ATTORNEY GENERAL AS REQUIRED BY 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.

VARIANCE issued March 14, 2018.


John E. Galt
Hearing Examiner



DEPARTMENT OF ECOLOGY REVIEW

The above variance is **APPROVED** _____ / **APPROVED WITH ADDITIONAL CONDITIONS**
_____ **DENIED** _____ pursuant to WAC 173-27-200.

COMMENTS/ADDITIONAL CONDITIONS: _____

HEARING EXAMINER DECISION
RE: SVAR2016-00376 and ZONV2016-00377 (Paul)
March 14, 2018
Page 23 of 23

(Name)

(Title)

(Date)