

3. Prove each parcel is associated with the waterfront property for water dependent recreational use (this should be reflected on the title report)
4. A shared use agreement shall be established and recorded with King County.

If the listed items can be met, the proposal can be processed as a “boating facilities” [*sic*] under a shoreline substantial development process.

If the listed items cannot be met, the proposal may be processed as a “beach club” under a shoreline conditional use permit, in addition to a shoreline substantial development permit process.

(Exhibit 3, pp. 6 & 7); and

WHEREAS, on April 26, 2019, the Department sent a Pre-Application Conference follow-up e-mail to Greg Ashley (“Ashley”), the Applicant’s agent, stating the following:

Following up email regarding the pre-app we had two days ago. I had a discussion with David Pyle this morning and confirmed that the shared use dock has to be associated with existing “established” single family residences. In other words, a vacant lot cannot be associated with the shared use dock.

(Exhibit 4) The issue of the relationship between the proposed dock site and the lots that would use it was raised by Department staff before the application was even filed; and

WHEREAS, the Motion states that the “application is for a Dock serving four homes [with] two boatlifts.” (Motion, p. 11, ll. 21 & 22) Ashley opened the hearing by testifying that the proposal was for a “community pier” serving up to 10 users. Ashley later testified that the original plan was for a dock to serve 10 lots, but since the Applicant did not have a home on each of the 10 proposed user lots, he reduced the requested number to seven, but when they realized there were not seven homes on the user lots, he reduced the number to four. Ashley testified that “down the road” the dock would serve 10 users. James Eastman testified that he was told by City staff that they couldn’t do a Joint Use Agreement for lots that did not have a residence, so he reduced the number of proposed users to match the number of lots he controlled that currently contained a residence. James Eastman also testified that four easement beneficiaries would also be able to use the dock and would share the use of one boat space. Finally, James Eastman testified that there would be 14 users when the lots were all built out. Those statements are what the Examiner had to work with; and

WHEREAS, this is the first dock case in the City of Sammamish which has required detailed interpretation by the undersigned of the provisions of SMC 25.07.050(2). The Examiner admits that the analysis and resulting conclusions set forth in this Decision do differ from the results in some prior dock cases heard by the undersigned. While that may be undesirable, the fact is that “two wrongs don’t make a right.” The Examiner is not required to follow prior decisions (since Examiner decisions do not establish

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legal precedent) and should not do so where the prior decisions were based on an inappropriate acceptance of code interpretation by others or on a superficial interpretation by the undersigned; and

WHEREAS, the Motion is not persuasive of the need to change the Decision as issued on June 17, 2020.

NOW, THEREFORE, the Examiner **DENIES** the request for reconsideration and reaffirms the Decision as issued on June 17, 2020.

ORDER issued July 9, 2020.

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

John E. Galt
Hearing Examiner

NOTICE OF RIGHT OF APPEAL

The initial Decision, as affirmed by this Order Denying Reconsideration, is the final and conclusive action for the City 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.”