



Determination and Summary of Findings by the Director of the Department of Community Development Pursuant to Sammamish Municipal Code (SMC) 20.15.130(4) That Administrative Appeal of The State Environmental Policy Act (SEPA) Determination of Significance (DS) Issued for File No. POL2020-00331 (Comprehensive Plan and Municipal Code Amendments Related To level of service [LOS] Standards and related concurrency program) Shall Not Be Provided

SMC 20.15.130(4) provides;

(4) Notwithstanding the provisions of subsections (1) through (3) of this section, the department may adopt procedures under which an administrative appeal shall not be provided if the director finds that consideration of an appeal would be likely to cause the department to violate a compliance, enforcement, or other specific mandatory order or specific legal obligation. The director's determination shall be included in the notice of the SEPA determination, and the director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

In applying this Code section and Department procedures pursuant to it, the Department Director identifies and considers, among other factors, the nature of the proposal on which the DS has been issued, the substance of the proposal, whether it is a non-project action initiated by the City itself, and whether the allowance of an administrative appeal of the DS would frustrate timely fulfillment by the City of legal, SEPA, Growth Management Act (GMA) goals or requirements.

The Director has considered the listed factors and provides the following findings and conclusions in support of his determination that an administrative appeal will not be provided in this instance:

1. The proposal here is for a City non-project action. Due to its public origin, the City will handle the task and cost of preparing an EIS on its own proposal. This is in contrast to the circumstance in which a DS is issued for a private proposal and the private applicant may wish to appeal and try to avoid the task and cost of EIS preparation. The City desires to have the benefit of an EIS and will pay for its preparation.
2. The substance of the proposal concerns particular matters of public import and public policy, for which EIS review, the highest level of review and documentation under SEPA, would be particularly helpful to the City as proposal proponent. The environmental review process for an EIS includes opportunities for public comment during the scoping period and during the Draft EIS public comment period which may also be of benefit to the City and the public.
3. SEPA does not require allowing an administrative appeal in this circumstance and allowing such an



appeal would frustrate and delay the City's ability to study the environmental impacts of its own proposal.

4. The Central Puget Sound Growth Management Hearings Board (GMHB) Findings and Decision (FDO) in *Gerend v. Sammamish* determined that the City's SEPA review on the earlier version of the current proposal was deficient and remanded to the City for compliance. The GMHB compliance schedule is significantly constrained. The allowance of a SEPA administrative appeal would cause the City to violate its obligation to attempt to achieve timely compliance per the GMHB FDO and potentially to violate its legal obligations under the Growth Management Act and SEPA.