

Ms. Anneke Davis, PE  
City of Kirkland Public Works Department  
April 13, 2018  
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	<b>Key Excerpts from The Watershed Company's Compliance Review Letter</b>	<b>Response</b>
20	<p>Regardless of the condition of the existing buffer, the placement of a permanent structure within the buffer will preclude all future establishment of buffer functions, either naturally or through enhancement or restoration. In addition, the structure will be a central facility in the park, attracting more pedestrian traffic and use within close proximity of the stream and wetlands. The code standard in KZC 83.500.9.d.1.b should apply to portions of the proposed structure closer to the stream/wetland than the outer 25 percent of the buffer.</p>	<p>Practically speaking, the City's Parks Department is committed to maintaining Juanita Beach Park in its approved, permitted condition (lawn and playground). As such, establishment of buffer functions in that park area was going to be prevented, with or without placement of the relocated bathhouse. The buffer condition will actually be improved by the construction and planting of a native vegetated bioswale between the proposed building and the critical areas in what is now lawn.</p> <p>KZC 83.500.9.d.1.b is one of the code sections from which a Variance is being sought; see page 20 of the Shoreline Master Program Compliance Analysis prepared by Shannon &amp; Wilson. This code section was discussed in detail with Ecology and City Planning at a meeting at Ecology's office on July 26, 2017. Ecology's recommendation at that meeting was to provide supporting information for the argument that this project has no direct wetland impacts on Wetland A/Oxbow Marsh as a result of essentially a regulatory buffer reduction, and therefore additional wetland compensation is not necessary or appropriate.</p>
21	<p>In addition to split-rail fencing, critical areas signs should also be specified and noted in the plans. Given the proposed proximity of the active-use bathhouse to Juanita Creek and Wetland A, a split rail fence should be installed to demarcate the edge of the functional buffer and control access from active park users and pets.</p>	<p>A section of code in KZC 83 could not be located with a requirement for placement or spacing of critical areas signs. However, Figure 9 of the <i>Final Wetland /Stream Delineation Report and Mitigation Plan</i> has been revised to show proposed locations for four new critical area signs (see enclosed revised Figure 9, Sheet 1).</p> <p>The location and orientation of the proposed bathhouse and the vegetated bioswale together will help limit access into the narrow strip of functioning buffer fringing Juanita Creek/Wetland A. Activity in that area will be reduced by the proposed project with the installation of the vegetated bioswale and bathhouse where there is currently open lawn and a playground. Fencing this stretch of buffer was not required as part of Phase I, and the need for it will be even less after implementation of Phase II. Per Ecology suggestion, salmonberry, a thorny native shrub, has been incorporated into the plant schedule to act as a further deterrent to trespass.</p>
<b>Compensatory Wetland Mitigation</b>		
22	<p>Until these [maintenance] concerns are addressed, it is not appropriate for the past mitigation to be fully credited for advance mitigation.</p>	<p>City Parks is continually using a variety of strategies, from staff efforts to volunteer groups, to maintain and manage the prior mitigation areas and keep the park safe and clean for the users. City Parks' records show a total of 4,217 hours spent maintaining the park in 2017. The particular invasive species, such as birdsfoot trefoil and reed canarygrass, present at</p>

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	<b>Key Excerpts from The Watershed Company's Compliance Review Letter</b>	<b>Response</b>
		<p>Juanita Beach Park are particularly difficult to control or eradicate.</p> <p>Although invasive species are still present, these areas provide equal or greater wetland function than the originally impacted Wetlands C / E. The mitigation areas are structurally more diverse, provide nesting habitat for ducks and other birds (as noted by City Parks staff), and contain more native species.</p> <p>The following measures are included in City Parks' strategy for continued maintenance of the mitigation areas:</p> <ul style="list-style-type: none"> <li>• 200 willow stakes and 30 conifers have been purchased for an Eagle Scout project later in April.</li> <li>• Targeted herbicide applications are part of the 2018 work plan.</li> <li>• Green Kirkland Partnership continues to help with plantings and maintenance in the buffer of Oxbow Marsh/ Wetland A.</li> </ul> <p>Further, City Parks' communications with Ecology on the subject of mitigation ratios and status of the advance mitigation concluded with Doug Gresham, Ecology Wetland Specialist, agreeing in an e-mail to Amy Summe on August 28 (following Ecology's site visit), with her summary as follows:</p> <p style="padding-left: 40px;">"Doug agreed that the advance mitigation completed to date leaves a balance of only 811 square feet of proposed wetland impact that requires additional mitigation. That area would be mitigated at a 6:1 ratio in Juanita Bay Park."</p>
23	<p>As discussed above, the wetland enhancement area will need to be expanded beyond what is presently proposed. The restoration/enhancement of adjacent buffer should be incorporated to the maximum extent practical in the revised mitigation plan.</p>	<p>Additional buffer enhancement area (1,951 square feet) was included at the Juanita Beach Park site west of the volleyball fields. Creating a forested buffer in a currently unvegetated area will provide more functional lift than enhancing the existing area of forested buffer adjacent to the wetland enhancement area.</p>
24	<p>The density of willow stakes should be increased to a maximum spacing of 3 feet on-center to account for lower overall survival of stakes.</p>	<p>A 3-foot-on-center spacing of stakes might be appropriate in an area that is not already vegetated. The proposed spacing of willow stakes took into consideration the purpose of the <i>enhancement</i> of an already deciduous forest condition. Stake survival is further anticipated to be pretty high in the enhancement area considering the reliable high groundwater and the presence of some shade.</p>

SHANNON & WILSON, INC.

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### CONCLUSIONS

Per City code, critical area impact avoidance and minimization needs to be considered against the project's requirements, as established by the public and the City's Parks and Community Services Department during development of the adopted Juanita Beach Park Master Plan. We hope that the enclosed plan revisions in combination with the additional information provided above will enable the project to move forward.

### LIMITATIONS

The findings and conclusions documented in this letter have been prepared for specific application to this project and have been developed in a manner consistent with that level of care and skill normally exercised by members of the environmental science profession currently practicing under similar conditions in the area, and in accordance with the terms and conditions set forth in our agreement. The conclusions presented in this report are professional opinions based on interpretation of information currently available to us and are made within the operational scope, budget, and schedule constraints of this project. No warranty, express or implied, is made.

We appreciate the opportunity to be of service to you. If you have any questions or would like clarification of the information provided herein, please contact me at [ajs@shanwil.com](mailto:ajs@shanwil.com) or (206) 695-6685.

Sincerely,

SHANNON & WILSON, INC.

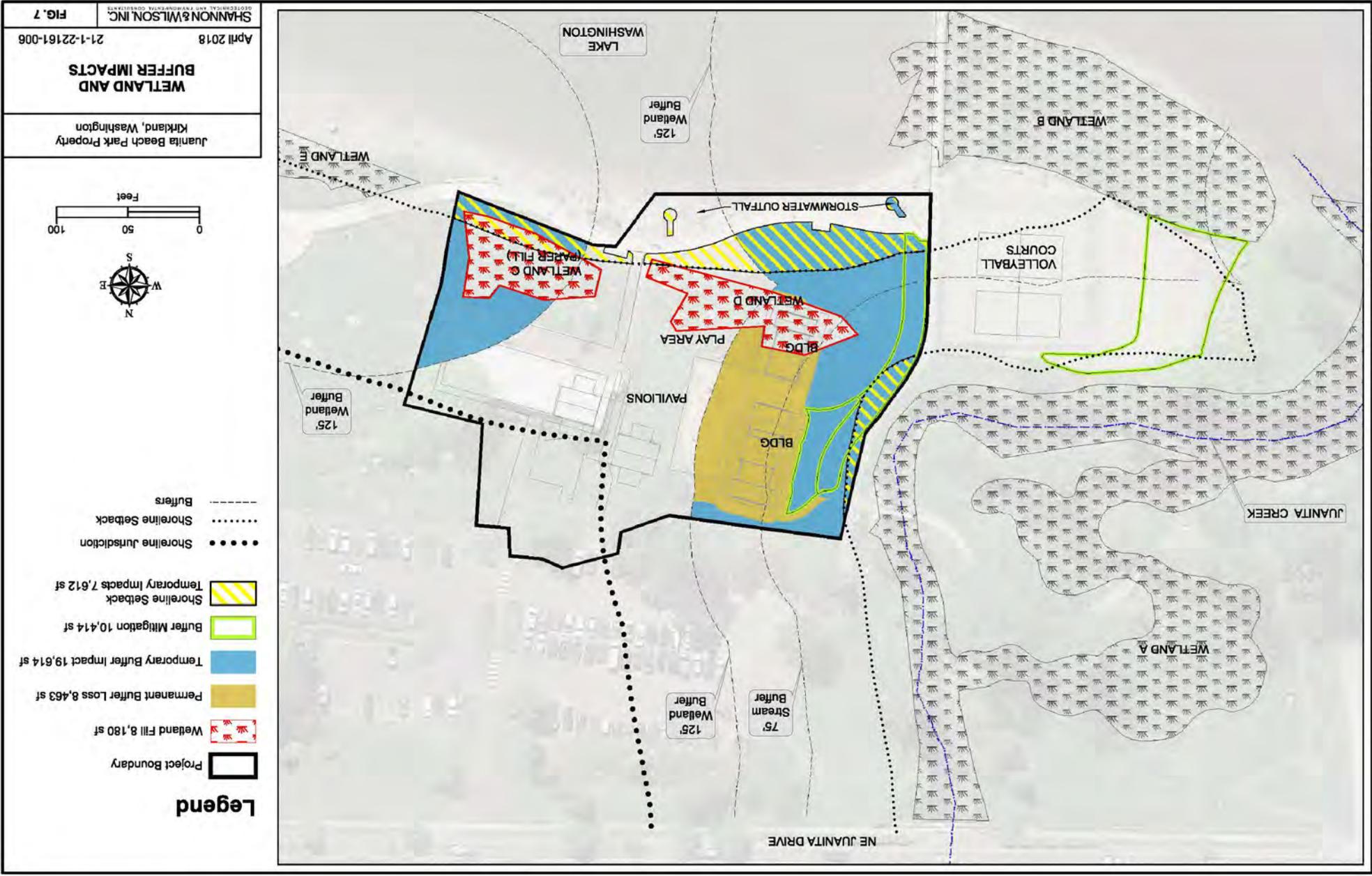


Amy Summe  
Senior Biologist/Permit Specialist

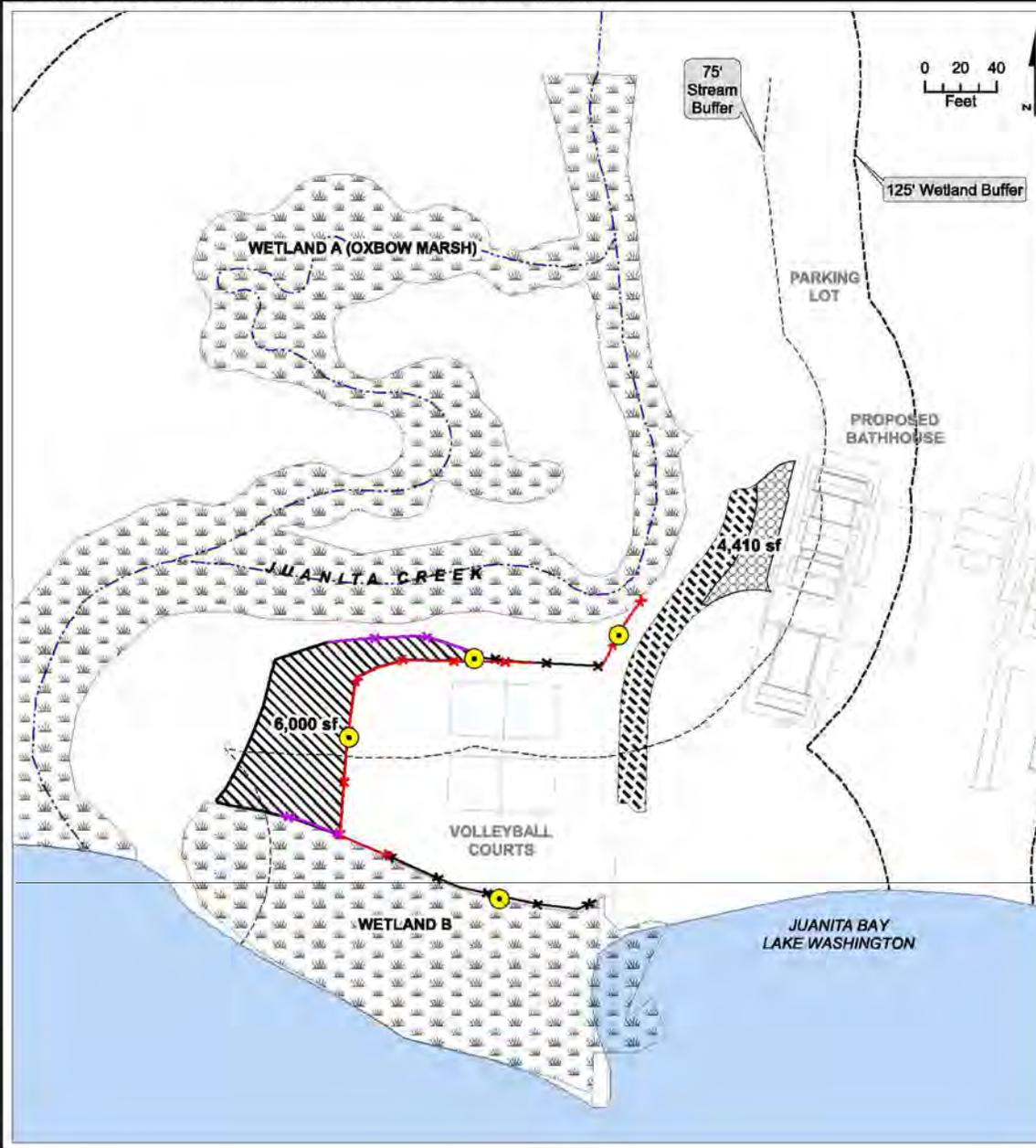
AJS:KLW/ajs

Enc: Updated Figures 7, 9 Sheet 1, and 9 Sheet 2 (S&W)  
View Analysis Exhibits (Patano Studio Architecture)

c: Erik Barr and Dan Leckman, Patano Studio Architecture  
Michael Cogle, City of Kirkland Parks and Community Services Department  
Jason Filan, City of Kirkland Parks and Community Services Department



Filename: T:\21-122161 Juanita Beach Park Bathhouse\W.mxd\FIG-9 Sh1 BufferMitigationPlan.mxd Date: 4/9/2018 bt



**INSTALLATION NOTES**

PRIOR TO THE START OF MITIGATION WORK, THE BIOLOGIST WILL USE FLAGGING OR STAKES TO IDENTIFY IN THE FIELD THE LOCATIONS OF THE PROPOSED MITIGATION AREAS.

INSTALL EROSION CONTROL BEST MANAGEMENT PRACTICES (BMPs) AS NEEDED AND PROTECT EXISTING NATIVE WOODY VEGETATION IN AND ADJACENT TO THE PLANTING AREAS. EARTH DISTURBANCE SHOULD BE MINIMIZED TO THE EXTENT POSSIBLE TO AVOID DAMAGING EXISTING TREE ROOTS IN THE AREA.

WITH THE ASSISTANCE OF THE BIOLOGIST, INVASIVE SPECIES SHALL BE IDENTIFIED FOR REMOVAL.

REMOVE EXISTING NON-NATIVE INVASIVE SPECIES SUCH AS HIMALAYAN BLACKBERRY, ENGLISH IVY, AND ENGLISH HOLLY FROM THE ENHANCEMENT AREA USING A COMBINATION OF GRUBBING AND HAND PULLING/CUTTING, DEPENDING ON SIZE OF INDIVIDUALS.

PROCURE PLANTS AND STORE PROPERLY. PLANT MATERIAL WILL BE NATIVE TO THE PACIFIC NORTHWEST AND FROM PLANT STOCK GENOMES FROM WESTERN WASHINGTON. BIOLOGIST SHALL REVIEW PLANT MATERIAL AND PLANT LAYOUT PRIOR

TO PLANTING. EACH PLANT SHALL BE LOOSELY FLAGGED FOR EASY IDENTIFICATION DURING FUTURE MONITORING VISITS.

IN THE FLAT, SANDY PORTION OF THE BUFFER MITIGATION AREA ADJACENT TO THE EXISTING VOLLEYBALL COURT, 4 INCHES OF COMPOST SHALL BE ADDED AND MIXED INTO THE UPPER 12 INCHES OF SOIL. 4 INCHES OF COMPOST SHALL BE TILLED INTO UPPER 8 INCHES OF SOIL IN THE BUFFER ENHANCEMENT AREA BETWEEN THE PROPOSED BATHHOUSE AND EXISTING TRAIL.

MULCH THE MITIGATION AREA WITH 6 INCHES OF WOOD CHIPS TO DISCOURAGE WEED ESTABLISHMENT. HAND-DIG CIRCULAR PLANT PITS; TAKE CARE TO AVOID CUTTING THROUGH EXISTING NATIVE TREE ROOTS. INSTALL PLANTS BY HAND IN THE PLANTING AREAS IN NATURAL RANDOM CLUSTERS, EXCEPT THAT ROSE SHALL BE CONCENTRATED ALONG FENCE LINE TO DISCOURAGE ACCESS. BACKFILL WITH NATIVE SOIL THAT HAS BEEN MIXED WITH 3 INCHES OF COMPOST. PLANTING SHOULD OCCUR BETWEEN SEPTEMBER 15 AND JANUARY 15 TO TAKE ADVANTAGE OF COOL TEMPERATURES AND PRECIPITATION.

WATER PLANTS THOROUGHLY AFTER PLANTING TO AVOID CAPILLARY STRESS. PLANTED AREAS SHALL BE WATERED WITH APPROXIMATELY 1 INCH OF WATER IMMEDIATELY AFTER PLANTING.

INSTALL WIRE FENCING AROUND EACH PLANT INSTALLATION, AROUND PLANTED CLUSTERS, OR AROUND THE WHOLE MITIGATION AREA WEST OF THE VOLLEYBALL COURTS TO PROTECT FROM BEAVER HERBIVORY. INSTALL SPLIT-RAIL FENCING AS SHOWN ON PLAN.

REMOVE CONSTRUCTION DEBRIS AND ANY OTHER UNNATURAL REFUSE. REMOVE BMPs AFTER SITE IS STABILIZED.

LANDSCAPER SHALL SUBMIT COPIES OF THE PLANTING INVOICES SHOWING PLANTED SPECIES AND QUANTITIES.

LANDSCAPER SHALL REPLACE ALL PLANT MORTALITIES AND PERFORM MAINTENANCE FOR ONE YEAR AFTER INSTALLATION.

	Critical Areas Signs
	JBPB - ARCH SITE New Pavillions
<b>Mitigation Fence</b>	
<b>Name</b>	
	Remove Existing Fence
	New Split-Rail Fence
	Existing Fence
<b>BUFFER MITIGATION</b>	
	Buffer Planting Area (See Shannon and Wilson Plant Schedule on Figure 9, Sheet 2)
	Wetter Area Native Mix (See MIG   SvR Plant Schedule on Figure 9, Sheet 2)
	Woodland Area Native Mix (See MIG   SvR Plant Schedule on Figure 9, Sheet 2)

Juanita Beach Park Property Kirkland, Washington	
<b>WETLAND BUFFER MITIGATION PLAN SHEET</b>	
April 2018	21-1-22161-006
SHANNON & WILSON, INC. <small>AN AFFILIATE OF THE SHANNON GROUP</small>	<b>FIG. 9</b> SHEET 1 OF 2





**INN ON THE PARK  
PROPOSED VIEW FROM UNIT 203**



**INN ON THE PARK  
EXISTING CONDITION FROM UNIT 203**



**INN ON THE PARK  
PROPOSED VIEW FROM UNIT 305**



**INN ON THE PARK  
EXISTING CONDITION FROM UNIT 305**



March 30, 2018

Christian Geitz  
City of Kirkland Planning Department  
123 5<sup>th</sup> Avenue  
Kirkland, WA 98033

**Re: Juanita Beach Park Phase II Improvements Project Review**

The Watershed Company Reference Number: 140622.56

Dear Christian:

This memorandum summarizes my review of the consistency of the Juanita Beach Park Phase II Improvements Project proposal with Critical Areas regulations under Chapter 83- Shoreline Management of the Kirkland Zoning Code (KZC). The City of Kirkland Parks Department (Applicant) proposes several improvements to Juanita Beach Park, including a new bathhouse with concessions and utility/storage spaces, relocated playground, and pavilion (picnic shelter). Stated project objectives are described as follows:

- **Improve Site Functionality:** This is described in relation to the active recreational uses in the two lawn wetlands (Wetlands C and D) and the location of the playground relative to the water.
- **Improve Safety:** This is described in relation to views for law enforcement and the installation of a lifeguard station.
- **Provide Shade Trees:** This is in specific reference to one weeping willow near Wetland D.

These objectives are summarized in the compliance analysis as, “maximizing the function of usable public access and public, water-oriented recreation space.” While these objectives express the desires of the Applicant, they do not identify any minimum thresholds to meeting public demand for use of the park. It would be helpful for the Applicant to substantiate the need for improved configuration for police enforcement by documenting police records of criminal activity noted in Juanita Beach Park under the current park site configuration or other supporting documentation.

Proposed Phase II Juanita Beach Park improvements will impact wetlands and wetland and stream buffers. Wetland mitigation is proposed at the north end of Juanita Bay Park.

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The Applicant is requesting a shoreline variance to implement the proposed improvements. The variance request applies to relief from several critical area standards. The project is reviewed as a whole for compliance with critical area standards and intent.

### **Wetland and Stream Determination, Delineation, Rating, Buffers, and Setbacks**

Shannon and Wilson delineated streams and wetlands in January 2016. Ryan Kahlo, PWS, of The Watershed Company reviewed and generally concurred with the delineation and rating of the wetlands and the delineation and characterization of Juanita Creek. Applicable wetland and stream buffers, setbacks, and mitigation ratios, as well as past mitigation for "Paper fill" of Wetland C (previously named Wetland E), and a characterization of sensitive areas and their buffers are described in *The Final Wetland /Stream Delineation Report and Mitigation Plan*.

### **Mitigation Sequencing**

Section 83.490 KZC describes mitigation sequencing guidelines. The Applicant's approach to mitigation sequencing criteria is described on Pages 19 through 22 of *The Final Wetland /Stream Delineation Report and Mitigation Plan* (Shannon and Wilson 2017).

I have the following concerns about avoidance and minimization elements of mitigation sequencing applied to the proposed project.

#### **Avoidance-**

It is clear that complete avoidance of critical areas and buffers is not compatible with the City's objectives. Yet, as indicated in the three alternatives included with the decisional criteria, some extent of avoidance of critical areas is possible.

From a City permitting perspective, Wetland C was theoretically eliminated and compensated in the past. Nevertheless, wetland functions (albeit degraded) have persisted while allowing public recreational uses to occur. Wetland D was not present prior to modifications associated with Phase I, including the concrete pedestrian walkways, which likely limit natural drainage of the area. Both of these wetlands lie within the center of an active use park area. The complete avoidance of these wetlands by recreational users is not feasible, and the restoration and application of functional buffers to these wetlands, which would accompany site redevelopment would preclude all active uses. While complete avoidance and protection of these wetlands is not feasible, it is not clear whether the retention of these two wetlands in their current degraded state may be feasible while still accommodating recreational uses, which occur predominantly in drier summer months, as occurs under the current condition.

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With regard to the proposed bathhouse location and orientation, *The Final Wetland /Stream Delineation Report and Mitigation Plan* (Shannon and Wilson 2017) describes how avoidance of wetland and stream buffers is not desirable. It is understandable that the lifeguard stand would necessarily be in close proximity to the water, and that would result in unavoidable impacts to buffers, and possibly Wetland D. Other avoidance arguments relate to concerns about potential views from adjacent properties, and the desire to have concessions near the lake. The Applicant should provide an analysis of views to substantiate the effects on other properties, with additional consideration to KZC 83.410.3.b, which indicates that shoreline view corridor requirements do not apply to public parks. With respect to concessions, the Applicant's argument seems to express a desire rather than unavoidable project needs. The alternatives presented in the compliance analysis memorandum (Shannon and Willson 2017) suggest that avoidance of buffer areas within the provisions of Chapter 83 is feasible, but not desirable. The argument that staff, elected officials, and citizens valued the benefits of the project objectives over the preservation of critical areas does not affect the interpretation of the City's critical area standards.

It is recognized that the reuse of playground equipment requires a specific footprint; however, the case that the playground must be in close proximity of the water for safety purposes is unconvincing. As noted above, alternative locations may not be desirable, but they appear to be feasible, while still supporting the planned use.

It is recognized that the location of accessory facilities, such as walkways and stormwater facilities will necessarily follow the location of proposed structures.

It is further recognized that temporary impacts associated with the new sewer connection are unavoidable.

The Applicant should reevaluate avoidance criteria to ensure that critical areas and their buffers are avoided to the maximum extent feasible.

### **Minimization**

*The Final Wetland /Stream Delineation Report and Mitigation Plan* (Shannon and Wilson 2017) asserts that impacts to wetlands and streams have been minimized by restricting impacts to existing lawn areas and beach. As described above, more detail is needed on how the extent of impacts to wetlands and wetland buffers have been minimized to the maximum degree feasible. The Applicant should clearly document the effects of limited views for law enforcement, and the potential impacts to views of adjacent properties if those are critical factors shaping project design. For example, the existing bathhouse structure is approximately 120 feet wide and blocks views from the parking lot over that area. Documentation of past problems arising from the existing condition would help demonstrate need. In addition to supporting the specific position of the bathhouse

within the wetland buffer, the Applicant should address factors such as lighting, noise, low impact development, construction techniques to minimize short-term impacts, water quality, and measures to minimize disturbance of remaining and restored buffers, such as fencing, as required per 83.500.5.

### **Project Impacts**

Proposed impact areas to wetlands and critical area buffers are enumerated in Figure 7 of *The Final Wetland /Stream Delineation Report and Mitigation Plan*. Impact areas include mown lawn, beach, a children's play area, and picnic facilities.

On pages 9 and 10 of *The Final Wetland /Stream Delineation Report and Mitigation Plan* (Shannon and Wilson 2017), Wetland C and D are described as having moderate to low water quality functions, moderate hydrologic functions, and moderate habitat functions. On page 22 of the same document, the wetlands are described as having "extremely limited hydrologic, water quality, and habitat function." This discrepancy should be resolved, and the specific impacts of filling Wetlands C and D warrants further discussion.

The discussion of wetland buffer impacts focuses on the limited function of the lawn condition. This discussion should also describe how the proposed project will impact buffer functions and associated measures to limit such impacts, particularly given the increasing focus of recreational usage in close proximity to the wetland and stream that would be expected to accompany the bathhouse relocation. Particular attention should be given to fish and wildlife habitat and the permanency of the bathhouse relative to existing facilities within the buffer.

### **Compensatory Buffer Mitigation**

The project plans should include buffer enhancement and wetland mitigation planting plans. Presently, those plans are only found in the *The Final Wetland /Stream Delineation Report and Mitigation Plan* (Shannon and Wilson 2017). Additionally, the native planting plan plant schedule for the area within the stream buffer adjacent to the proposed bathhouse differs between the proposed plans and *The Final Wetland /Stream Delineation Report and Mitigation Plan* (Shannon and Wilson 2017). These plant schedules should align, and they should only include plant species native to the lowlands of Western Washington (i.e., no cultivars and no arctic willow). Finally, planting typicals and quantities are needed for the Native Plant Mix Planting Zone and the Woodland Area Native Mix.

The proposed buffer enhancement west of the volleyball courts appears to compensate for the area of permanent buffer impact depicted in Figure 7 of *The Final Wetland /Stream Delineation Report and Mitigation Plan* (Shannon and Wilson 2017) at a 1:1 ratio. However,

all areas to the east of the proposed structure should also be considered permanent buffer impacts, since these areas will be functionally isolated from the wetland by the new structure. Proposed planting within the reduced buffer should help to improve wetland and stream buffer functions somewhat; however, additional activity could also be expected to become focused within the buffer as a result of the proposed bathhouse location. Recognizing that a fully functional buffer due west of the proposed bathhouse location may restrict recreational uses adjacent to the lakeshore, we would suggest that the Applicant consider additional buffer enhancement along the stream and wetland to the north of the proposed bathhouse location in order to ensure no net loss of functions. This area north of the proposed bathhouse and west of the parking lot does not appear to be used for significant active recreation. Its current use appears limited to storage of materials (wood chips) and it is already partially fenced.

In addition, "Buffer reductions of more than 25 percent approved through a shoreline variance will be assumed to have direct wetland impacts that must be compensated for as described in subsection (8) of this section." (KZC 83.500.9.d.1.b). In its Compliance Analysis Memorandum, Shannon and Wilson (2017) states, "At this site, the proposed buffer reduction will not harm Wetland A; the 'reduction' is essentially only on paper and is regulatory only, and not an actual reduction in function." Regardless of the condition of the existing buffer, the placement of a permanent structure within the buffer will preclude all future establishment of buffer functions, either naturally or through enhancement or restoration. In addition, the structure will be a central facility in the park, attracting more pedestrian traffic and use within close proximity of the stream and wetlands. The code standard in KZC 83.500.9.d.1.b should apply to portions of the proposed structure closer to the stream/wetland than the outer 25 percent of the buffer.

The species and densities of buffer planting appear to be generally appropriate. In addition to split-rail fencing, critical areas signs should also be specified and noted in the plans. Given the proposed proximity of the active-use bathhouse to Juanita Creek and Wetland A, a split rail fence should be installed to demarcate the edge of the functional buffer and control access from active park users and pets.

### **Compensatory Wetland Mitigation**

In addition to the assumed direct wetland impacts from reducing the buffer below 25 percent, the Applicant proposes 8,180 square feet of direct wetland impact resulting from the proposed fill of Wetlands C and D. Previous mitigation for paper fill of Wetland C included 5,895 square feet of creation and 2,984 square feet of rehabilitation. In theory, those combine to arrive at a wetland creation figure of 7,368 square feet. The Applicant reasons that the fill of the Category III wetland should be credited at an advance mitigation ratio of 1:1, leaving 811 square feet of fill requiring mitigation. Typically, advance mitigation ratios apply so long as the mitigation project is

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maintained to meet performance standards. The Applicant notes that the past mitigation has been successful; however, as described in recent monitoring reports, there are several significant maintenance concerns with the past mitigation that need to be addressed (primarily related to invasive species control). Until these concerns are addressed, it is not appropriate for the past mitigation to be fully credited for advance mitigation. My understanding is that maintenance has not been conducted in large part because maintenance was not funded in association with the previous mitigation. In order for the project to claim advance mitigation credit, it should fund required maintenance of the past mitigation area. In addition, maintenance of the proposed buffer and wetland mitigation sites should be funded through the capital budget associated with the proposed park improvements.

KZC 83.500.9.c provides standards for establishing a new wetland buffer around compensatory mitigation sites. The Applicant notes that the proposed wetland enhancement area cannot be increased to the 125-foot required standard for Category II wetlands because of the close proximity of existing development (roads and other infrastructure) and private properties. As discussed above, the wetland enhancement area will need to be expanded beyond what is presently proposed. The restoration/enhancement of adjacent buffer should be incorporated to the maximum extent practical in the revised mitigation plan.

The mitigation plan should include goals and objectives. Proposed densities of trees and shrubs in the wetland mitigation area are generally appropriate. The density of willow stakes should be increased to a maximum spacing of 3 feet on-center to account for lower overall survival of stakes.

### **Summary of Decisional Criteria**

Decisional criteria for wetland and wetland and stream buffer modifications are summarized together below.

#### **Wetland (KZC 83.500.7.c, KZC 83.500.9.d.2) and Stream (83.510.7.d)**

1. The project demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2)
  - The description of mitigation sequencing is insufficient, particularly with regard for justification for the filling of Wetlands C and D, the avoidance of the inner buffer area of Wetland A and Juanita Creek, and the minimization measures to protect remaining wetland and stream buffer functions.
2. It is consistent with Kirkland's Streams, Wetlands and Wildlife Study (The Watershed Company, 1998) and the Kirkland Sensitive Areas

Regulatory Recommendations Report (Adolfson Associates, Inc., 1998) or the Shoreline Restoration Plan (The Watershed Company, 2010);

- Although the proposal does not directly support projects identified in the above documents, the proposal is not inconsistent with the above documents.
3. It will not adversely affect water quality;
    - The project includes measures to protect water quality during construction. Avoidance and minimization measures should address measures to direct concentrated recreational use away from the buffer area, such as fencing.
  4. It will not adversely affect fish, wildlife, or their habitat;
    - The proposal will focus recreational use within the stream buffer. Additional measures to offset the increase in recreational use within the stream buffer should be incorporated, such as measures to manage light, noise, or recreational activity within the buffer area.
  5. It will not have an adverse effect on drainage and/or storm water detention capabilities;
    - The proposal addresses drainage and stormwater measures, and it is recognized that drainage infrastructure will necessarily accompany new infrastructure features. The City's stormwater engineering staff should review compliance with this consideration.
  6. It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;
    - The proposal is not expected to contribute to a stream erosion hazard.
  7. It will not be materially detrimental to any other property or the City as a whole;
    - The proposal would benefit public recreation. If views from adjacent properties were factored into the design, a more robust analysis of view corridors is needed to evaluate impacts.
  8. Compensatory mitigation is provided in accordance with table in subsection (8) of this section
    - Compensatory mitigation as proposed is insufficient to mitigate for impacts resulting from the filling of Wetland D and the permanent impacts closer than the outer 25 percent of the buffer area.
  9. Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;

- All fill materials will meet standard specifications, be clean, and be stored and applied per plans to avoid adverse impacts.
10. All exposed areas are stabilized with vegetation normally associated with native wetlands and/or buffers, as appropriate; and
- The applicant proposes to replace several exposed areas within the reduced buffer with lawn grasses. Additional mitigation should be incorporated into the plans to support buffer functions.
11. There is no practicable or feasible alternative development proposal that results in less impact to the buffer.
- See #1 above.

**Shoreline Variance for Wetland Modification or Wetland Buffer Modification (KZC 83.500.12) and Stream Buffer Modification (KZC 83.510.8)**

1. No other permitted type of land use for the property with less impact on the sensitive area and associated buffer is feasible
  - See #1 above
2. The proposal has the minimum area of disturbance
  - It appears that the area of proposed disturbance within critical area buffers could be reduced by shifting the location of proposed structures. The proposed alignment represents the most desirable layout from a park-use perspective, but it does not present any significant compromise to minimize or avoid critical area buffers.
3. The proposal maximizes the amount of existing tree canopy that is retained
  - The proposal does maintain the one tree that is present within the wetland buffer area. Despite recognition of the recreational value of shade trees, no additional trees are proposed within the wetland or stream buffer in the vicinity of the bathhouse.
4. The proposal utilizes to the maximum extent feasible innovative construction, design, and development techniques, including pervious surfaces, that minimize to the greatest extent feasible net loss of sensitive area functions and values
  - The proposal integrates a vegetated drainage swale, which provides both water quality and some habitat functions, as well as a means to disperse stormwater from the proposed structure. Other measures to manage light, noise, or recreational activity within the buffer area should be incorporated into the design.
5. The proposed development does not pose an unacceptable threat to the public health, safety, or welfare on or off the property
  - The proposed development does not pose any unacceptable threat to the public.

6. The proposal meets the mitigation, maintenance, and monitoring requirements of this chapter
  - Impact areas that extend beyond the outer 25 percent of the buffer shall be treated as wetland impact and mitigated accordingly.
  - The calculations of the application of past mitigation for paper fill assume full credit for past mitigation despite significant maintenance concerns with past mitigation progress. Until maintenance concerns relating to the past mitigation are addressed, additional mitigation is needed to offset the impacts of filling Wetland D. The proposed project should fund the maintenance needed for the existing mitigation areas, and maintenance of the proposed buffer and wetland mitigation sites should be funded through the capital budget associated with the proposed park improvements.
7. The granting of the shoreline variance will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures under similar circumstances
  - Mitigation sequencing and mitigation need to be reevaluated and revised by the Applicant to ensure that the proposed project avoids, minimizes, and mitigates impacts to the maximum extent feasible. The proposal, as currently received, includes several measures that result in impacts which may not be strictly unavoidable. In addition, the mitigation proposed for impacts from wetland fill does not meet established mitigation ratios. The proposal requires significant revision to meet the decisional criteria of a shoreline variance for impacts to wetlands and streams.

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Christian Geitz, City of Kirkland Planning  
March 30, 2018  
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Please call if you have any questions or if we can provide you with any additional information.

Sincerely,

A handwritten signature in blue ink that reads "Sarah Sandstrom". The signature is written in a cursive, flowing style.

Sarah Sandstrom  
Senior Fisheries Biologist, CFP, PWS

## Christian Geitz

---

**From:** Sarah Sandstrom <ssandstrom@watershedco.com>  
**Sent:** Friday, April 20, 2018 3:47 PM  
**To:** Christian Geitz  
**Subject:** Juanita Beach Park Review

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hi Christian,

Thank you for providing the Applicant's consultant responses to the Juanita Beach Park Phase II Development comments. They helped clarify and address several of the issues that I raised. After reviewing the responses, and I have the following primary concerns. I understand that you are going to address issues relating to avoidance and minimization.

**Buffer usage-** My earlier comments recognized that a fully functional buffer between the building and the wetland/stream may not be feasible or consistent with the Park's recreational uses; however, I recommended additional buffer enhancement along the stream and wetland to the north of the proposed bathhouse location in order to ensure no net loss of functions. In light of the responses, this enhancement still seems appropriate in order to account for the continued use of the buffer area rather than the standard requirement to permanently fence and preclude activity within the buffer area.

**Buffer Reductions of more than 25%-** Response 20 does not describe the justification for the variance from KZC 83.500.9.d.1.b (wetland buffer impacts closer than the outer 25 percent of the buffer are considered wetland impacts and require mitigation as such). Such a variance should only be considered if strict adherence to the code is not feasible. In this case, it seems that additional wetland mitigation could be accommodated at the proposed wetland mitigation site. This was not addressed in the responses.

**Maintenance of Existing Mitigation Area-** The response document pointed to several volunteer efforts to support the maintenance of the existing mitigation areas. While these volunteer efforts are laudable, a consistent and dedicated effort is necessary to course-correct the existing mitigation. I am concerned that the response document did not identify planned or adequately funded maintenance by Parks staff to address the existing maintenance concerns. Without a funded maintenance commitment from Parks, I would recommend against granting the use of advance mitigation ratios.

Please let me know if you have any questions or would like to discuss any of these issues further.

Thanks, Sarah

**SARAH SANDSTROM**  
*Senior Fisheries Biologist*



750 Sixth Street South  
Kirkland, WA 98033

(425) 822-5242 x209  
[watershedco.com](http://watershedco.com)





**King County**

Department of Natural Resources and Parks  
**Wastewater Treatment Division**

King Street Center, KSC-NR-0505  
201 South Jackson Street  
Seattle, WA 98104-3855

February 28, 2018

sent via email: [cgeitz@kirklandwa.gov](mailto:cgeitz@kirklandwa.gov)

Christian Geitz  
123 5<sup>th</sup> Ave.  
Kirkland, WA 98033

Dear Christian Geitz:

The King County Wastewater Treatment Division (WTD) has received the Notice of Application and Optional SEPA Notice for the Juanita Beach Park Bath House Replacement (Case No. SHR17-00775 & SEP17-00776). **A King County facility, the Juanita Beach Trunk, is located near the project site (see enclosed record drawing of the pipe). WTD Local Public Agency Coordinator, Mark Lampard, has discussed the proposed new connection to MH 2 with the City of Kirkland's consultant/project engineer, and will continue to work with the applicant towards approving this proposed connection. King County must approve the final construction plans prior to constructing the connection to MH 2.**

In order to protect this wastewater facility during construction, **WTD requests that the City submit construction drawings for the project**, so that WTD can assess its potential impacts. Please send drawings to:

Mark Lampard, Local Public Agency Coordinator  
King County WTD, Engineering and Technical Resources  
201 South Jackson Street, KSC-NR-0503  
Seattle, WA 98104-3855  
(206) 477-5414 / [mark.lampard@kingcounty.gov](mailto:mark.lampard@kingcounty.gov)

Thank you for the opportunity to review and comment on this proposal.

Sincerely,

Grace Smith  
Water Quality Planner

cc: Mark Lampard, Local Public Agency Coordinator

Enclosure









**CITY OF KIRKLAND**

Planning and Building Department  
123 Fifth Avenue, Kirkland, WA 98033  
[www.kirklandwa.gov](http://www.kirklandwa.gov) ~ 425.587.3600

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**DETERMINATION OF NON-SIGNIFICANCE (DNS)**

**Case No.:** SEP17-00776

**DATE ISSUED:** May 1, 2018

**Project Name:** Juanita Beach Park Bathhouse Replacement

**Project Location:** 9703 Juanita Drive NE

**Project Description:** The proposal includes the removal and replacement of the existing bathhouse and the addition of two new picnic pavilion structures. These improvements will impact onsite wetlands and associated wetland buffer through the construction and development of the structures. The application proposes to mitigate impacts through restoration and enhancement both onsite and offsite

**Proponent:** Anneke Davis, City of Kirkland CIP Engineer, for Kirkland Parks Department

**Project Planner:** Christian Geitz

Lead agency is the City of Kirkland

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

This DNS is issued after using the Optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.

**Responsible official:**

4/27/2018

Eric R. Shields, AICP, Planning Director  
City of Kirkland  
Planning & Building Department  
123 Fifth Avenue, Kirkland, WA 98033 - (425) 587-3600

Date

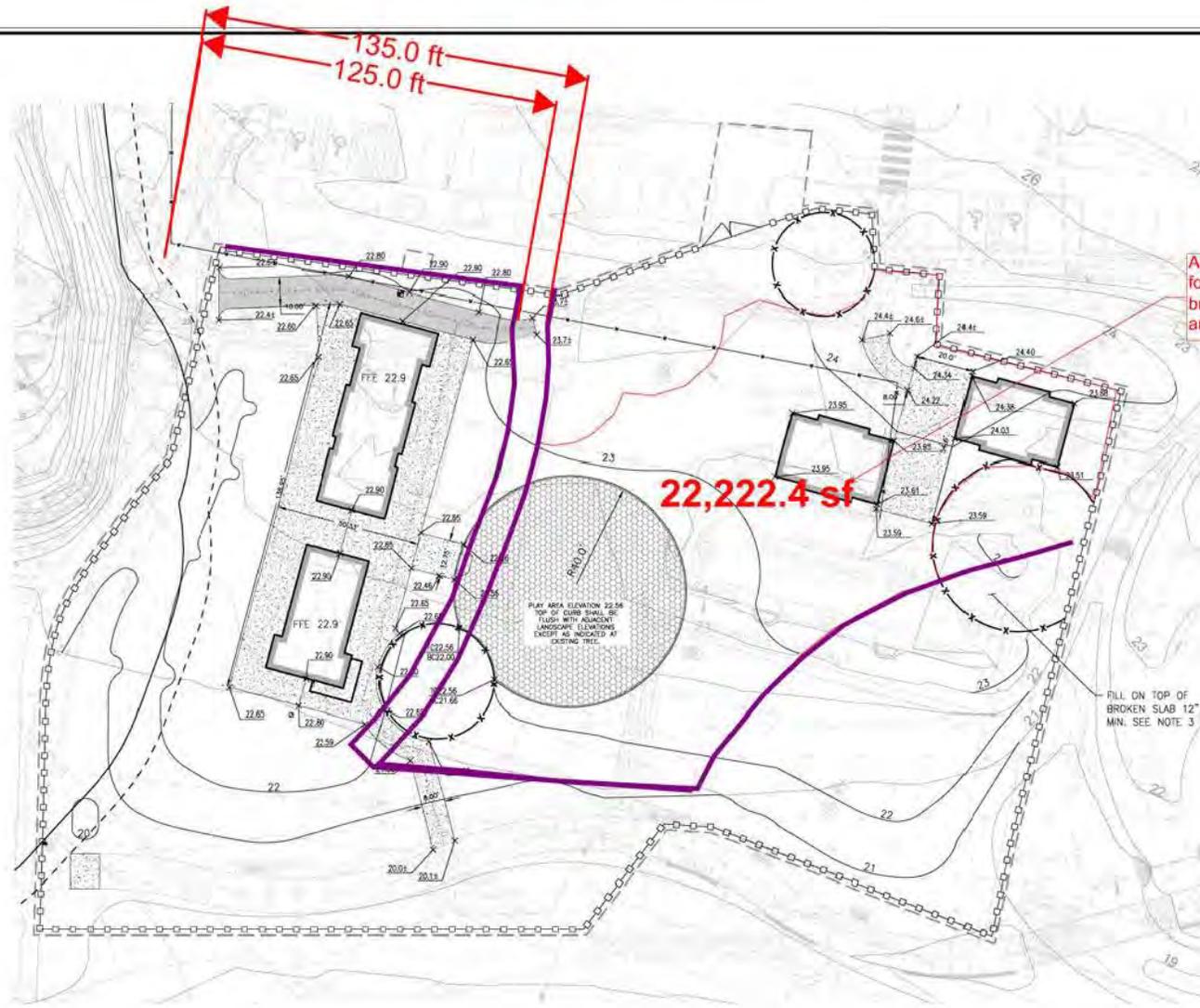
You may appeal this determination to the Planning & Building Department at City of Kirkland, 123 Fifth Avenue, Kirkland, WA 98033 no later than 5:00 PM on May 15, 2018 (date, 14 days from date issued) by a Written Notice of Appeal. You should be prepared to make specific factual objections and reference case number SEP17-00776. Contact Christian Geitz, project planner in the Planning & Building Department at (425) 587-3246 to ask about the procedures for SEPA appeals. See also KMC 24.02.230 Administrative Appeals.

**Distribute this notice with a copy of the Environmental Checklist to:**

GENERAL NOTICING Department of Ecology - Environmental Review

- Muckleshoot Tribal Council - Environmental Division, Tribal Archeologist
- Muckleshoot Tribal Council - Environmental Division, Fisheries Division Habitat
- Cascade Water Alliance – Director of Planning
- Juanita Neighborhood Association
- Lake Washington School District No. 414: Budget Manager and Director of Support Services





- LEGEND**
- APPROX LIMITS OF WORK
  - PROPOSED BUILDING
  - ADA ROUTE OF TRAVEL
  - TREE PROTECTION
  - ROOF OVERHANG
  - ASPHALT SECTION FOR MULTI PURPOSE AND PAVED PATHS
  - ENGINEERED WOOD FIBER SAFETY SURFACING
  - SIDEWALK (SEE NOTE 1)
  - SMALL LANDSCAPE WALL
  - FLUSH CONCRETE CURB
  - PLAY AREA ADA RAMP W/ CONCRETE SURFACING
  - SIGNAGE
  - SPOT ELEVATION
  - CONTOUR
  - TC TOP OF CURB
  - BC BOTTOM OF CURB
  - TW TOP OF WALL
  - BW BOTTOM OF WALL
  - STORM/ SANITARY DRAIN CLEANOUT

- LEGEND**
1. COK SIDEWALK DETAIL DOES NOT REQUIRE CURB AND GUTTER. USE FOR PAVEMENT SECTION, SCORING EXPANSION JOINTS AND FINISH.
  2. ELEVATIONS WITH ± INDICATE LOCATIONS WHERE PROPOSED SURFACE ELEVATIONS ARE DESIGNED TO MATCH EXISTING.
  3. FEATHER 12" OF TOPSOIL TO A DISTANCE OF 12" FROM TREE TRUNK.



**PLEASE CALL 811  
3 Working Days  
BEFORE YOU DIG**



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SEATTLE, WA 98104  
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F 206.468.9999  
www.vonbldg.com



LAUREL JEAN KUNKLER  
PROFESSIONAL ENGINEER



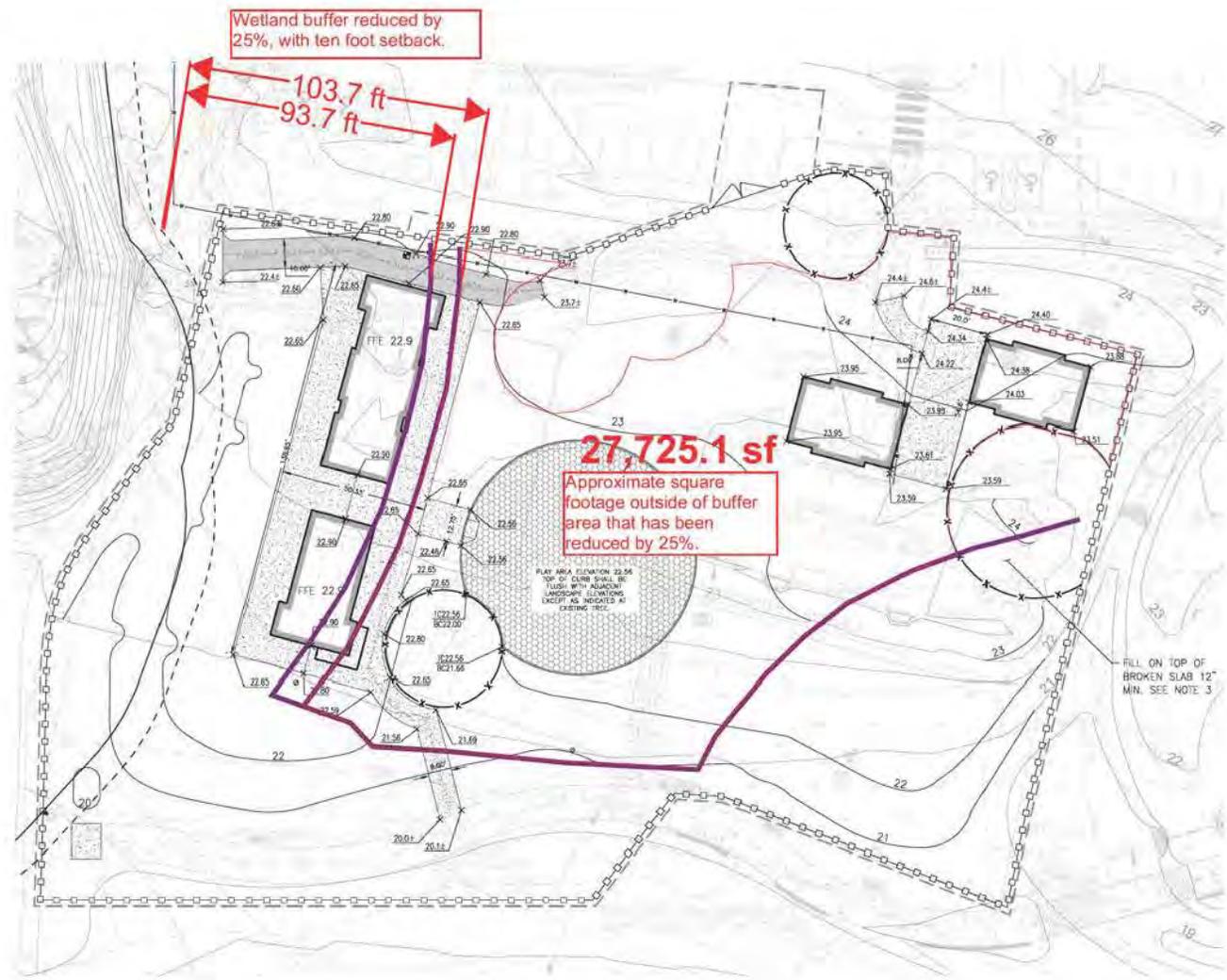
THOMAS R. VON SCHROEDER  
PROFESSIONAL ENGINEER

FILE	ENGR.	REVIEW	SCALE	DATE
JBB_C30_PAVE	LK	MRS	AS SHOWN	04/24/2018
NO.	REVISION	BY	REVIEW	DATE



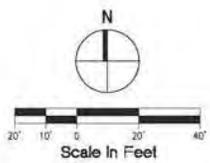
**CITY OF KIRKLAND**  
PUBLIC WORKS DEPARTMENT  
123 FIFTH AVENUE - KIRKLAND, WA 98033-6189 - (206)826-1243  
CPK 0119 100  
**JUANITA BEACH PARK  
BATHHOUSE REPLACEMENT  
PAVING AND GRADING PLAN**

**SHEET**  
C3.0



- LEGEND**
- APPROX LIMITS OF WORK
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603 STEWART ST. SUITE 500  
SEATTLE, WA 98101

M I C  
815 SECOND AVE. SUITE 200  
SEATTLE, WA 98104  
T 206.461.8100  
F 206.461.8105  
www.patano.com

**LABEL JEAN KUNKLER**  
PROFESSIONAL ENGINEER

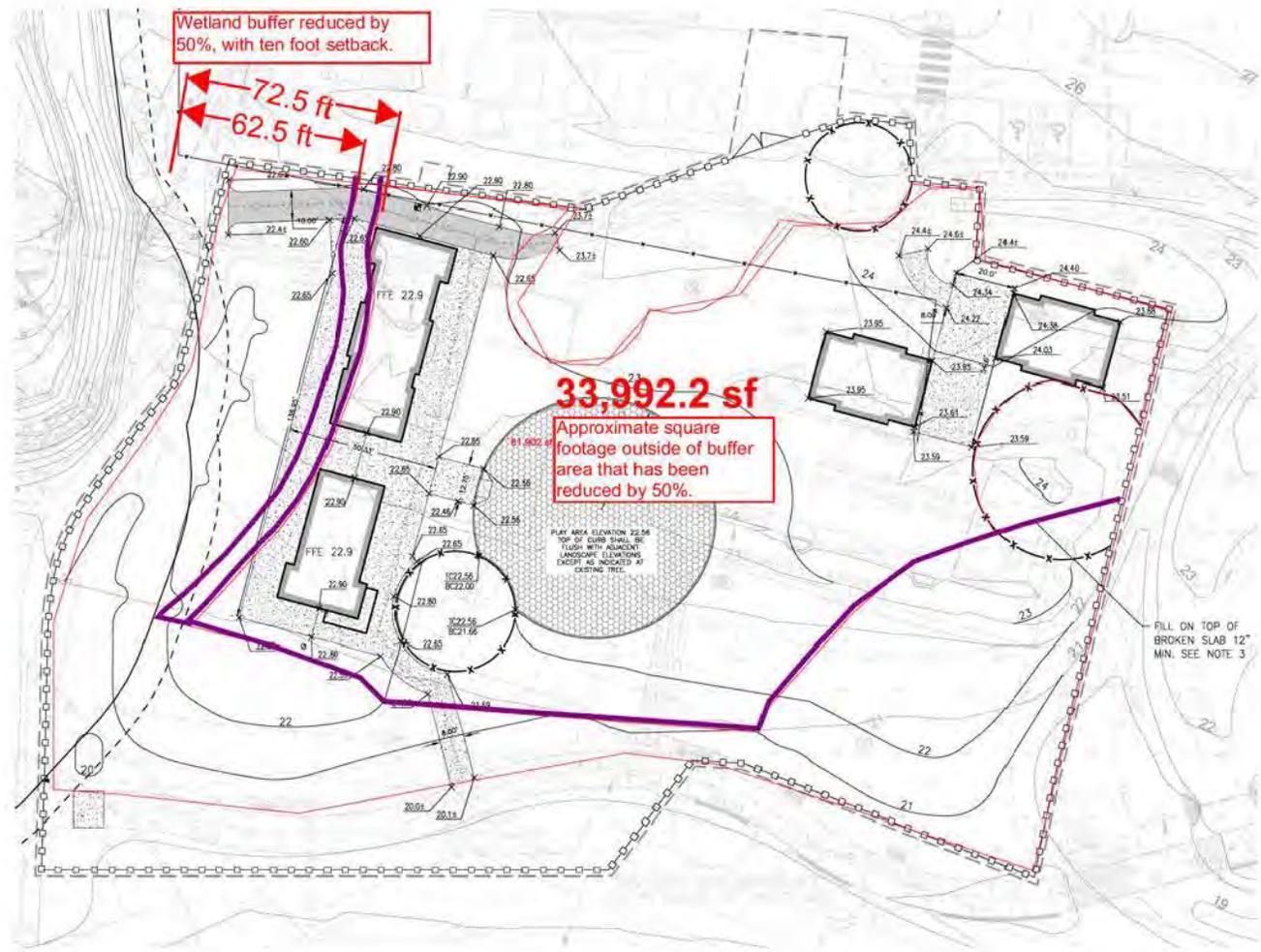
**THOMAS R. VON SCHWEDER**  
PROFESSIONAL ENGINEER

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JBB_C30_PAVE	E.K.	MRS	AS SHOWN	04/24/2018
NO.	REVISION	BY	REVIEW	DATE

**CITY OF KIRKLAND  
WASHINGTON**

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PUBLIC WORKS DEPARTMENT**  
123 FIFTH AVENUE - KIRKLAND, WA 98033-6189 - (206)828-1243  
CPK 0119 100  
**JUANITA BEACH PARK  
BATHHOUSE REPLACEMENT  
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**LEGEND**

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SITE LAYOUT PLAN



# JUANITA BEACH PARK BATHHOUSE REPLACEMENT PROJECT

KIRKLAND, WASHINGTON | APRIL 11, 2018



SITE LAYOUT RENDERING



PATANO STUDIO ARCHITECTURE

# JUANITA BEACH PARK BATHHOUSE REPLACEMENT PROJECT

KIRKLAND, WASHINGTON | APRIL 11, 2018





December 19, 2017

Mr. Erik Barr  
Patano Studio Architecture  
603 Stewart Street, Suite 500  
Seattle, WA 98101

**RE: SHORELINE MASTER PROGRAM COMPLIANCE ANALYSIS,  
JUANITA BEACH PARK PHASE II IMPROVEMENTS,  
CITY OF KIRKLAND, WASHINGTON**

Dear Mr. Barr:

This letter summarizes the proposed Juanita Beach Park Phase II Improvements project's compliance with the City of Kirkland's Shoreline Master Program (Kirkland Zoning Code [KZC] Chapter 83). The proposed project elements are allowed in Juanita Beach Park with a Shoreline Substantial Development Permit; however, the presence and location of critical areas on the site also triggers the need for a Shoreline Variance. This letter provides justification for the following variance requests:

- Fill of two mowed lawn wetlands.
- Reduction of a wetland buffer beyond 25 percent without restoring the remaining buffer to forest and without providing additional compensation for wetland impacts that the Code assumes would result from the buffer reduction.
- Implementation of wetland mitigation in a Category II wetland that cannot be provided with an undisturbed 125-foot wetland buffer.

### **PROJECT DESCRIPTION**

The City has been implementing the *Juanita Beach Park Master Plan* (J.A. Brennan, 2006) in phases. In 2006, the City issued a Determination of Non-Significance based on a programmatic State Environmental Policy Act (SEPA) checklist for the *Master Plan*. At the time, the presence of wetlands in the park, other than those associated with Juanita Creek, was not confirmed, so the programmatic SEPA did not identify any project-related wetland impacts. The Phase I SEPA

400 NORTH 34<sup>th</sup> STREET – SUITE 100  
PO BOX 300303  
SEATTLE, WA 98103  
206-632-8020 FAX 206-695-6777  
TDD: 1-800-833-6388  
www.shannonwilson.com

21-1-22161-007

Mr. Erik Barr  
Patano Studio Architecture  
December 19, 2017  
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analysis documented project-specific stream and wetland impacts and associated mitigation, and the City issued a Determination of Non-Significance in 2009. Actions covered by the Phase I SEPA included the concrete promenade and asphalt pathways, “Community Commons” (a bowl-shaped lawn with a concrete stage), expanded parking, extensive green stormwater infrastructure, and mitigation for critical areas impacts. The remaining project permits were obtained for Phase I in 2009 and 2010, and construction was completed in 2011.

As part of Phase II, the City is planning several improvements to Juanita Beach Park, including a replacement bathhouse with concessions and utility/storage spaces, relocated playground, and new pavilions (picnic shelters) (see enclosed exhibit labeled as Option 1). In addition, the project will include restoration both onsite and in Juanita Bay Park to offset wetland and buffer impacts associated with the improvements. Since implementation of Phase I, the original wetland survey expired, on-site conditions changed, and the Shoreline Master Program and associated critical areas regulations (Kirkland Zoning Code Chapter 83) have been updated. Per City request, portions of the relevant critical areas were re-delineated. As a result of that effort and the updated regulations, a new wetland in the current Phase II project area was discovered and delineated and as a result the degree of buffer encroachment into the Phase II project area increased. Accordingly, the proposed Phase II Juanita Beach Park improvements will impact wetlands and wetland and stream buffers.

The project has the following primary objectives, which were a factor in the layout and orientation of proposed structures in the Juanita Beach Park Master Plan:

- **Improve Site Functionality:** The two lawn wetlands (Wetlands C and D) are wet much of the year, which limits their utility for park users who want to picnic, sunbathe, or otherwise be seated in order to enjoy the view or monitor children in the water and on the beach (see Photo 1). The current location of the playground farther from the lake is also a concern when parents or caretakers have to split their attention between children on the beach and at the playground. The proposed playground’s location closer to the water makes it safer and more enjoyable for families by keeping the most popular play areas in close proximity for easier observation.
- **Improve Safety:** The orientation of the existing bathhouse parallel to the shoreline has made it difficult for law enforcement to police the area, as the view is obstructed. A perpendicular orientation for both the replacement bathhouse and pavilions is essential for minimizing opportunities for illegal activity. The proposed bathhouse will also include a lifeguard station.

Mr. Erik Barr  
Patano Studio Architecture  
December 19, 2017  
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- **Preserve Shade Trees:** The large weeping willow at the north edge of Wetland D is popular for its shade (see Photo 1). The relocated play area and bathhouse are located to protect the tree.



**Photo 1.** This photo shows the low use of Wetland D (foreground), the attraction of the weeping willow, and the heavy use of the playground on a typical Saturday in July.

### SHORELINE MASTER PROGRAM COMPLIANCE

The developments proposed as part of Juanita Beach Park Phase II Improvements are located in the Urban Mixed shoreline environment designation, which has a minimum shoreline setback of the greater of 25 feet or 15 percent of the average parcel depth (KZC 83.180). At Juanita Beach Park, the average parcel depth is conservatively estimated to be 512 feet, based on calculations made using computer-aided design tools consistent with the methodology described in the definition of “average parcel depth” (KZC 83.80(7)). Accordingly, the standard minimum setback from the lake ordinary high water mark (OHWM) is 77 feet.

The western portion of Juanita Beach Park, including Juanita Creek, Oxbow Marsh, Wetland B, and a portion of Wetland D, is in the Urban Conservancy shoreline environment designation, which has a setback of 30 feet upland of the OHWM for water-enjoyment<sup>1</sup> recreational uses and

<sup>1</sup> KZC 83.80.134 “Water-Enjoyment Use – A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and that through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that foster shoreline enjoyment.”

Mr. Erik Barr  
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25 feet for water-related<sup>2</sup> recreational and commercial uses. The proposed bathhouse will include the following water-related uses: lifeguard station, concession for kayak and standup paddleboards, snack concessions, and bathrooms/changing rooms.

Juanita Bay Park has a Natural shoreline environment designation. Restoration activities are an allowed use in this environment.

Table 1 provides a detailed analysis of how the proposed project complies with the City's Shoreline Master Program (SMP) and the Shoreline Management Act, including how criteria for a Shoreline Variance are met.

**TABLE 1  
COMPLIANCE WITH POLICIES AND REGULATIONS OF THE SHORELINE MASTER PROGRAM (KIRKLAND ZONING CODE CHAPTER 83)**

Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
<b>WAC 173-27-140 Review criteria for all development</b>	
(1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.	The following analysis supports a determination that the proposed project is consistent with the Shoreline Management Act (SMA) and the City's Shoreline Master Program (SMP).
(2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.	None of the proposed structures exceed 35 feet in height.
<b>WAC 173-27-170 Review criteria for variance permits</b>	
(1) 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.	Denial of the permit would thwart the policy of the SMA, which is to balance public access, environmental protection, and appropriate use. The proposed project will support increased and improved public access to and water-oriented use of the Lake Washington shoreline, without significant

<sup>2</sup> KZC 83.80.137 "Water-Related Use – A use or portion of a use that is not intrinsically dependent on a waterfront location, but whose economic viability is dependent upon a waterfront location because:

- a. The use has a functional requirement for a waterfront location, such as the arrival or shipment of materials by water or the need for large quantities of water; or
- b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient."

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Patano Studio Architecture  
December 19, 2017  
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Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
<p>[RCW 90.58.020 "...It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto... The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:</p> <p>(1) Recognize and protect the statewide interest over local interest;</p> <p>(2) Preserve the natural character of the shoreline;</p> <p>(3) Result in long term over short term benefit;</p> <p>(4) Protect the resources and ecology of the shoreline;</p> <p>(5) Increase public access to publicly owned areas of the shorelines;</p> <p>(6) Increase recreational opportunities for the public in the shoreline;</p> <p>(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."]</p>	<p>adverse effects on vegetation and wildlife.</p> <p>Juanita Beach Park draws users from communities around Lake Washington, not just the City of Kirkland. The proposed new developments are sited in degraded, mowed lawn areas that do not contribute to a "natural" shoreline character. Improvement of this highly developed area of the park, including conversion of wet lawn to more usable lawn space, will help reduce the pressure on the more natural areas of this park and improve the usability of the existing active recreational spaces. Further, the on-site buffer mitigation will result in a net increase in native woody vegetation in the park, and increase the functional buffer width of Juanita Creek, Wetland A, and Wetland B.</p>
<p>(2) Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:</p> <p>(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;</p> <p>(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</p>	<p>2a. Strict application of the stream and wetland buffer standards would significantly interfere with public, water-oriented recreational use of Juanita Beach Park. The property has been a commercial or public recreation space for 100 years, since the beach was first exposed in 1917 by the lowering of the lake. The code section that requires a reduced buffer to be restored to a condition equivalent to "undisturbed Puget lowland forests in density and species composition" would effectively eliminate a substantial portion of the open recreational spaces that are used by park visitors for picnicking, playing, sunbathing, and watching children play on the beach and in the water, among other activities. After review of Phase I impacts and mitigation</p>

Mr. Erik Barr  
Patano Studio Architecture  
December 19, 2017  
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Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
<p>applicant's own actions;</p> <p>(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;</p> <p>(d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;</p> <p>(e) That the variance requested is the minimum necessary to afford relief; and</p> <p>(f) That the public interest will suffer no substantial detrimental effect.</p>	<p>elements, and further discussion with Ecology, it was agreed by Ecology and the City that the proposed Phase II fills of Wetlands C and D require a minimum of 0.11 acre (4,866 square feet) of wetland enhancement. A detailed accounting of the completed Phase I and proposed Phase II impacts, and completed Phase I and proposed Phase II mitigation, is included in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon &amp; Wilson, Inc., 2017). Implementing off-site wetland mitigation in the same basin as the project, as required by code, limits the number of available opportunities for wetland mitigation. The proposed mitigation is in the same basin and in a similar landscape position as the impacted wetlands, but the property shape, location of existing development, and on-site hydrologic and vegetative conditions preclude placement of the enhancement area 125 feet from existing development as required by code. Further, for those potential mitigation areas that have sufficient width of buffer vegetation, an unintended and adverse consequence is that small islands of restoration may occur in a landscape that itself could benefit from restoration, or damage to native communities or further harm to already degraded areas might occur in the process of accessing the suitable mitigation area. These isolated islands of enhancement might also be more vulnerable to colonization by invasive species from the surrounding, unenhanced community. This proposal will maximize enhancement without degrading adjacent areas, which meets the ultimate intent of critical areas protection code.</p> <p>2b. The hardships at Juanita Beach Park are the direct result of existing natural features on the site, some of which have been known for a long time, and one of which (Wetland D) is a more recent development that may have unintentionally resulted from Phase I. During development of the <i>Juanita Beach Park Master Plan</i> and up to implementation of Phase I, the present location of Wetland D was a sand beach. In addition, the 2010 and 2011 SMP updates resulted in an increase in required buffer widths, which further constrains the site.</p> <p>As mentioned above under 2a., Juanita Bay Park, and other potential in-basin wetland mitigation locations, also have limited enhancement</p>

Mr. Erik Barr  
Patano Studio Architecture  
December 19, 2017  
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	<p>opportunities that would be suitable for the proposed project, and that have an existing vegetated "buffer" of 125 feet.</p> <p>2c. The proposed project would implement the publicly crafted vision for the park under the <i>Juanita Beach Park Master Plan</i>, the SMP, and the Comprehensive Plan. Although the proposed project will eliminate two small wetlands (only 0.19 acre total) and portions of stream and wetland buffers, all of the impacted areas are presently mowed lawn with intensive public use. The proposed mitigation will result in a net increase in ecological functions at Juanita Beach Park and Juanita Bay Park, and is consistent with the City's <i>Shoreline Restoration Plan</i> (The Watershed Company, 2010) and <i>20-Year Forest Restoration Plan</i> (Green Kirkland Partnership, 2015).</p> <p>2d. As outlined in this letter, the proposed variances meet the Shoreline Variance criteria and are consistent with the SMP and Comprehensive Plan. As such, approval of the Shoreline Variance would not be a grant of special privilege. Other properties that can demonstrate consistency and compliance with criteria would similarly be granted a variance.</p> <p>2e. As outlined in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon &amp; Wilson, Inc., 2017), the project has undergone a rigorous mitigation sequencing process. Per KZC 83.490.2.a, mitigation sequencing includes consideration of the project requirements. For this project, those requirements are tied to the objectives of maximizing the function of usable public access and public, water-oriented recreation space (see Project Description discussion above for more detail).</p> <p>2f. The public interest will be served and bettered through implementation of the proposed project by improving safety; increasing the area of usable lawn that can be used for water-oriented recreation and enjoyment; increasing the functional area of Juanita Creek, Wetland A, and Wetland B buffers; adding covered pavilions for events; and updating the bathhouse.</p>
<p>(3) Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be</p>	<p>3a. Strict application of the limitations on wetland modification would significantly interfere with public, water-oriented recreational use of Juanita Beach Park. The property has been a commercial or</p>

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<p>authorized provided the applicant can demonstrate all of the following:</p> <p>(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;</p> <p>(b) That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and</p> <p>(c) That the public rights of navigation and use of the shorelines will not be adversely affected.</p>	<p>public recreation space for nearly 100 years. Wetlands C and D are currently unsuitable for many of the park uses because of their soggy condition. The two wetlands are located in areas that are optimal for families that want to enjoy the water. Instead, park users avoid those two areas and are either crowding onto the beach, which makes ingress and egress into the water more difficult and eliminates beach play areas, or they have to locate in areas that have poor sightlines to the water.</p> <p>3b. See discussion of 2b. through 2f. above.</p> <p>3c. The proposed wetland fill is not in a waterway; the project would have no effect on navigation or any other water-dependent use. The public use of the shoreline will be improved by upgrading the design, location, and configuration of site improvements, and eliminating wet lawn areas that interfere with recreation and access. The proposed project would implement the publicly crafted vision for the park under the <i>Juanita Beach Park Master Plan</i>, the SMP, and the Comprehensive Plan. Although the proposed project will eliminate two small wetlands (only 0.19 acre total) and portions of stream and wetland buffers, all of the impacted areas are presently mowed lawn with intensive public use.</p>
<p>(4) 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.</p>	<p>The likelihood of “additional requests for like actions in the area” with “similar circumstances” is extremely low given that this property is a regional public park and the two wetlands and their buffers proposed to be modified are mowed lawn. The project area’s status as a regional public park makes the proposed site modifications uniquely consistent with the SMA’s use preference policies. Further, the mitigation proposed for all of the wetland and buffer modifications that are the subject of the Shoreline Variance request will result in a net gain in shoreline ecological functions.</p>
<p>(5) Variances from the use regulations of the master program are prohibited.</p>	<p>The proposed project requests variance from dimensional standards, not from use regulations.</p>
<p><b>WAC 173-27-180(9)(m) Review criteria for variance permits</b></p>	
<p>(m) On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.</p>	<p>The enclosed exhibits (labeled as Option 2 and Option 3) show a couple of development options that would not require a Shoreline Variance. In these scenarios, the wetlands would be avoided and no buffer would be reduced below 25 percent.</p>

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	<p>However, one or more of the project objectives would not be met:</p> <ul style="list-style-type: none"> <li>• The bathhouse could not be oriented perpendicular to shore to improve visibility to patrolling officers and reduce opportunities for illicit activity.</li> <li>• The bathhouse facilities (including the lifeguard station and water-dependent rental equipment) are farther from the water, reducing safety and convenience.</li> <li>• The pavilions are more closely associated with the parking lot, reducing opportunity to enjoy the water access and views.</li> <li>• The wetlands would continue to interfere with water-oriented recreation and enjoyment.</li> <li>• The playground would remain in its present location, which is a safety issue and also keeps an often loud and disruptive use adjacent to the highest-functioning natural areas in the park.</li> </ul>
<b>83.100 Natural</b>	
<p>1. Purpose – To protect and restore those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. The Natural shoreline environment also protects shoreline areas possessing natural characteristics with scientific and educational interest. These systems require restrictions on the intensities and types of land uses permitted in order to maintain the integrity of the ecological functions and ecosystem-wide processes of the shoreline environment.</p>	<p>The only activity proposed in the Natural environment within Juanita Bay Park is enhancement of wetland to compensate for the loss of two wetlands (mowed lawn) in the Urban Mixed environment.</p>
<b>83.110 Urban Conservancy</b>	
<p>1. Purpose – To protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.</p>	<p>Compensation for permanent impacts to stream and wetland buffer (currently mowed lawn) in the Urban Mixed environment will be provided through plantings of native trees and shrubs in stream and wetland buffers in the Urban Conservancy and Urban Mixed environment on site.</p>
<b>83.140 Urban Mixed</b>	
<p>1. Purpose – To provide for high-intensity land uses, including residential, commercial, recreational, transportation and mixed-use developments. The purpose of this environment is to ensure active use of shoreline areas that are presently urbanized or planned for intense urbanization, while protecting existing ecological</p>	<p>The proposed replacement bathhouse, relocated playground, new pavilions, and other site modifications are located in the Urban Mixed shoreline environment, in a highly altered and heavily used area of the park. The character and setting of the two wetlands and their buffers</p>

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functions and restoring ecological functions in areas that have been previously degraded.	proposed to be filled substantially minimizes their level of ecological function. Those limited functions will be compensated in other areas of Juanita Beach Park and in nearby Juanita Bay Park that have greater potential to provide meaningful and significant ecological function.
<b>KZC 83.210 Commercial Uses</b>	
2. Retail Establishment Providing New or Used Boat Sales or Rental – Outdoor boat parking and storage areas must be buffered as required for a parking area under the provisions of KZC 83.440.	Similar to the existing bathhouse, the replacement bathhouse will include a dedicated space for concessions, including rental or purchase of hand-powered boats (kayaks, stand-up paddleboards). All boats are stored in the building except when on display leaning against the building or on the lawn during seasonal retail hours for easy customer access.
5. Restaurant or Tavern a. The building design must be oriented for the view to the waterfront. b. Drive-in or drive-through facilities are prohibited.	The concession stand is neither a restaurant nor tavern and only provides snacks and beverages to park users during seasonal retail hours. The concession space will have a waterfront view, but customers will make their purchases and then return to other areas of the park.
<b>KZC 83.220 Recreational Uses</b>	
8. Public Park – Recreation facilities that support non-water-related, high-intensity activities, such as basketball and tennis courts, baseball and soccer fields and skate parks, shall be located outside of shorelines jurisdiction to the extent feasible.	All of the recreation facilities support use and enjoyment of Lake Washington, either directly or indirectly. An early comment from the City indicated that the playground may not be considered water-oriented. While the orientation to the water may not be as direct as a swimming beach, playgrounds with water views and access are preferred by many parents/caregivers and children. In addition, closer proximity to the water improves safety by making it easier for park users with children to supervise activities on the playground and in the beach/water areas at the same time, and providing additional separation between the playground and busy parking lot. The relocated playground cannot be shifted outside of shoreline jurisdiction without displacing existing uses and developments, including green stormwater infrastructure, parking, and pathways. The list of example “high-intensity activities” in this code section does not include playgrounds. The listed activities share in common that they either have relatively large areas of impervious surface or managed lawn on which sports take place that are not typically compatible with enjoyment of water

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<p>9. Public Access Facility</p> <p>a. Fragile and unique shoreline areas with valuable ecological functions, such as wetlands and wildlife habitats, shall be used only for nonintensive recreation activities, such as trails, viewpoints, interpretative signage and similar passive and low-impact facilities.</p> <p>b. Physical public access shall be located, designed and constructed to meet KZC 83.360 for net loss of shoreline ecological functions.</p>	<p>views, or access by the public through the active space.</p> <p>Although the proposed project will be impacting two wetlands as part of Phase II, these areas are not “fragile and unique” and they do not provide “valuable ecological functions.” They are mowed lawn, and have been in intensive public recreational use since 1917, 100 years ago, following the lowering of Lake Washington, which exposed a rare sand beach. Prior to 1917, the area of the park not inundated by the lake was a sawmill. After implementation of Phase I, the area of Wetland D was slowly converted from sand beach to lawn. Implementation of the proposed Phase II improvements will not result in a reduction of shoreline ecological function. Mitigation implemented for conversion of mowed wetlands and wetland buffers will result in a net increase of ecological function at Juanita Beach Park through an increase in the width of native vegetated buffers, and at Juanita Bay Park through an increase in native plant diversity and structure.</p>
<b>KZC 83.240 Utilities</b>	
<p>1. General</p> <p>a. See KZC 83.360 for avoiding and minimizing impacts when locating, designing, constructing and operating the use.</p> <p>b. Whenever feasible, utility facilities shall be located outside the shorelines jurisdiction. Whenever these facilities must be placed in a shoreline area, the location shall be chosen so as not to adversely impact shoreline ecological functions or obstruct scenic views.</p> <p>c. Utilities shall be located in existing rights-of-way and utility corridors wherever feasible.</p> <p>d. New utilities shall not be located waterward of the OHWM or in the Natural shoreline environment, unless it is demonstrated that no feasible alternative exists.</p> <p>e. Utility lines, pipes, conduits, cables, meters, vaults, and similar infrastructure and appurtenances shall be placed underground consistent with the standards of the serving utility to the maximum extent feasible.</p> <p>f. Proposals for new utilities or new utility corridors in the shorelines jurisdiction must fully substantiate the infeasibility of existing routes or alternative locations outside of the shorelines jurisdiction.</p>	<p>The proposed utilities are all accessory to the proposed water-oriented bathhouse facility or pavilions, and will be below-ground and landward of the ordinary high water mark (OHWM). Installation of the utilities will have no long-term adverse impacts on ecological functions, recreation, public access, or other significant resources. Access to the shoreline may be altered briefly during portions of project construction, but other routes to the shoreline will be available. The utilities are necessarily located in shoreline jurisdiction, because they will serve the proposed water-oriented bathhouse facility and pavilions, which are in shoreline jurisdiction. The County’s sewer trunk line, to which the local utility is requiring a connection, is also located in shoreline jurisdiction within the shoreline setback.</p>

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<p>g. Utilities that are accessory and incidental to a shoreline use shall be reviewed under the provisions of the use to which they are accessory.</p> <p>h. Utilities shall provide screening of facilities from the lake and adjacent properties in a manner that is compatible with the surrounding environment. The City will determine the type of screening on a case-by-case basis.</p> <p>i. Utility development shall, through coordination with local government agencies, provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.</p>	
<p>2. Construction and Maintenance</p> <p>a. All shoreline areas disturbed by utility construction and maintenance shall be replanted and stabilized with approved vegetation by seeding, mulching, or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained until established.</p> <p>b. Clearing of vegetation within utility corridors shall be the minimum necessary for installation, infrastructure maintenance and public safety.</p> <p>c. Construction of pipelines placed under aquatic areas shall be placed in a sleeve in order to avoid the need for excavation in the event of a failure in the future.</p> <p>d. Construction located near wetlands and streams shall use native soil plugs, collars or other techniques to prevent potential dewatering impacts.</p> <p>e. See KZC 83.480 for conducting maintenance activities that minimize impacts.</p>	<p>2a. All areas disturbed by utility work will be stabilized as shown on the plans, and returned either to lawn or a new site improvement.</p> <p>2b. All vegetation disturbance related to utility work will be limited to lawn and is the minimum necessary to improve the site per plan.</p> <p>2c. No pipelines will be constructed under aquatic areas.</p> <p>2d. Because the new sewer connection to the existing sewer main under the concrete promenade will be below the elevation of Lake Washington, the work will quickly encounter groundwater. The Contractor will be responsible for using appropriate techniques during necessary trench dewatering and utility installation to prevent adverse impacts to sensitive areas consistent with a geotechnical engineering report.</p> <p>2e. See analysis of KZC 83.480 compliance below.</p>
<p>4. Utility Transmission Facilities</p> <p>a. Transmission facilities shall be located outside shorelines jurisdiction where feasible, and when necessarily located within shoreline areas, shall assure no net loss of shoreline ecological functions.</p> <p>b. Pipelines transporting hazardous substances or other substances harmful to aquatic life or water quality are prohibited, unless it is demonstrated that no feasible alternative exists.</p> <p>c. Sanitary sewers shall be separated from storm sewers.</p>	<p>4a. Existing on-site utilities in shoreline jurisdiction will be connected to the allowed new and replacement structures. The utility work will not degrade shoreline functions.</p> <p>4b. No pipelines are proposed.</p> <p>4c. The project includes a new sewer connection from the new bathhouse to an existing King County Metro sewer line. Separate flow pathways for sanitary and storm will be maintained.</p>
<b>83.330 Land Surface Modification</b>	
<p>1. General – The following standards must be met for</p>	<p>1a. Noted.</p>