

February 4, 2019

Mr. Erik Barr
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**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 embodies Shoreline Management Act (SMA) objectives by preserving *ecologically functioning* natural resources (Juanita Creek and Oxbow Marsh/Wetland A) and limiting water-oriented developments to areas of the park that are already highly altered, heavily used, and lacking in ecological function. The proposal also *improves* the width and function of the buffers protecting those natural areas. Improving the functionality of the facilities that serve the public and the usable open spaces in the park will enable the park to safely accommodate increased demand.

The proposed project includes the following new or relocated constructed elements within the shoreline jurisdiction:

- Relocated bathhouse, including restrooms/changing areas, life guard station, utility/storage space, and concession space.
- Relocated playground space, with new play equipment.
- A portion of one of the two new picnic pavilions.
- An interactive public art installation that also serves as a play structure and seating area/view platform (Exhibit 1).

- Pedestrian pathways connecting the project elements.
- New and relocated utility connections.



Exhibit 1. The final art installation at Juanita Beach Park will be similar to this concept in scale and material.

The existing bathhouse has been in shoreline jurisdiction since it was constructed in the 1960s, along with pathways and other park facilities. The existing playground has been in its current configuration in shoreline jurisdiction since at least 2004. In the Urban Conservancy and Urban Mixed shoreline environment designations, these developments are allowed in Juanita Beach Park with a Shoreline Substantial Development Permit as provided in KZC 83.170 (Recreation/Water-related, Water-Enjoyment Uses/Other public park improvements). All these elements support the public's use of Juanita Beach Park for water-oriented recreation and enjoyment of Lake Washington, and are designed and scaled to fit the site and applicable zoning code requirements, and preserve important view and sight lines. The presence and location of critical areas on the site, however, 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 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 within the shoreline jurisdiction as noted above (see, also, Figure 1 - Site Plan Before and After). 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, the City discovered a new wetland with a low level of ecological function that had unintentionally been created as a result of actions taken during Phase I. Because of this created wetland, the degree to which wetlands and buffers encumber the remaining Phase II project area increased. Accordingly, the proposed Phase II Juanita Beach Park improvements will necessarily have an impact on wetlands (though some of those wetlands are low level, new and unintentionally created) and wetland and stream buffers. Although the City is requesting variances for these impacts, its first endeavor was to reduce the amount of impacts as much as reasonably possible.

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:** According to Jason Filan, Parks Maintenance Manager, Juanita Beach Park is the busiest in the City (pers. comm., 5 April 2018). City Parks has not conducted any quantitative assessments of park use. However, the park has a number of well-attended events, including: summer concert series, Friday market, children’s triathlon, adult runs, and volleyball league games. Birthday parties and

other celebrations are also regularly held at the park. Although the park is most intensively used during the summer months, there is consistent activity year-round. The over-water boardwalk, nature trails, and other pathways are popular with walkers, joggers, and bird-watchers, even during the winter months.

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, on the beach, or on the playground (see Photo 1). Jason Filan, City Parks Maintenance Manager, indicated that the two wetland areas are the last open spaces to be utilized during the summer, even though they are in prime locations for park users next to the beach. The vegetation in the mowed wetlands is uncomfortable to sit or lay on because it is rigid and prickly, and the shallow depressions retain moisture. Mr. Filan stated that “customers would love it if [the open lawn space] could be uniform.”

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. Keeping the playground farther from the parking area, and closer to the other primary play space (beach and water) is important to visiting parents, particularly those with more than one child and without a 1:1 adult/child ratio. Because the park has multiple amenities for recreation, it is inevitable that children will utilize different play areas (beach and playground) concurrently. Siting play areas in close proximity allows for a parent/guardian to adequately supervise more than one child. Siting play areas farther from parking lots will also reduce potential for pedestrian/vehicle conflict. Extra consideration at the park design stage will facilitate child safety and park enjoyment. As stated by Jason Filan, City Parks Maintenance Manager, it is “imperative” that these two play areas (beach and playground) be located close together.

- **Improve Safety:** The orientation of the existing bathhouse parallel to the shoreline has made it difficult for law enforcement to police the area, as their view into the park is obstructed. The proposed project design, from buildings to landscaping, incorporates commonly accepted principles of CPTED (Crime Prevention Through Environmental Design). When CPTED is implemented correctly, “The proper design and effective use of the built environment can lead to a reduction in the fear and incidence of crime, and to an improvement in quality of life.” A perpendicular orientation for both the replacement bathhouse and pavilions is essential for minimizing opportunities for illegal activity. Juanita Beach Park is the busiest Kirkland park, and also the top park in number of calls for service to the Kirkland Police Department (KPD). According to Calls for Service reports provided by KPD, there were 430 calls for service in the last year alone (1/10/17 – 1/5/19). A site layout that increases sight lines for first responders and decreases hiding places will deter

illicit and after-hours activity and allow for easier patrolling by the KPD. As stated by KPD in its analysis of the proposed project:

The proposed positioning of the building would provide law enforcement with much improved sight lines of the structure compared to the current structure location. The entire eastside, northside, and westside of the building would be visible from the parking lot allowing officers to more easily monitor persons outside the building after hours. The proposed use of vegetation near the building area still allows for mostly unobstructed views of the site. These facts are important as the park closes at 10:00 pm and many people still come into the park after hours. Officers conduct many directed patrols after hours and contact numerous persons. The increased visibility in the park around the building structure greatly aids officers during this activity and helps to prevent potential crime.

- The proposed bathhouse will also include a lifeguard station closer to the beach for improved safety.
- **Preserve Shade Trees:** The large weeping willow at the north edge of low-functioning 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), a low-functioning lawn wetland; the attraction of the weeping willow; and the heavy use of the playground on a typical Saturday in July.

- Another key objective of the proposed project is to maximize consistency with the publicly crafted vision in the adopted Juanita Beach Park Master Plan. The following

analysis identifies the major relevant layout and design parameters included in the Master Plan, and how the proposal is consistent with those parameters.

Resolution R-4570 Juanita Beach Park Master Plan Report			Proposed Project Consistency with the Master Plan
Pg	Section	Report Excerpt	Analysis
12	Program Opportunities – Juanita Creek	Establish a wider buffer for the creek by planting native species within the 75-foot buffer.	The proposed project will remove an existing impervious path that parallels Juanita Creek/Wetland A and currently limits the functioning width of the buffer to 10 to 16 feet. The proposed project will restore the former pathway and existing lawn areas to native shrubs and groundcovers, increasing the functional width of the stream/wetland buffer to between 45 and 75 feet.
12	Program Opportunities – Juanita Creek	Develop trails in the outer 50% of the buffer to allow some human access along the creek, but minimize uncontrolled access to the creek banks.	The proposed project will not develop any trails into the wetlands or functional areas of wetland or creek buffers; trails were developed in Phase 1. An existing pathway that parallels Juanita Creek within the inner 25% of the buffer will be removed as part of the proposed project and replaced with native shrubs and groundcovers. This will increase the buffer from 10 to 16 feet wide to between 45 and 75 feet wide.
12	Program Opportunities – Juanita Creek	Relocate buildings currently located within the 75-foot creek buffer to outside the creek buffer.	This opportunity was achieved before Phase 1. Based on meeting notes, this comment specifically referred to a King County Parks maintenance building that was located “immediately adjacent to the left bank” of Juanita Creek.
13	Program Opportunities - Wetlands	Establish a wider buffer for the wetlands by planting native species within the 100-foot buffer	The proposed project will remove an existing impervious path that parallels Juanita Creek/Wetland A and currently limits the functioning width of the buffer to 10 to 16 feet. The proposed project will restore the former pathway and existing lawn areas to native shrubs and groundcovers, increasing the functional width of the stream/wetland buffer to between 45 and 75 feet.
13	Program Opportunities - Wetlands	Relocate buildings currently located within the 100-foot wetland buffer to outside the wetland buffer	This opportunity was achieved before Phase 1. Based on meeting notes, this comment specifically referred to a King County Parks maintenance building that was located “immediately adjacent to the left bank” of Juanita Creek.
14	Program Opportunities	Develop trails in the outer 50% of the buffer to allow some human access along the wetlands and creeks.	The proposed project will not develop any trails into the wetlands or functional areas of wetland or creek buffers; trails were developed in Phase 1. An existing pathway that parallels Juanita Creek within the inner 25% of the buffer will be removed as part of the proposed project and replaced with native shrubs and groundcovers. This will increase the buffer from 10 to 16 feet wide to between 45 and 75 feet.
15	Goals	Buildings should not dominate the landscape.	The proposed bathhouse is located at the west side of the property near the edge of the current active use area and is obscured from the road and upland condominiums by existing vegetation. All program elements are encompassed in one building.

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18	Park Program	Men's and women's restrooms, changing area, life guard office and first aid, indoor or outdoor shower, storage area, link to possible concession	The proposed bathhouse consists of men's and women's restrooms (seasonal) with space/benches for changing, gender neutral restrooms (open year-around), non-motorized boating and snack concession, lifeguard station, maintenance storage, and outdoor rinse area.
20	Master Plan Alternatives	Site Planning and Massing <ul style="list-style-type: none"> - Building programs clustered - Building organized around meadows or plazas - Buildings tucked into landforms or vegetation edges 	Site Planning and Massing <ul style="list-style-type: none"> - The programming for the proposed bathhouse is clustered into one building. - The proposed bathhouse is organized around the playground and central open space/play area. - The proposed bathhouse is tucked as closely as reasonable to vegetation at the west side of the property, considering the need to avoid functioning buffer and preserve the single large tree in the active open space area. The building is placed in the non-functioning portion of the wetland/stream buffer, to the east of an existing paved trail which pre-existed the Master Plan.
22	Alt 1 Description	Restroom: Combine with boathouse & bathhouse on west side of park shoreline near stream buffer.	The proposed bathhouse consists of men's and women's restrooms (seasonal) with space/benches for changing, gender neutral restrooms (open year-around), non-motorized boating and snack concession, lifeguard station, maintenance storage, and outdoor rinse area. The proposed bathhouse is located on the western edge of the park, at the edge of the lawn, near the shoreline and near the functioning portion of the stream buffer. The building is placed in the non-functioning portion of the wetland/stream buffer, to the east of an existing trail that pre-existed the Master Plan and will be removed as part of this project.
24	Preferred Master Plan	The buildings are sited at the edges of the lawn and plaza areas to assist in defining the spaces.	The proposed bathhouse is located on the western edge of the park, at the edge of the lawn, near the shoreline and near the functioning portion of the stream buffer. The building is placed in the non-functioning portion of the wetland/stream buffer, to the east of an existing trail that pre-existed the Master Plan and will be removed as part of this project. The location of the proposed bathhouse defines the edge of the playground and the open lawn space, and serves to guide visitors to the nearby beach access and adjoining pedestrian promenade, paths, and pedestrian pier/breakwater.
24	Preferred Master Plan	Buildings are tucked into gentle landforms or vegetation edges.	The proposed bathhouse will be located at the upland edge of an expanded Juanita Creek/Wetland A functioning buffer area. The building is placed in a non-functioning portion of the wetland buffer, to the east of an existing trail that pre-existed the Master Plan and will be removed as part of this project.

Resolution R-4570 Juanita Beach Park Master Plan Report			Proposed Project Consistency with the Master Plan
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29	Preferred Master Plan	Most [of the existing structures], like the bath house, restroom building and picnic shelters, were so deteriorated that it would be more cost-effective to accommodate their functions in new structures.	The proposed new bathhouse consists of men's and women's restrooms (seasonal) with space/benches for changing, gender neutral restrooms (open year-around), non-motorized boating and snack concession, lifeguard station, maintenance storage, and outdoor rinse area.
30	Preferred Master Plan	For purposes of the current Master Plan effort, we have developed a schematic design for a restroom prototype that will have four toilets and three lavatories on the women's side and three toilets, two urinals and three lavatories on the Men's side. The toilet building near the beach will have a 200-square-foot space for dressing and will also have 15-20 lockable lockers with free-standing benches on each side of the toilet room.	The proposed bathhouse consists of a women's restroom with four toilets and three lavatories and a men's restroom with two urinals, two toilets, and three lavatories. The restrooms are oversized to accommodate changing - a large two-sided bench will be built-in. The proposed bathhouse also offers two gender-neutral restrooms (open year-around) with one toilet and lavatory each. No lockers are provided.
30	Preferred Master Plan	A 240-square-foot lifeguard office is provided in the bathhouse building.	The proposed bathhouse consists of 258 square feet dedicated to the lifeguard office and lifeguard lockers. The scale and orientation of the windows in the lifeguard station allow for clear views of the western beach and play areas.
30	Preferred Master Plan	Architecturally the boat rental building could either be part of the Bathhouse or could be a free-standing building with materials, colors and details similar to the other new buildings on the site.	The most up-to-date programming for the park includes a non-motorized boating concession (consisting of kayaks and stand-up paddle boards). This need is met within the programming for the proposed bathhouse; only one building is necessary.
40	Regulatory Implications	Chapter 90 of the KZC details City requirements and opportunities for	The Master Plan does not exclude the idea of improvements within the buffers. While it does not specifically list buildings, it's a "likely" list, not a full list, nor does it exclude buildings. Further, the Master

Resolution R-4570 Juanita Beach Park Master Plan Report			Proposed Project Consistency with the Master Plan
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		proposed development within these aquatic resources or their buffers. Minor improvements (likely including pedestrian trails, benches, and viewing areas) can be located within the outer 50% of the resource buffer so long as various criteria are met.	Plan identifies Chapter 90; Chapter 83 regulations, which were updated following development of the Master Plan, apply to the proposed project. The Chapter 83 regulations contain criteria that must be met to allow for a shoreline variance; this proposal has demonstrated consistency with the variance criteria. The consistency analysis was developed in coordination with the Washington Department of Ecology.

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-enjoyment¹ recreational uses and 25 feet for water-related² recreational and commercial uses. The proposed bathhouse will

¹ 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.”

² 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.”

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
WAC 173-27-140 Review criteria for all development	
(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.
WAC 173-27-170 Review criteria for variance permits	
(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. [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	Denial of the permit would thwart the policy of the SMA, which is to <i>balance</i> public access, environmental protection, and appropriate use. The proposed project will support continued and improved public access to and water-oriented use of the Lake Washington shoreline, without significant adverse effects on vegetation and wildlife. Recall that this area has been in existence as public access to Lake Washington for over 100 years already. The City's goal is to protect and improve the natural and aquatic environment while

Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
<p>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>continuing to allow public use of the park in a more safe and functional manner.</p> <p>Juanita Beach Park draws users from communities around Lake Washington, in north King County, and south Snohomish County, 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 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>2a. Strict application of the stream and wetland buffer standards would significantly interfere with long-standing public, water-oriented recreational use of Juanita Beach Park. The property has been a commercial or public recreation space since the beach was first exposed in 1917 by the lowering of the lake. The park is situated in a highly constrained site. Such constraints include existing wetlands and their associated buffers; an existing stream and its associated buffer; existing development, including parking areas; and other environmental features, including stormwater facilities and existing significant trees. As shown on Figure 2, the proposed redevelopment area is constrained in every cardinal direction. To the north are several significant trees and an existing paved parking lot; to the south are Wetlands B and C and their corresponding buffers; to the west is Juanita Creek and Wetland A with their corresponding buffers; and to the east is Wetland E and its corresponding buffer. Based upon these site constraints, without the variances currently</p>

Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
<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>requested, any effort by the City to renovate and improve the existing park would reduce the usable size of the park to less than an acre on the waterward side of the parking lot. This would reduce the public's actual and historical access to the water that has been in existence for over the past 100 years.</p> <p>KZC 83.500.9.d(1)(b) requires a reduced buffer to be restored to a condition equivalent to "undisturbed Puget lowland forests in density and species composition." This requirement 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. On the other hand, the proposed project removes an existing concrete pathway that parallels Juanita Creek/Wetland A, and will revegetate that area with native shrubs and groundcovers, increasing the buffer from 10 to 16 feet wide to between 45 and 75 feet wide.</p> <p>The City acquired the park in 2002 and the Juanita Beach Park Master Plan was approved by the City Council in 2006. Redevelopment was set to occur in phases. Phase I has been completed; during the first phase the City accomplished significant wetland enhancement and mitigation projects. This resulted in the City converting approximately 2 acres of useable open space into protected wetland and wetland buffers. The City prizes the areas that became protected and is proud of the enhancements and mitigation completed in Phase I.</p> <p>After review of Phase I impacts and mitigation 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 & Wilson, Inc., 2017). The City is proposing to implement off-site wetland mitigation in the same basin as the project, as required by code. The proposed mitigation is also in a similar landscape position as the impacted wetlands, but the property</p>

Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
	<p>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. To combat these problems, the City's current 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 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 opportunities that would be suitable for the proposed project, and that have an existing vegetated "buffer" of 125 feet.</p> <p>Further, the City's Parks Department has a specific duty to:</p> <ol style="list-style-type: none"> 1. "Acquire, develop, and renovate a system of parks, recreational facilities, and open spaces that are attractive, safe, functional, and available to all segments of the population. 2. Enhance the quality of life in the community by providing services and programs that offer positive opportunities for building healthy productive lives.

Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
	<p>3. Protect and preserve publicly owned natural resource areas.”</p> <p>Approval of this variance request would remove a barrier to implementation of Parks’ mission related to renovation of parks and facilities for safety and function. Parks’ considered a number of potential configurations for the site, and determined they are not reasonable or feasible because of their failure to meet one or more project requirements. Parks’ list of requirements is not arbitrary or reflective of Parks’ staff personal desires – it is based on Parks’ management and maintenance needs, public safety on multiple fronts, and public demand. The sudden development of low-functioning Wetland D is an “extraordinary circumstance” when considered in the context of the City’s long planning and preparation for implementation of the Juanita Beach Park Master Plan.</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 low-functioning 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>2c. As outlined in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon & 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</p>

Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
	<p>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 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>3a. Strict application of the limitations on wetland modification would significantly preclude the reasonable and long-standing public, water-oriented recreational use of Juanita Beach Park. The property has been a commercial or public recreation space for over 100 years. Low-functioning Wetlands C and D are located in areas that are optimal for families that want to enjoy the water (in addition to the fact that Wetland D is a completely new and unintentionally created wetland). Unfortunately, they are currently unsuitable for many park uses because of their soggy condition. Instead, park users avoid those two areas and are crowding onto the beach, which makes ingress and egress into the water more difficult and dangerous, and eliminates beach play areas.</p> <p>Furthermore, the current location of the bathhouse does not meet safety standards. Public safety and crime prevention are expressed through the principles of CPTED. CPTED principles contributed to the redesign of the bathhouse with a north-south profile, which both increases visual linkages to Lake Washington, and more importantly, removes a visual and structural impediment to law enforcement and first responders. Even if one assumes the deteriorating bathhouse could be rebuilt in its present location, that location is unreasonable as it effectively blocks all direct access and view of the public beach area from law enforcement and first responders. Additionally, the new design moves the lifeguard station, and their lifesaving tools, closer to the beach, increasing public safety environmentally.</p>

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	<p>The health and welfare of the general public using the swimming areas is a statewide interest, and as such, is paramount among the enumerated SMA preferences. RCW 90.58.020; WAC 173-26-181; WAC 173-26-251.</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. And, once again, although the proposed project will eliminate two small low-functioning 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 low-functioning wetlands and their buffers proposed to be modified are mowed lawn in the highest active use areas of a park. 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>WAC 173-27-180(9)(m) Review criteria for variance permits</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>Consistent with this variance application requirement, the enclosed Figure 3 - Option 2 and Figure 4 - Option 3 show a couple of development options that would not require a Shoreline Variance. However, one or more of the project objectives would not be met:</p>

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	<ul style="list-style-type: none"> • The bathhouse could not be oriented perpendicular to shore to improve visibility to first responders and patrolling officers, and reduce opportunities for illicit activity. • The bathhouse facilities (including the lifeguard station and water-dependent rental equipment) are farther from the water, reducing safety and convenience. • The pavilions are more closely associated with the parking lot, reducing opportunity to enjoy the water access and views and increasing the risk of pedestrian-vehicle collisions. • The wetlands would continue to interfere with water-oriented recreation and enjoyment. • 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.
83.100 Natural	
<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 low-functioning wetlands (mowed lawn) in the Urban Mixed environment.</p>
83.110 Urban Conservancy	
<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>As indicated by the purpose statement, the Urban Conservancy environment is intended to allow uses compatible with protection and restoration of ecological function. Two of the Urban Conservancy designation criteria say:</p> <ul style="list-style-type: none"> a. They are suitable for water-related or water-enjoyment uses; e. They have the potential for development that is compatible with ecological restoration. <p>The proposed project is consistent with these criteria. The proposed project strikes an appropriate balance by concentrating modifications in mowed lawn areas that have limited to no substantive</p>

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	<p>ecological functions. The buffer encroachment in this case is a regulatory construct – the standard buffer has no bearing on the actual functional width which is very narrow in this location. Actual buffer functions are not being adversely impacted, and the project will substantially increase buffer function through significant native plantings west of the volleyball court and west of the proposed bathhouse. The Use Matrix provides additional indicators of what the City, and Department of Ecology, considers suitable/compatible uses in Urban Conservancy – all water-oriented retail accessory to public park, concession stand, any water-dependent recreational development other than those specifically listed in this chart, other public park improvements, and public access facilities are allowed.</p>
<p>83.140 Urban Mixed</p>	
<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 functions and restoring ecological functions in areas that have been previously degraded.</p>	<p>The proposed replacement bathhouse, relocated playground, new pavilions, art installation, and other site modifications are located in the Urban Mixed shoreline environment, in an already highly altered and heavily used area of the park. The character and setting of the two wetlands and their buffers 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.</p>
<p>KZC 83.310 Commercial Uses</p>	
<p>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.</p>	<p>The easy access to water-dependent rental equipment and a small selection of snacks is a popular feature of the existing park [for documentation, see TripAdvisor reviews, for example]. These concessions support park use and are considered project requirements by City Parks. As noted in the Master Plan, “[t]he possibility of small-scale concessions in the Park has been brought up many times in past reports and in public meetings conducted by the current design team.” 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).</p>

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	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.
<p>5. Restaurant or Tavern</p> <p>a. The building design must be oriented for the view to the waterfront.</p> <p>b. Drive-in or drive-through facilities are prohibited.</p>	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.
KZC 83.220 Recreational Uses	
<p>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.</p>	<p>All of the proposed recreation facilities, including the interactive art installation and the playground, support use and enjoyment of Lake Washington, either directly or indirectly. The art installation serves dual purposes of a seating area, or view platform, and a children’s play area. 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 views, or access by the public through the active space.</p>
<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</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

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<p>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>use for 100 years, following the lowering of Lake Washington in 1917, which exposed a rare sand beach. Prior to 1917, the area of the park not inundated by the lake was a sawmill.</p> <p>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>
KZC 83.240 Utilities	
<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>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,</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>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 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. b. Clearing of vegetation within utility corridors shall be the minimum necessary for installation, infrastructure maintenance and public safety. 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. d. Construction located near wetlands and streams shall use native soil plugs, collars or other techniques to prevent potential dewatering impacts. 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. 2b. All vegetation disturbance related to utility work will be limited to lawn and is the minimum necessary to improve the site per plan. 2c. No pipelines will be constructed under aquatic areas. 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. 2c. See analysis of KZC 83.480 compliance below.</p>
<p>4. Utility Transmission Facilities 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. 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. 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. 4b. No pipelines are proposed. 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>
<p>83.330 Land Surface Modification</p>	
<p>1. General – The following standards must be met for any approved land surface modification: a. Land surface modification within required shoreline setback shall only be permitted as authorized by a valid shoreline permit, building permit or land surface modification permit under the provisions established in KMC Title 29. b. The land surface modification shall be consistent with the provisions of this chapter, including, but not limited to, the regulations regarding streams, wetlands and their</p>	<p>1a. Noted. 1b. The proposed project is consistent with the SMP except for dimensional elements of stream and wetland buffers for which the Shoreline Variance is being sought. 1c. The proposed project is consistent with Public Works' requirements. 1d. The proposed project will comply with this requirement.</p>

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<p>buffers, geologically hazardous areas, shoreline vegetation, and trees.</p> <p>c. The land surface modification is consistent with the provisions of the most current edition of the Public Works Department's Pre-Approved Plans and Policies.</p> <p>d. All excess material resulting from land surface modification shall be disposed of in a manner that prevents the material entering into a waterbody through erosion or runoff. Where large quantities of plants are removed by vegetation control activities authorized under this section, plant debris shall be collected and disposed of in an appropriate location located outside of the shoreline setback.</p> <p>e. Areas disturbed by permitted land surface modification in the shoreline setback shall be stabilized with approved vegetation.</p> <p>f. All materials used as fill shall be nondissolving and nondecomposing. Fill material shall not contain organic or inorganic material that would be detrimental to water quality or existing habitat, or create any other significant adverse impacts to the environment.</p> <p>g. The land surface modification must be the minimum necessary to accomplish the underlying reason for the land surface modification.</p> <p>h. Except as is necessary during construction, dirt, rocks and similar materials shall not be stockpiled on the subject property. If stockpiling is necessary during construction, it must be located as far as feasible from the lake and strictly contained to prevent erosion and runoff.</p>	<p>1e. The proposed project will comply with this requirement as shown in the ESC/Demolition Plan (Sheet C1.0) and landscaping plans (Sheets L4.0 and L4.1).</p> <p>1f. All fill materials will meet standard specifications, be clean, and be stored and applied per plans to avoid adverse impacts.</p> <p>1g. The amount of direct project-related land disturbance has been minimized, and is limited to that necessary to demolish and build specified structures and restore wetland lawn areas to more usable ground. However, compliance with City stormwater regulations requires substantial additional land surface modification to incorporate soil amendments.</p> <p>1h. To the extent feasible, stockpiles will be located outside of shoreline jurisdiction and otherwise as far as feasible from the lake and stream. The erosion control plans and stormwater pollution prevention plans will be strictly followed.</p>
<p>2. Permitted Activities</p> <p>a. Land surface modification is prohibited within the shoreline setback, except for the following:</p> <p>...</p> <p>2) Associated with the installation of improvements located within the shoreline setback or waterward of the OHWM, as permitted under KZC 83.190(2).</p> <p>...</p> <p>b. Land surface modification outside of the shoreline setback is regulated as land surface modifications throughout the City. See KMC Title 29 for those regulations.</p>	<p>There are several modifications proposed in the shoreline setback in Juanita Beach Park:</p> <ul style="list-style-type: none"> • As outlined in KZC 83.190(2)d.5, the proposed disturbance in the shoreline setback related to connecting the new bathhouse to the existing sewer line below the concrete promenade is allowed. • As outlined in KZC 83.190(2)d.6, the proposed stormwater features that extend into the setback for final discharge into Lake Washington are allowed. • The remaining disturbance in the shoreline setbacks is temporary existing lawn disturbance; the lawn areas will be restored at the end of construction to either lawn or native vegetation.

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83.360 No Net Loss Standard and Mitigation Sequencing	
<p>1. General</p> <p>a. If specific standards, such as setbacks, pier dimensions and tree planting requirements, are provided in this chapter, then the City shall not require additional mitigation sequencing analysis under these provisions.</p> <p>b. In the following circumstances, the applicant shall provide an analysis of measures taken to mitigate environmental impacts:</p> <ol style="list-style-type: none"> 1) Where specific regulations for a proposed use or activity are not provided in this chapter; 2) Where either a conditional use or variance application is proposed; 3) Where the standards contained in this chapter require an analysis of the feasibility of or need for an action or require analysis to determine whether the design has been minimized in size; and 4) Where the standards provide for alternative compliance or mitigation measures. <p>c. Under Chapter 173-26 WAC, uses and shoreline modifications along Kirkland's shoreline shall be designed, located, sized, constructed and/or maintained to achieve no net loss of shoreline ecological functions.</p> <p>d. Maintenance activities shall be conducted in a manner that minimizes impacts to fish, wildlife, and their associated habitat and utilizes best management practices, unless specific standards in this chapter are already provided for maintenance activities.</p> <p>e. Where evaluating the feasibility of a proposed action, the City shall consider whether the cost of avoiding disturbance is substantially disproportionate as compared to the environmental impact of the proposed disturbance, including any continued impacts on functions and values over time.</p> <p>f. Where mitigation is required, the City shall consider alternative mitigation measures that are proposed by the applicant that may be less costly than those prescribed in this chapter; provided, that the alternatives are as effective in meeting the requirements of no net loss.</p> <p>g. Off-site mitigation located within the City's shoreline jurisdiction may be considered if all or part of the required mitigation cannot be provided on-site due to the location of existing improvements or other site constraints.</p> <p>h. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan</p>	<p>1a. Not applicable.</p> <p>1b. See Section 7.1 in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon & Wilson, Inc., 2017).</p> <p>1c. The proposed project will result in a net increase in shoreline ecological functions. All proposed impacts are upland of an existing concrete shoreline promenade and/or paved trails in areas that experience high public use (picnicking, sunbathing, birthday parties, play, etc.) and are either mowed lawn or other developed area. The impacted wetland and stream buffers are lawn, and will be compensated onsite by upgrading existing stream/wetland buffer that is currently lawn or bare ground to a native shrub or forested condition. The mitigation for wetland impact (0.19 acre of lawn in Category III and IV wetland) is located offsite, and will enhance a Category II wetland in Juanita Bay Park, consistent with the City's <i>Shoreline Restoration Plan and 20-Year Forest Restoration Plan</i>.</p> <p>1d. Park maintenance activities will be conducted using best practices for work adjacent to sensitive areas.</p> <p>1e. The "cost" of avoiding disturbance of shoreline wetlands and buffers at this park site relates to social/use values, not money. Avoiding impacts would result in a park layout and condition that has ongoing conflicts between park users and wetlands in the available open spaces. These low-quality wetlands and their buffers are lawn that provide little to no shoreline ecological benefits.</p> <p>1f. Noted.</p> <p>1g. The proposal includes off-site mitigation for proposed wetland impacts as there is no space available on site that is not otherwise dedicated to park uses or is not already a natural area.</p> <p>1h. Noted.</p>

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<p>of any completed improvements authorized or required under this subsection. A document must be recorded containing all required conditions of the mitigation, including maintenance and monitoring through the life of the development, unless otherwise approved by the City, in a form acceptable to the City Attorney and recorded with the King County Bureau of Elections and Records. If the mitigation is located off-site, then the property owner of the mitigation site shall sign the agreement, which shall run with the property, and provide land survey information of the mitigation location in a format approved by the Planning Official.</p>	
<p>2. Mitigation Analysis – In order to assure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to subsection (1) of this section shall utilize the following mitigation sequencing guidelines that appear in order of preference, during the design, construction and operation of the proposal:</p> <ul style="list-style-type: none"> a. Avoiding the impact altogether by not taking a certain action or parts of an action; b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts; c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; d. Reducing or eliminating the impact over time by preservation and maintenance operations; e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and f. Monitoring the impact and the compensation projects and taking appropriate corrective measures. <p>Failure to demonstrate that the mitigation sequencing standards have been met may result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard and mitigation sequencing.</p>	<p>See Section 7.1 in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon & Wilson, Inc., 2017).</p>
<p>83.390 Site and Building Design Standards</p>	
<p>1. Water-enjoyment and non-water-oriented commercial and recreational uses shall contain the following design features to provide for the ability to enjoy the physical and aesthetic qualities of the shoreline:</p>	<p>1a. The building is largely utilitarian, with storage facilities and restrooms that limit the number and transparency of windows for privacy, safety, and/or security. The lifeguard station at the south end of</p>

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<p>a. Buildings are designed with windows that orient toward the shoreline.</p> <p>b. Buildings are designed to incorporate outdoor areas such as decks, patios, or viewing platforms that orient toward the shoreline.</p> <p>c. Buildings are designed with entrances along the waterfront facade and with connections between the building and required public pedestrian walkways.</p> <p>d. Service areas are located away from the shoreline.</p> <p>e. Site planning includes public use areas along waterfront public pedestrian walkways, if required under the provisions established in KZC 83.420, that will encourage pedestrian activity, including but not limited to:</p> <ol style="list-style-type: none"> 1) Permanent seating areas; 2) Vegetation, including trees to provide shade cover; and 3) Trash receptacles. 	<p>the bathhouse has windows at the southeast corner that provide a shoreline view.</p> <p>1b. The entire project is intended to support and facilitate outdoor recreation and enjoyment of the Lake Washington shoreline for the betterment of the local and surrounding communities. As appropriate and feasible in the replacement bathhouse, shoreline views are provided. However, one objective of the bathhouse orientation (perpendicular to shoreline) is to minimize the building's interference with shoreline views from upland areas. Similarly, the art installation can serve as a viewing platform, but is also sited and scaled to avoid interference with views of the water.</p> <p>During the public process for the Master Plan and during ongoing engagement of adjacent landowners during Phase II planning, comments regarding view maintenance from upland residential areas were provided to the City. One of the comments provided in early public meetings stated: "View issues need to be considered. The view of the lake is important and should be maintained, particularly the view from Juanita Drive and the ballfields." Patano Studio Architecture prepared Figure 5 showing the view impacts of the existing and proposed bathhouses during the early design phases. Michael Cogle, former City Parks Deputy Director, used this exhibit during discussions with upland condominium owners. The design team has taken care to place and orient structures to minimize view obstructions for all park users, taking advantage of existing conifers to "hide" the new bathhouse building. (The view study was conducted early in design and shows the previous large pavilion scheme which has since been abandoned in favor of two smaller, less view-obstructive pavilions to reduce impacts on views through the park.)</p> <p>1c. The pavilions are open designs with wide entrances on the waterfront facade. Both the bathhouse and pavilions will be connected to existing or modified circulation routes that provide easy access to all park facilities and uses.</p> <p>1d. The utility and storage spaces are concentrated at the north end of the bathhouse, farthest from the lake.</p>

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	<p>1e. The completed Phase I of this project provided a promenade that parallels the entire shoreline and includes seating, adjacent vegetation, and trash receptacles. This phase of the project carefully maintains access to the promenade and improves pedestrian site circulation. Permanent seating is incorporated into the edge of the relocated play area adjacent to the bathhouse, and is also provided by the art installation on the north side of the playground.</p>
<p>3. Buildings shall not incorporate materials that are reflective or mirrored.</p>	<p>The proposed buildings, play structure, and art installation do not use reflective or mirrored materials. The metal roofs of the bathhouse and pavilions are non-reflective. The art installation and the exteriors of the bathhouse and pavilions are wood.</p>
<p>KZC 83.400 Tree Management and Vegetation in Shoreline Setback</p>	
<p>KZC 83.400.1 includes specific requirements for retention of significant trees in the shoreline setback, and required compensation when trees are removed.</p>	<p>The proposed project does not include any tree removal in the shoreline setback. The entire project will only remove two small trees near the upland edge of shoreline jurisdiction, on the upland side of the existing bathhouse. Care has been taken to retain the large weeping willow at the north end of Wetland D.</p>
<p>KZC 83.400.3 provides requirements for re-vegetating the shoreline setback. Per 3.b.1)a): Water-Dependent Uses or Activities – The applicant shall plant native vegetation, as necessary, in at least 75 percent of the property’s shoreline frontage for the nearshore riparian area located along or near the water’s edge, except for the following areas, where the vegetation standards shall not apply; those portions of water-dependent development that require improvements adjacent to the water’s edge, such as fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches, swimming beaches or other similar activities shall plant native vegetation on portions of the nearshore riparian area located along the water’s edge that are not otherwise being used for the water-dependent activity.</p> <p>Per 3.f.: Alternative Compliance – Vegetation required by this subsection shall be installed unless the applicant demonstrates one (1) of the following:</p> <p>1) The vegetation will not provide shoreline ecological function due to existing conditions, such as the presence of</p>	<p>Most of Juanita Beach Park’s Lake Washington shoreline frontage and setback is an active swimming beach area, with pockets of native vegetation in wetlands and buffers that were installed as part of the Juanita Beach Park Phase I Improvements project. A concrete promenade also parallels the shoreline; any vegetation planted upland of the promenade would provide little benefit to the Lake Washington ecosystem, and would further be a barrier to public access and views. The vegetation might also compromise safety if it screens young or inexperienced swimmers from lifeguards, parents, or others.</p> <p>West of the formal swim beach, the shoreline is already vegetated with a mix of native trees, shrubs, and groundcovers in wetlands and riparian buffers.</p> <p>The proposed project will also compensate for permanent loss of existing wetland and stream buffer area (currently mowed lawn) by installing native vegetation in stream and wetland buffers. These permanent losses are all upland of the</p>

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<p>extensive shoreline stabilization measures that extend landward from the OHWM; or</p> <p>3) The vegetation will substantially interfere with the use and enjoyment of the portion of the property located between the primary structure and OHWM, such as the existing structure is located in very close proximity to the OHWM; the area in between the primary structure and the OHWM is encumbered by a sanitary sewer, public pedestrian access easement, public access walkway or other constraining factors; or</p> <p>4) The required vegetation placement will obstruct existing views to the lake, at the time of planting or upon future growth, which cannot otherwise be mitigated through placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the vegetation placement will obstruct existing views to the lake.</p>	<p>shoreline setback, and are conversions of existing vegetated condition to impervious surface or some other development. Disturbance of wetland and stream buffers (currently lawn), both in and upland of the setback, is considered temporary when the area will be returned to lawn or some other improved vegetated condition. Any conversion of lawn waterward or east of the bathhouse to a vegetated condition other than lawn would either obstruct views or physical access.</p>
<p>KZC 83.480 Water Quality, Stormwater, and Nonpoint Pollution</p>	
<p>1. General – Shoreline development and use shall incorporate all known, available, and reasonable methods of prevention, control, and treatment to protect and maintain surface and/or ground water quantity and quality in accordance with Chapter 15.52 KMC and other applicable laws.</p>	<p>The project’s construction-related and operational stormwater management strategies are consistent with City code. No pollution-generating impervious surfaces are being added to the project. Runoff from impervious areas around the bathhouse will be routed into a vegetated swale.</p>
<p>KZC 83.500.5 Wetland Buffer Fence or Barrier</p>	
<p>5. Wetland Buffer Fence or Barrier – Prior to beginning development activities, the applicant shall install a 6-foot-high construction-phase chain link fence or equivalent fence with silt screen fabric, as approved by the Planning Official and consistent with City standards, along the upland boundary of the entire wetland buffer. The construction-phase fence shall remain upright in the approved location for the duration of development activities.</p> <p>Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either (a) a permanent 3- to 4-foot-tall split rail fence; or (b) equivalent barrier, as approved by the Planning Official. Installation of the permanent fence or equivalent barrier must be done by hand where necessary to prevent machinery from entering the wetland or its buffer.</p>	<p>Split-rail fencing is proposed around the enhanced stream and wetland buffer areas, not at the edges of all regulatory buffers which would bisect walkways, active open space, and the swim beach. The location and orientation of the proposed bathhouse, the removal of an existing trail paralleling Juanita Creek/Wetland A, and the expanded vegetated buffer area together will further limit access into the buffer fringing Juanita Creek/Wetland A. Activity in that area will be reduced by the proposed project with the installation of the vegetated buffer 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>

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KZC 83.500.7 Modification of Wetlands	
<p>a. No land surface modification shall occur and no improvement shall be located in a wetland, except as provided in this subsection. Furthermore, all modifications of a wetland shall be consistent with <i>Kirkland's Streams, Wetlands and Wildlife Study</i> (The Watershed Company, 1998) and the <i>Kirkland Sensitive Areas Regulatory Recommendations Report</i> (Adolfson Associates, Inc., 1998).</p>	<p>The proposed wetland fill requires a Shoreline Variance. The <i>Kirkland's Streams, Wetlands and Wildlife Study</i> states a "primary goal for wetlands in the Juanita Creek Basin is to protect and preserve the high quality wetland areas from further impacts." The report does not identify any wetlands in the project area.</p>
<p>b. Submittal Requirements – The applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's consultant.</p>	<p>The <i>Wetland/Stream Delineation Report and Mitigation Plan</i> contains all of the required information (Shannon & Wilson, Inc., 2017).</p>
<p>c. Decisional Criteria – The City may only approve an improvement or land surface modification in a wetland if:</p> <ol style="list-style-type: none"> 1) The project demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2); 2) It will not adversely affect water quality; 3) It will not adversely affect fish, wildlife, or their habitat; 4) It will not have an adverse effect on drainage and/or storm water detention capabilities; 5) It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions; 6) It will not be materially detrimental to any other property or the City as a whole; 7) Compensatory mitigation is provided in accordance with the table in subsection (8) of this section; 8) Fill material does not contain organic or inorganic material that would be detrimental to water quality or fish and wildlife habitat; 9) All exposed areas are stabilized with vegetation normally associated with native wetlands and/or buffers, as appropriate; and 10) There is no feasible alternative development proposal that results in less impact to the wetland and its buffer. 	<p>The proposed wetland modification is consistent with the decision criteria as outlined below:</p> <ol style="list-style-type: none"> c1) As outlined in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon & 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, which is an important factor for this park project. c2) The proposed project does not add any pollution-generating impervious surfaces. The project's construction-related and operational stormwater management strategies are consistent with City code. Water quality will not be adversely affected. c3) The project will enhance the higher-functioning natural areas on the site with improvements to buffers that are currently sand or lawn. Wetlands C and D and their buffers do not provide significant ecological benefits to fish or wildlife. c4) The project has been designed consistent with the City's stormwater code such that there will be no adverse effects on drainage, groundwater recharge, or shoreline protection. c5) The project includes use of best management practices (BMPs), including appropriate stabilization measures, to minimize erosion. The proposed wetland modification will not contribute to scour. c6) The project will benefit the City and the region by improving the park user experience on the site and by providing a functional lift in Juanita Creek,

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	<p>Wetland A and Wetland B buffers, and will not harm other properties.</p> <p>c7) After review of Phase I impacts and mitigation elements and further discussion with Ecology, it was agreed that the proposed wetland fill requires a minimum of 0.11 acre (4,866 square feet) of wetland enhancement when using the standard mitigation ratio of 6:1 for Category III wetland impacts. The project will implement the required wetland enhancement in Juanita Bay Park. 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 & Wilson, Inc., 2017).</p> <p>c8) All fill materials will meet standard specifications, be clean, and be stored and applied per plans to avoid adverse impacts.</p> <p>c9) Exposed areas will be stabilized consistent with the temporary erosion and sediment control plan. As shown on the plans, the existing lawn wetlands (C and D) are proposed to be converted to upland lawn. No other wetland areas are proposed to be modified.</p> <p>c10) Alternative development proposals that result in less impact to the wetlands are not considered feasible, because they would prevent achievement of one of the project's primary purposes, which is to make the available open space more functional for users.</p>
KZC 83.500.9 Wetland Buffer Modification	
<p>a. Departures from the standard buffer requirements shall be approved only after the applicant has demonstrated consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2).</p>	<p>As outlined in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon & 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, which is an important factor for this park project.</p>
<p>b. Approved departures from the standard buffer requirements of subsection (4) of this section allow applicants to modify the physical and biological conditions of portions of the standard buffer for the duration of the approved project. These approved departures from the standard buffer requirements do not permanently establish a new regulatory buffer edge. Future development</p>	<p>The need for the departures approved as part of Phase I, mostly related to maintenance of lawn in buffers, is not changing with Phase II, and if anything, the need is increasing. Conversion of lawn in buffers to another vegetation type, beyond what is proposed in this project, would significantly hamper the park's ability to provide public access</p>

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<p>activities on the subject property may be required to re-establish the physical and biological conditions of the standard buffer.</p>	<p>and recreation space to an increasing number of users.</p>
<p>c. Modification of Wetland Buffers When Wetland Is Also to Be Modified – Wetland buffer impact is assumed to occur when wetland fill or modification is proposed. Any proposal for wetland fill/modification shall include provisions for establishing a new wetland buffer to be located around the compensatory mitigation sites and to be equal in width to its standard buffer specified in subsection (4)(a) of this section or a buffer reduced in accordance with this section by no more than 25 percent of the standard buffer width in all cases, regardless of wetland category or basin type.</p>	<p>Implementing off-site wetland mitigation in the same basin as the project, as required by code, limits the number of available opportunities for wetland enhancement. In this highly urbanized basin, no opportunities to enhance wetland of the minimum size required and having 125 feet (requirement for enhancement of Category II wetlands) of vegetation surrounding it could be located. 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 entire enhancement area 125 feet from existing development. Further, for those potential mitigation areas that have sufficient width of buffer vegetation, an unintended and adverse consequence of this requirement 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>d. Modification of Wetland Buffers When Wetland Is Not to Be Modified – No land surface modification may occur and no improvement may be located in a wetland buffer, except as provided for in this subsection.</p> <p>1) Types of Buffer Modifications – Buffers may be reduced through one (1) of two (2) means, either (a) buffer averaging, or (b) buffer reduction with enhancement. A combination of these two (2) buffer reduction approaches shall not be used:</p> <p>a) Buffer averaging requires that the area of the buffer resulting from the buffer averaging is equal in size and quality to the buffer area calculated by the standards specified in subsection (4) of this section. Buffers may not be reduced at any point by more than 25 percent of</p>	<p>The proposed project is pursuing a Shoreline Variance from this code section to allow reduction of Wetland A's buffer by more than 25%. Further, a buffer reduction proposal consistent with the code would require that the buffer be "... planted ... to yield over time a reduced buffer that is equivalent to undisturbed Puget Lowland forests in density and species composition." Neither buffer averaging nor buffer reduction to less than 25% of the standard buffer are feasible without substantial compromise of the project's objectives to provide the best balance of usable open space by park users for picnicking, play, sunbathing, and other recreation; retain the existing weeping willow tree at the north</p>

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<p>the standards specified in subsection (4) of this section, unless approved through a shoreline variance. Buffer averaging calculations shall only consider the subject property.</p> <p>b) Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features, such as downed logs or snags, or other means), the reduced buffer will function at a higher level than the existing standard buffer.</p> <p>The reduced on-site buffer area must be planted and maintained as needed to yield over time a reduced buffer that is equivalent to undisturbed Puget lowland forests in density and species composition. At a minimum, a buffer enhancement plan shall provide the following: (1) a map locating the specific area of enhancement; (2) a planting plan that uses native species, including groundcover, shrubs, and trees; and (3) a monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in subsection (10) of this section.</p> <p>Buffers may not be reduced at any point by more than 25 percent of the standards in subsection (4)(a) of this section. 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.</p> <p>2) Decisional Criteria – An improvement or land surface modification may be approved in a wetland buffer only if:</p> <p>a) The development activity or buffer modification demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2);</p> <p>b) It is consistent with <i>Kirkland’s Streams, Wetlands and Wildlife Study</i> (The Watershed Company, 1998) and the <i>Kirkland Sensitive Areas Regulatory Recommendations Report</i> (Adolfson Associates, Inc., 1998);</p> <p>c) It will not adversely affect water quality;</p> <p>d) It will not adversely affect fish, wildlife, or their habitat;</p> <p>e) It will not have an adverse effect on drainage and/or storm water detention capabilities, ground water recharge or shoreline protection;</p>	<p>edge of Wetland D; and provide the view corridors necessary to accommodate off-site property owners and public safety, among others. Providing a forested buffer where lawn is currently would dramatically shrink the available recreation space at the park.</p> <p>The code under d.1) makes an assumption that buffer reductions greater than 25% will have direct wetland impacts that require compensation. 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. The impacted buffer area is lawn and an active playground space, and is separated from the stream and Wetlands A and B by an asphalt path or the concrete promenade. The proposed placement of the relocated bathhouse and playground will provide separation between the playground and Wetland A (which will reduce some of the noise impacts to Wetland A from the playground). Further, 12,822 square feet of what is now lawn will be enhanced between the relocated bathhouse and Wetland A with native shrubs and herbaceous plants. The proposed alteration of Wetland A’s buffer in this area is beneficial, not an adverse impact.</p> <p>Under d.2), the proposed buffer modification is consistent with the decision criteria as outlined below:</p> <p>2a) As outlined in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon & 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, which is an important factor for this park project.</p> <p>2b) The 1998 <i>Kirkland’s Streams, Wetlands and Wildlife Study</i> states a “primary goal for wetlands in the Juanita Creek Basin is to protect and preserve the high quality wetland areas from further impacts.” The report does not identify any wetlands in the project area, much less “high quality” wetlands. As recommended in the report, the project is enhancing stream and wetland buffers.</p> <p>2c) The proposed project does not add any pollution-generating impervious surfaces. The</p>

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<p>f) It will not lead to unstable earth conditions or create an erosion hazard;</p> <p>g) It will not be materially detrimental to any other property or the City as a whole;</p> <p>h) Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;</p> <p>i) All exposed areas are stabilized with vegetation normally associated with native wetland buffers, as appropriate; and</p> <p>j) There is no feasible alternative development proposal that results in less impact to the buffer.</p> <p>As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's consultant. The report shall assess the water quality, habitat, drainage or storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the 10 criteria listed in subsection (9)(d)(2) of this section.</p>	<p>project's construction-related and operational stormwater management strategies are consistent with City code. Water quality will not be adversely affected.</p> <p>2d) The project will enhance the higher-functioning natural areas on the site with improvements to buffers that are currently sand or lawn. Wetlands C and D and their buffers do not provide significant ecological benefits to fish or wildlife.</p> <p>2e) The project has been designed consistent with the City's stormwater code such that there will be no adverse effects on drainage, groundwater recharge, or shoreline protection.</p> <p>2f) The project includes use of BMPs, including appropriate stabilization measures, to minimize erosion.</p> <p>2g) The project will benefit the City and the region, and will not harm other properties.</p> <p>2h) All fill materials will meet standard specifications, be clean, and be stored and applied per plans to avoid adverse impacts.</p> <p>2i) Exposed areas will be stabilized consistent with the temporary erosion and sediment control plan. As appropriate, existing lawn areas within buffers that are temporarily impacted by the project will be restored to lawn. As shown on the plans, some temporarily impacted buffer areas will be revegetated with native shrubs and emergent as part of the bathhouse stormwater management system.</p> <p>2j) Alternative development proposals that result in less impact to the buffer are not considered feasible, because they would interfere with the project's primary purpose.</p>
KZC 83.500.12 Shoreline Variance for Wetland Modification or Wetland Buffer Modification	
<p>a. Submittal Requirements – As part of the shoreline variance request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's qualified professional. The report shall include the following:</p> <p>...</p>	<p>The <i>Wetland/Stream Delineation Report and Mitigation Plan</i> contains all of the required information (Shannon & Wilson, Inc., 2017).</p>
<p>b. Decisional Criteria – The City may grant approval of a shoreline variance only if all of the following criteria are met:</p>	<p>b1) The definition of feasible in KZC 83.80.42 includes recognition of the project's intended use and intended purpose. The Parks Department and Parks Board have carefully considered and weighed</p>

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<p>1) No other permitted type of land use for the property with less impact on the sensitive area and associated buffer is feasible;</p> <p>2) The proposal has the minimum area of disturbance;</p> <p>3) The proposal maximizes the amount of existing tree canopy that is retained;</p> <p>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;</p> <p>5) The proposed development does not pose an unacceptable threat to the public health, safety, or welfare on or off the property;</p> <p>6) The proposal meets the mitigation, maintenance, and monitoring requirements of this chapter;</p> <p>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.</p>	<p>the project's intended use and purpose in the siting and design of all project components. Eliminating the low-functioning wetlands is essential to the project's purpose of retaining and expanding usable and functional public recreation space outside of the park's natural areas.</p> <p>b2) The amount of land disturbance has been minimized, and is limited to that necessary to demolish and build specified structures and restore wetland lawn areas to more usable ground.</p> <p>b3) The proposed bathhouse building was shifted a little farther west in order to avoid and preserve an existing willow tree at the south edge of the existing playground at the edge of Wetland D and the upland edge of Wetland A's buffer. Only two small trees will be removed as a result of the project just inside shoreline jurisdiction; the trees are not located in buffers.</p> <p>b4) The proposal will not result in a net loss of sensitive area functions and values. As stated previously, the existing wetland/stream buffers proposed to be modified are currently mowed lawn or some other improvement that is used heavily by the public year-round. The impacted areas are also separated from native shrub/wooded wetlands and wetland/stream buffers by asphalt walkways and concrete promenade.</p> <p>b5) Public health, safety, and welfare will not be degraded by the proposed project, and may be improved with the new location of a formal lifeguard station at the south end of the new bathhouse and a bathhouse orientation that facilitates effective police officer patrols.</p> <p>b6) The project's mitigation, maintenance, and monitoring requirements are consistent with the City's code, except for the element included in the Shoreline Variance request, and will result in a net improvement in ecological functions.</p> <p>b7) As outlined in this letter, the proposed variance meets the Shoreline Variance criteria and is consistent with the SMP and Comprehensive Plan. As such, approval of this variance would not be a grant of special privilege. Other properties that can demonstrate consistency and that the criteria are met would similarly be granted a variance.</p>

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KZC 83.510.5 Stream Buffer Fence or Barrier	
<p>Prior to beginning development activities, the applicant shall install a 6-foot-high construction-phase chain link fence or equivalent fence, as approved by the Planning Official and consistent with City standards, along the upland boundary of the entire stream buffer with silt screen fabric. The construction-phase fence shall remain upright in the approved location for the duration of development activities.</p> <p>Upon project completion, the applicant shall install between the upland boundary of all stream buffers and the developed portion of the site, either (a) a permanent 3- to 4-foot-tall split rail fence; or (b) equivalent barrier, as approved by the Planning Official. Installation of the permanent fence or equivalent barrier must be done by hand where necessary to prevent machinery from entering the stream or its buffer.</p>	<p>Short-term placement of construction fencing will be a requirement of the Contractor. The applicant is not proposing to install fencing at the upland edge of the regulatory buffer, as it extends into lawn and planned active use areas. However, the enhanced Wetland A/Juanita Creek buffer west of the volleyball courts and portions of the enhanced buffer on the west side of the proposed bathhouse will have a split-rail fence. A similar proposal was approved by the City as part of Phase I.</p>
KZC 83.510.7 Stream Buffer Modification	
<p>a. Departures from the standard buffer requirements shall be approved only after the applicant has demonstrated consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2).</p>	<p>As outlined in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon & 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, which is an important factor for this park project.</p>
<p>b. Approved departures from the standard buffer requirements of subsection (4)(a) of this section allow applicants to modify the physical and biological conditions of portions of the standard buffer for the duration of the approved project. These approved departures from the standard buffer requirements do not permanently establish a new regulatory buffer edge. Future development activity on the subject property may be required to re-establish the physical and biological conditions of the standard buffer.</p>	<p>The need for the departures approved as part of Phase I, mostly related to maintenance of lawn in buffers, is not changing with Phase II, and, if anything, the need is increasing. Conversion of lawn in buffers to another vegetation type, beyond what is proposed in this project, would significantly hamper the park's ability to provide public access and recreation space to an increasing number of users.</p>
<p>c. Types of Buffer Modification – Buffers may be reduced through one (1) of two (2) means, either (1) buffer averaging; or (2) buffer reduction with enhancement. A combination of these two (2) buffer reduction approaches shall not be used.</p> <p>1) Buffer averaging requires that the area of the buffer resulting from the buffer averaging be equal in size and quality to the buffer area calculated by the standards specified in subsection (4)(a) of this section. Buffers may not be reduced at any point by more than one-third (1/3) of</p>	<p>Buffer averaging is not feasible without substantial compromise of the project's objectives to provide the best balance of usable open space by park users for picnicking, play, sunbathing, and other recreation; retain the existing weeping willow tree at the north edge of Wetland D; and provide the view corridors necessary to accommodate off-site property owners and public safety, among others.</p> <p>Buffer reduction with enhancement is proposed, but a Shoreline Variance may be needed if the code is</p>

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<p>the standards in subsection (4)(a) of this section, or not by more than one-fourth (1/4) in the shoreline areas of the RSA and RMA zones and O. O. Denny Park. Buffer averaging calculations shall only consider the subject property.</p> <p>2) Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) the reduced buffer will function at a higher level than the standard existing buffer. The reduced on-site buffer area must be planted and maintained as needed to yield over time a reduced buffer that is equivalent to an undisturbed Puget lowland forest in density and species composition.</p> <p>A buffer enhancement plan shall at a minimum provide the following: (a) a map locating the specific area of enhancement; (b) a planting plan that uses native species, including groundcover, shrubs, and trees; and (c) a monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in KZC 83.500(11).</p> <p>Buffers may not be reduced at any point by more than one-third (1/3) of the standards in subsection (4)(a) of this section, or not by more than one-fourth (1/4) for the shoreline areas in the RSA and RMA zones and O. O. Denny Park.</p>	<p>interpreted to require all of the reduced buffer to be "... planted ... to yield over time a reduced buffer that is equivalent to undisturbed Puget Lowland forests in density and species composition."</p> <p>Providing a forested buffer where lawn is currently would dramatically shrink the available recreation space at the park, and interfere with existing shoreline views.</p>
<p>d. Decisional Criteria – An improvement or land surface modification may be approved in a stream buffer only if:</p> <ol style="list-style-type: none"> 1) The project demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2); 2) It is consistent with <i>Kirkland's Streams, Wetlands and Wildlife Study</i> (The Watershed Company, 1998) and the <i>Kirkland Sensitive Areas Regulatory Recommendations Report</i> (Adolfson Associates, Inc., 1998) or the <i>Shoreline Restoration Plan</i> (The Watershed Company, 2010); 3) It will not adversely affect water quality; 4) It will not adversely affect fish, wildlife, or their habitat; 5) It will not have an adverse effect on drainage and/or storm water detention capabilities; 6) It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions; 	<p>The proposed buffer modification is consistent with the decision criteria as outlined below:</p> <ol style="list-style-type: none"> d1) As outlined in the <i>Wetland/Stream Delineation Report and Mitigation Plan</i> (Shannon & 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, which is an important factor for this park project. d2) As recommended in the <i>Kirkland's Streams, Wetlands and Wildlife Study</i> report, the project is enhancing stream and wetland buffers. d3) The proposed project does not add any pollution-generating impervious surfaces. The project's construction-related and operational stormwater management strategies are consistent with City code, and will ultimately discharge water

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<p>7) It will not be materially detrimental to any other property or the City as a whole;</p> <p>8) Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;</p> <p>9) All exposed areas are stabilized with vegetation normally associated with native stream buffers, as appropriate; and</p> <p>10) There is no practicable or feasible alternative development proposal that results in less impact to the buffer.</p> <p>As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's consultant. The report shall assess the habitat, water quality, storm water detention, ground water recharge, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the 10 criteria listed in subsections (7)(d)(1) through (10) of this section.</p>	<p>into Lake Washington, not Juanita Creek. Water quality will not be adversely affected.</p> <p>d4) The project will enhance the higher-functioning natural areas on the site with improvements to buffers that are currently sand or lawn.</p> <p>d5) The project has been designed consistent with the City's stormwater code such that there will be no adverse effects on drainage.</p> <p>d6) The project includes use of BMPs, including appropriate stabilization measures, to minimize erosion. The proposed buffer modification will have no influence on scour.</p> <p>d7) The project will benefit the City and the region, and will not harm other properties.</p> <p>d8) All fill materials will meet standard specifications, be clean, and be stored and applied per plans to avoid adverse impacts.</p> <p>d9) Exposed areas will be stabilized consistent with the temporary erosion and sediment control plan. As appropriate, existing lawn areas within buffers that are temporarily impacted by the project (e.g., are not proposed to be converted to impervious surface or some other improvement) will be restored to lawn. As shown on the plans, some temporarily impacted buffer areas will be revegetated with native shrubs and herbaceous plants as part of the bathhouse stormwater management system.</p> <p>d10) Alternative development proposals that result in less impact to the buffer are not considered feasible, because they would interfere with the project's primary purpose.</p>
<p>KZC 83.510.8 Shoreline Variance for Stream Relocation or Modification or Stream Buffer Modification</p>	
<p>a. Submittal Requirements – As part of the shoreline variance request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's qualified professional. The report shall include the following:</p> <p>...</p>	<p>A wetland/stream delineation report and mitigation plan containing all of the required information has been prepared for the proposed project (Shannon & Wilson, Inc., 2017).</p>
<p>b. Decisional Criteria – The City may grant approval of a shoreline variance only if all of the following criteria are met:</p>	<p>b1) The property has been in recreational use for 100 years, and its continued use for public access and recreation is supported by the Comprehensive Plan and the SMP.</p>

Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
<p>1) No other permitted type of land use for the property with less impact on the sensitive area and associated buffer is feasible;</p> <p>2) The proposal has the minimum area of disturbance;</p> <p>3) The proposal maximizes the amount of existing tree canopy that is retained;</p> <p>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;</p> <p>5) The proposed development does not pose an unacceptable threat to the public health, safety, or welfare on or off the property;</p> <p>6) The proposal meets the mitigation, maintenance, and monitoring requirements of this chapter;</p> <p>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.</p>	<p>b2) The amount of land disturbance has been minimized, and is limited to that necessary to demolish and build specified structures and restore wetland lawn areas within the stream buffer to more usable ground.</p> <p>b3) The proposed project will not remove any trees from the stream buffer. Overall tree canopy cover on the site will increase after implementation of the mitigation plan.</p> <p>b4) The proposal will not result in a net loss of sensitive area functions and values. As stated previously, the existing wetland/stream buffers proposed to be modified are currently mowed lawn or some other improvement that is used heavily by the public year-round. The impacted areas are also separated from native shrub/wooded wetlands and wetland/stream buffers by asphalt walkways and concrete promenade.</p> <p>b5) Public health, safety, and welfare will not be degraded by the proposed project, and may be improved with the new location of a formal lifeguard station at the south end of the new bathhouse and a bathhouse orientation that facilitates effective police officer patrols.</p> <p>b6) The project's mitigation, maintenance, and monitoring requirements are consistent with the City's code and will result in a net improvement in ecological functions.</p> <p>b7) 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 this Shoreline Variance would not be a grant of special privilege. Other properties that can demonstrate consistency and that the criteria are met would similarly be granted a Shoreline Variance.</p>
<p>KZC 141.70.3 Procedures – Variances</p>	
<p>a. General – Applications for a shoreline variance permit shall follow the procedures for a Process IIA permit review pursuant to Chapter 150 KZC, except as otherwise provided in this section. If the proposal that requires a shoreline variance is part of a proposal that requires additional approval through a Process IIB, the entire proposal will be decided upon using that other process.</p>	<p>Noted.</p>

Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
<p>b. Notice of Application and Comment Period</p> <p>1) In addition to the notice of application content established in Chapter 150 KZC, notice of applications for shoreline variance permits must also contain the information required under WAC 173-27-110.</p> <p>2) The minimum notice of application comment period for shoreline variance permits shall be no fewer than 30 days.</p>	<p>Noted.</p>
<p>c. Notice of Hearing – The Planning Official shall distribute notice of the public hearing at least 15 calendar days before the public hearing.</p>	<p>Noted.</p>
<p>d. Burden of Proof</p> <p>1) WAC 173-27-140 establishes general review criteria that must be met.</p> <p>2) WAC 173-27-170 establishes criteria that must be met for a variance permit to be granted.</p>	<p>The first two sections in this table specifically address WAC 173-27-140 and -170.</p>
<p>e. Decision</p> <p>1) Approval by Department of Ecology. Once the City has approved a variance permit it will be forwarded to the State Department of Ecology for its review and approval/disapproval jurisdiction under WAC 173-27-200.</p> <p>2) The permit shall state that construction pursuant to a permit shall not begin or be authorized until 21 days from the date that the Department of Ecology transmits its decision as provided in WAC 173-27-200; or until all review proceedings are terminated if the proceedings were initiated within 21 days from the filing date as defined in RCW 90.58.140.</p> <p>3) Appeals of a shoreline variance permit shall be to the State Shoreline Hearings Board and shall be filed within 21 days of the filing date which is the postmarked date that the City mailed the permit decision to the Department of Ecology, as set forth in RCW 90.58.180.</p>	<p>Applicant understands the decision and appeal process. No analysis necessary.</p>
<p>f. Effect of Decision – For shoreline variance permits, no final action or construction shall be taken until the termination of all review proceedings initiated within 21 days from the date the Department of Ecology transmits its decision on the shoreline variance permit.</p>	<p>Noted.</p>
<p>g. Complete Compliance Required</p> <p>1) General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter as authorized by that approval.</p>	<p>Applicant will comply with all conditions of the City's and Ecology's approval.</p>

Shoreline Master Program Code Section and Code Excerpt or Summary	Compliance Analysis
2) Exception – Subsequent Modification – WAC 173-27-100 establishes the procedure and criteria under which the City may approve a revision to a permit issued under the Shoreline Management Act and the shoreline master program.	
h. Time Limits – Construction and activities authorized by a shoreline variance permit are subject to the time limitations under WAC 173-27-090.	Applicant understands the time limits. No analysis necessary.

CLOSURE

The findings and conclusions documented in this report 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.

Mr. Erik Barr
Patano Studio Architecture
February 4, 2019
Page 40 of 40

SHANNON & WILSON, INC.

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 call me at (206) 695-6685.

Sincerely,

SHANNON & WILSON, INC.

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

Amy Summe
Senior Biologist/Permit Specialist

- Enc. References (1 page)
- Figure 1 - Site Plan Before and After
 - Figure 2 – Usable Space Outside of Buffers and Installed Stormwater Infrastructure
 - Figure 3 - Option 2 – Juanita Beach Park Bathhouse Replacement Project
 - Figure 4 - Option 3 – Juanita Beach Park Bathhouse Replacement Project
 - Figure 5 - View Analysis

AJS: KLW/ajs

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- Adolfson Associates, Inc., 1998, City of Kirkland Sensitive Areas Recommendations Report: Report prepared for City of Kirkland Department of Planning & Community Development, Kirkland, WA, August. Available:
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<http://www.kirklandwa.gov/Assets/Parks/Green+Kirkland+Partnership+PDFs/20-Year+Forest+and+Natural+Areas+Restoration+Plan.pdf>, accessed March 2017.
- J.A. Brennan Associates, PLLC, 2006, Juanita Beach Park master plan report: Report prepared by J.A. Brennan Associates, PLLC, Seattle, Wash., for City of Kirkland Department of Parks and Community Services, Kirkland., 52 p., May.
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- The Watershed Company, 2010, Shoreline Restoration Plan: Report prepared for City of Kirkland Department of Planning and Community Development, Kirkland, WA, November. Available:
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









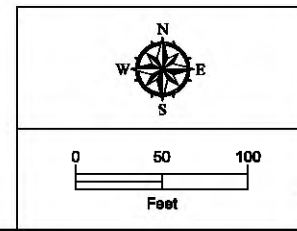
EXISTING CONDITIONS



PROPOSED CONDITIONS

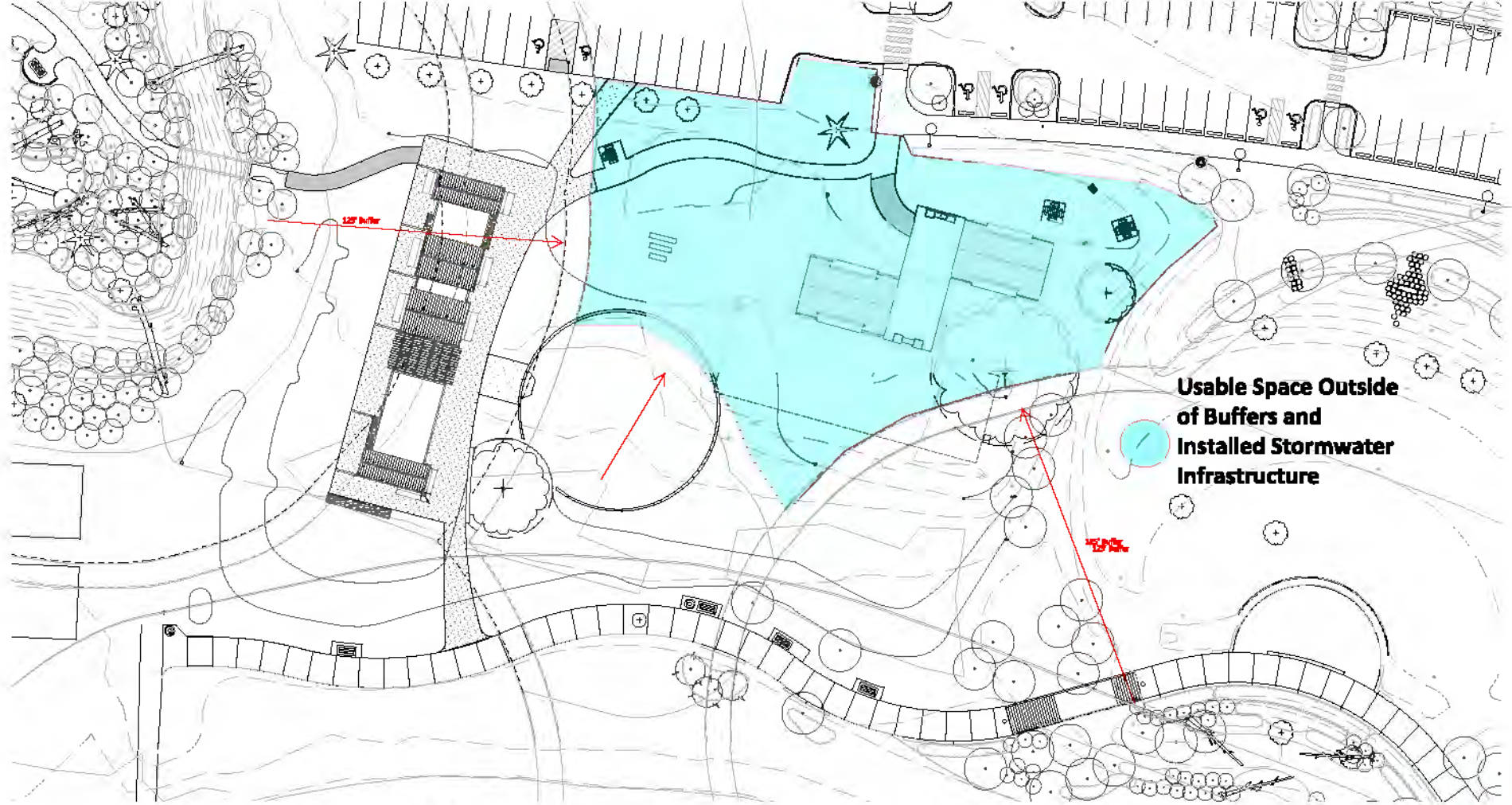
LEGEND

-  Sand/Gravel
-  Lawn
-  Shrub/Tree
-  Paved
-  Bldg
-  Play Area
-  Shoreline Jurisdiction
-  Shoreline Setback
-  Stream Buffer
-  Wetland Buffer
-  Wetland



Juanita Beach Park Property Kirkland, Washington	
SITE PLAN BEFORE AND AFTER	
February 2019	21-1-22161-006
SHANNON & WILSON, INC. <small>GEOTECHNICAL AND ENVIRONMENTAL CONSULTANTS</small>	FIG. 1

CALL BEFORE YOU DIG: 1-800-424-5555



Usable Space Outside of Buffers and Installed Stormwater Infrastructure

1 SITE PLAN
SCALE 1" = 20'

FIGURE 2

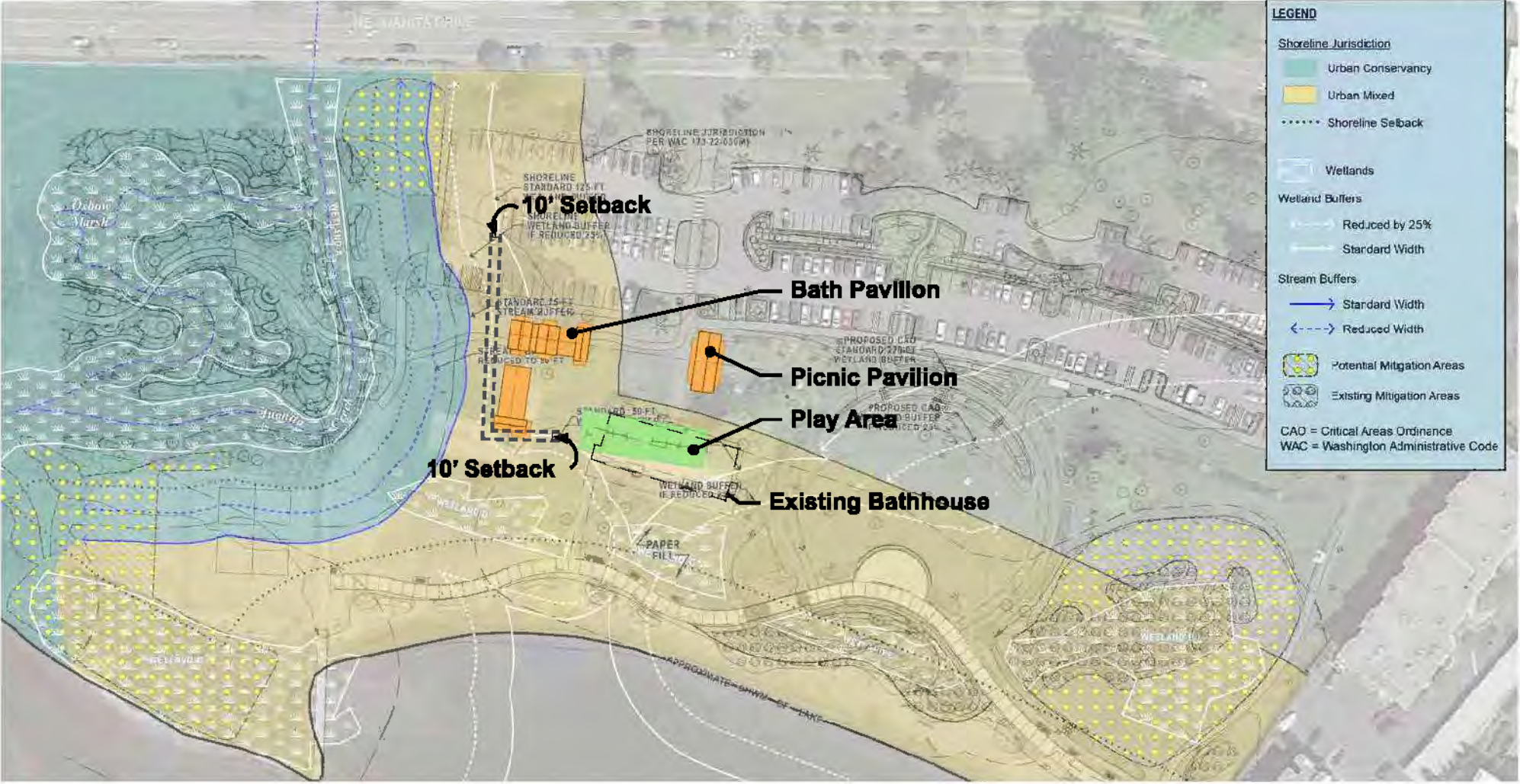


PATANO STUDIO ARCHITECTURE
609 STEWART ST. SUITE 500
SEATTLE, WA 98101

FILE	ENGR.	REVIEW	SCALE	DATE
			AS SHOWN	4/27/2018
NO.	REVISION	BY	REVIEW	DATE

CITY OF KIRKLAND
PUBLIC WORKS DEPARTMENT
125 FIFTH AVENUE - KIRKLAND, WA 98033-6168 - (206)828-1249
CPK018 100
**JUANITA BEACH PARK
BATHHOUSE REPLACEMENT
SITE PLAN**

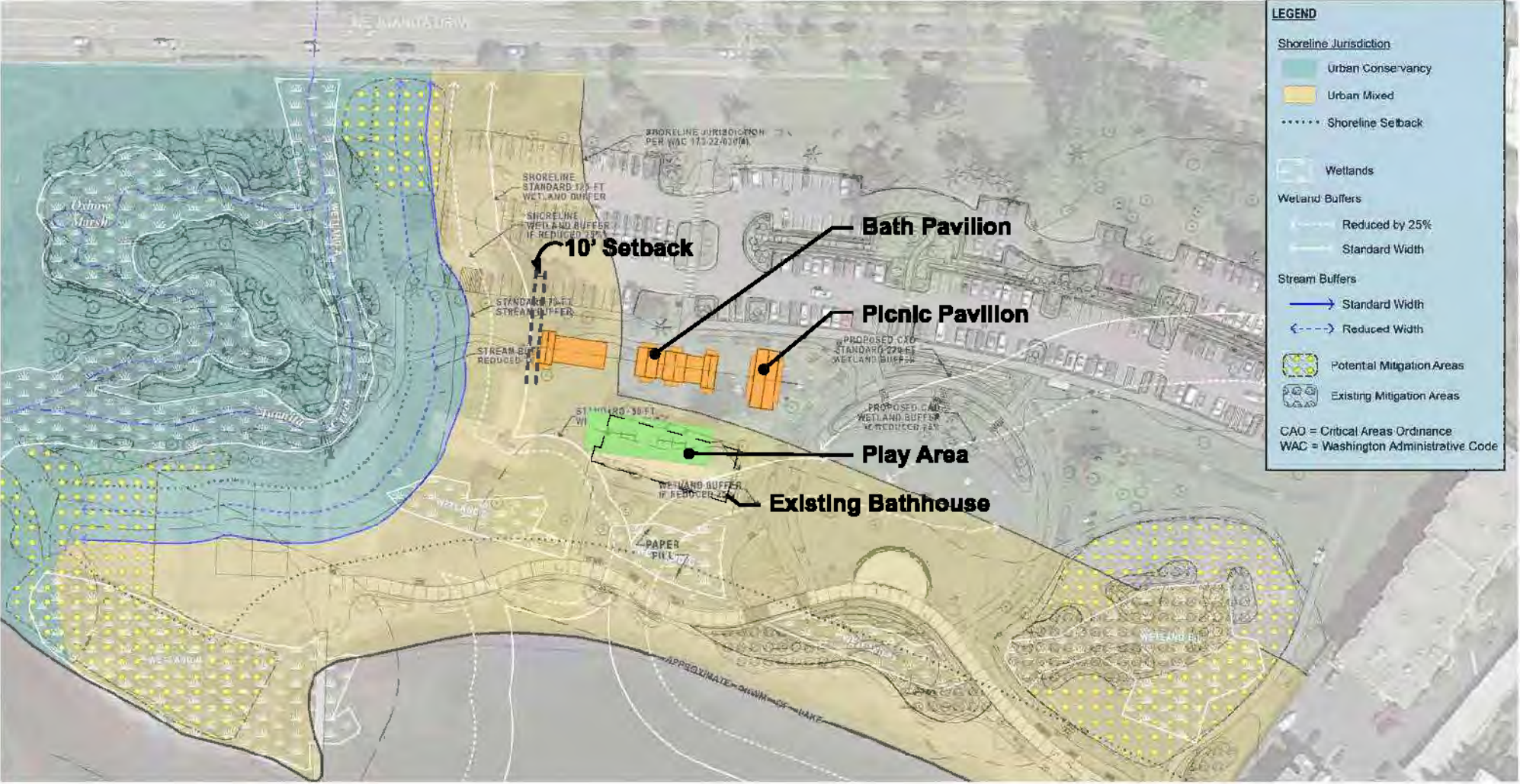
SHEET
A1.0



OPTION 2-JUANITA BEACH PARK BATHHOUSE REPLACEMENT PROJECT

KIRKLAND, WASHINGTON | MAY 11, 2016

FIGURE 3



OPTION 3-JUANITA BEACH PARK BATHHOUSE REPLACEMENT PROJECT

KIRKLAND, WASHINGTON | MAY 11, 2016

FIGURE 4



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

FIGURE 5A



INN ON THE PARK
EXISTING CONDITION FROM UNIT 203
FIGURE 5B



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

FIGURE 5C



INN ON THE PARK
EXISTING CONDITION FROM UNIT 305
FIGURE 5D