

2  
3 The proposal is subject to the rules within both the City’s 1989 Shoreline Master Program and the prior Wetland  
4 Stream Ordinance (WSO) which was repealed upon adoption of the City’s Critical Area Ordinance in December  
5 2005.  
6

7 The SMP rules and the WSO rules in regards to setbacks and buffers are not applied in the same manner. The SMP  
8 prohibits development within shoreline setbacks where as the WSO only applies if development is proposed within  
9 a wetland buffer.  
10

11 If development is proposed within 200-feet of any shoreline or within floodplains associated with that shoreline  
12 then the project is within shoreline *jurisdiction* and therefore, must adhere to the regulations, goals and policies  
13 within the SMP. For example: allowed uses and setbacks. Development is not allowed in required setbacks with  
14 the exception of certain public uses such as public roads, trails, and utilities.  
15

16 If development is proposed within a required setback then a variance is required and criteria must be met in order  
17 to grant approval.  
18

19 In either case shoreline regulations require mitigation which is typically done in the form of conditions within SEPA  
20 or a shoreline permit that minimize or offset anticipated impacts of a proposal.  
21

22 If development is proposed within a *buffer* of a wetland then the WSO standards are applied and mitigation is  
23 required for the impacts to that area and/or function of buffer that is encroached upon. Mitigation also arrives in  
24 the form of conditions or through the use of SEPA. In other words, if a wetland and its associated buffer is avoided  
25 entirely WSO regulations are not applied.  
26

27 For this proposal the shoreline *setbacks* are 100-feet from the Ordinary High Water Mark of Squalicum Creek / Bug  
28 Lake. Those setbacks can be reduced down to 50-feet if the development is above the level of the 100-year and is  
29 upon ground that is less than 15% in slope. When “50-foot setback” is discussed it refers to the **shoreline setback**.  
30

31 When “100-foot buffer” is discussed it refers to the wetland buffer and mitigation is required for impacts that  
32 occur within that buffer area.  
33

34 “Double mitigation” is not required for those impacts that occur within shoreline setbacks AND wetland buffers.  
35

36 Mitigation can include any of the following measures and may be combined if necessary to offset impacts;  
37 replacement of lost native vegetation and/or enhancement of remaining buffer and setback areas, setting aside  
38 land areas adjacent to shorelines, wetlands, setbacks / buffers to enlarge and improve the ecosystem’s function  
39 and even creation of new wetlands / stream areas or enlargement of existing ones.  
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41  
42 **Shoreline Master Program (SMP) Compliance**

43  
44 **Section 19: Shoreline Designation: CONSERVANCY I**

45  
46 A. DEFINITION: Areas where physical limitations would make intense development detrimental to  
47 the function of the water body or the aesthetic quality of the shoreline.  
48

49 B. PURPOSE AND INTENT: The purpose of the Conservancy Environment I is to protect those areas,  
50 which are intolerant of intense modification due to flooding and/or sliding and erosion or environmental problems.  
51 Structural modifications on the shoreline proper in a Conservancy Environment I which are not sensitive to these  
52 problems would significantly interfere with shoreline process causing detriment to other areas. Regulated use of

1 the shoreline is allowed which recognizes the physical limitations and environmental sensitivity of the shoreline  
2 area.

3  
4 C. REGULATIONS: No clearing within 50 feet of the ordinary high water mark shall occur unless  
5 provided for in Section 26 of this ordinance. No fills, hard surfacing, permanent structures, or storage shall be  
6 located within 100 feet of the ordinary high water mark or clearing within 50 feet of the ordinary high water mark,  
7 unless permitted by Section 26 of this ordinance or the following:

- 8  
9 1. Development may be permitted within 100 feet of the ordinary high water mark under  
10 the following regulations:  
11  
12 a. Such development may not be undertaken on a slope of greater than 15% and;  
13 b. Such development must be located above the level of the 100-year flood.  
14

15 **STAFF RESPONSE: The proposal complies with the regulations above and the criteria for reduction of the setback  
16 to 50-feet from OHWM.**

17 **Phase I including the site entrance, public road and the retail and office buildings are proposed within the 100-  
18 foot setback. (Public roads are allowed in setbacks per Section 26.A, below.) However, only the site entrance,  
19 public road and its supporting elements are within the floodplain as shown in EXHIBIT C.**

20  
21 **Phases II and III are located outside of the 100-year floodplain on land area that has approximately 2% slope  
22 south toward Bug Lake. Hence, private elements of the proposal are within the 100-foot setback but outside of  
23 the 50-foot minimum setback as established above.**

24  
25 **Phases II and III shall be located outside of and landward of the FEMA 100-year floodplain or 50-feet from the  
26 edge of the delineated wetlands, (C, C1, C2 and D) whichever is greater. This 'boundary' shall be established by  
27 survey and marked clearly in the field prior to placement of the fill necessary for Phases II and III. Please see  
28 CONDITON #1.**

29  
30 **Please note that a wetland permit is not required but adherence to the standards within the (now repealed)  
31 Wetland Stream Ordinance do apply. The rules within the prior Wetland Stream Ordinance must be applied  
32 because there are proposed encroachments into required buffers of the wetlands associated with Bug Lake.  
33 (Wetlands C, C1, C2 and D: EXHIBIT B) The Wetland Stream Ordinance was repealed in December 2005 by the  
34 City's current Critical Areas Ordinance; BMC 16.55. (The BMC Chapter for the prior Wetland Stream Ordinance  
35 was 16.50)**

36  
37 **Please see CONDITONS #1 - #4 and #7 - #8 that address mitigation of impacts within Squalicum Creek / Bug Lake  
38 setbacks and wetland buffers.**

39  
40 **Please see pages 13-15 for compliance with Wetland Stream Ordinance standards.**

41  
42 **Section 26: GENERAL REGULATIONS**

- 43  
44  
45 A. The following activities are allowed within the setbacks required in Section 18 through 25 of this  
46 ordinance or in any water body, EXCEPT in a Natural Environment.  
47 1. Road, railroad, and utility construction necessary to span the shorelines to facilitate the  
48 circulation or utility network of the City.  
49 2. Development necessary to facilitate public access subject to the following:  
50 a. Structures necessary to facilitate public access shall be designed so as not to  
51 impair the function of the water body.  
52 b. Public access development within a required setback shall be limited to  
53 pedestrian or bicycle access.

- 1 c. Public access development shall consider and protect adjacent private  
2 properties.  
3

4 **STAFF RESPONSE: The proposal complies with the regulation above. The entrance, road and its supporting**  
5 **elements will be within a dedicated right-of-way and located within the 50-foot setback of Squalicum Creek and**  
6 **avoids wetland C. These are all public elements which is consistent with A.1., above.**  
7

8 Please note that the dedication of the land area necessary for right-of-way will be finalized as part of the Binding  
9 Site Plan approval yet to be issued by the Planning and Community Development Director. (The Shoreline  
10 Committee does not have regulatory interface in the approval of the BSP. However, requirements and  
11 conditions imposed within this shoreline permit will be referenced in the BSP.)  
12

13 **Utility extensions of public water and sewer and possibly stormwater mains will be brought into the site within**  
14 **this same corridor and while underground will also be installed within the required setback area. This is**  
15 **consistent with the Use Activity Regulations in Section 27. U., below.**  
16

- 17 B. Clearing of Natural Vegetation – The clearing of vegetation is prohibited in the natural environment  
18 except as necessary to alleviate a condition damaging to the natural environment.  
19

20 The clearing of vegetation is prohibited within 50 feet of the shoreline in the Conservancy I and Conservancy II  
21 environments except in the following situations:

- 22 1. Vegetation may be cut where necessary to provide public access.
- 23 2. Vegetation may be cut in the 50-foot setback to alleviate a factor that is damaging to  
24 the natural environment or preventing normal water flow.
- 25 3. Vegetation may be cut in the 50 foot setback where maintaining the natural condition  
26 would prohibit the effective use of the property as permitted by other requirements of  
27 this Shoreline Master Program and other applicable ordinances.
- 28 4. Vegetation may be cut on residential properties if such cutting is not detrimental to fish  
29 habitat or stream ecology.
- 30 5. Vegetation may be removed as part of a city-approved program to enhance wildlife  
31 habitat or ecological conditions.  
32

33 **STAFF RESPONSE: Limited vegetation will be removed in order to develop the public road within the to be**  
34 **dedicated right of way. Vegetation is not being removed for development of additional or new trails. The toe of**  
35 **the fill slope shall be located outside of a 50-foot setback from wetlands associated with Bug Lake or outside of**  
36 **the FEMA 100-year floodplain boundary whichever is greater. If additional width is necessary to place and**  
37 **construct the fill slope then this space shall occur outside of the setback / floodplain areas as specified above.**  
38 **Native vegetation removed from these areas will be replaced pursuant to CONDITION #3.**  
39

- 40 G. PUBLIC ACCESS: Public access shall be encouraged wherever possible. The Bellingham Open Space Plan  
41 shall be used as a guideline for where access is most desirable.  
42

- 43 1. No development shall block or interfere with the normal public use of or public access  
44 to publicly owned shorelines and water bodies.
- 45 2. All developments shall be designed to protect and enhance views and visual access to  
46 the water and shorelines.
- 47 3. All developments, including recreational, multi-family residential, commercial or  
48 industrial, located along public shorelines or unique shoreline areas shall be required to  
49 provide view corridors, public access-ways, trail easements or other amenities upon a  
50 determination by the City that the action would enhance public enjoyment of the  
51 shoreline, not unduly conflict with the proposed use, adjacent uses or public safety nor  
52 adversely impact the shoreline environment and is consistent with the City of  
53 Bellingham Open Space Plan.

4. Any required public access easement shall be of a size and design appropriate to the site, size, and general nature of the proposed development. Such easements shall be recorded on a property deed or face of a plat as a condition running in perpetuity with the land.
5. Signs which indicate the public's right of access shall be installed as required by the Director of Planning and Economic Development Department.
6. Public use on private property which is a condition of a shoreline permit may be limited to daylight hours or otherwise restricted to prevent use conflicts.
7. Where possible, public access sites shall have direct and easy access from the street.
8. Public access may be considered unfeasible and not be required where;
  - a. Unavoidable hazards to the public in gaining access exist.
  - b. Inherent security requirements of the use cannot be satisfied.
  - c. Unavoidable interference with the use would occur.
  - d. The cost of providing the access is unreasonably disproportionate to the total cost of the proposed development.
  - e. Where damage to the natural ecology of the area would result and could not be mitigated.
  - f. In the above, the applicant shall first demonstrate and the City shall determine that all reasonable alternatives have been exhausted, including but not limited to 1) maintaining a gate and limiting hours of use, or modifying operations and scheduling 2) designed separation of uses and activities, i.e. fences, terracing, use of one-way glazings, hedges, landscaping, etc. 3) provision of or contribution to an access at a site geographically separated from the proposal.
9. Public access to the shoreline shall be required on all public property, except as indicated above or as follows:
  - a. In harbor areas completely occupied by water-dependent uses.
  - b. In street ends or waterways occupied by water-dependent uses under permit or lease.
10. On property where public access is infeasible, the applicant may be permitted to provide off-site public access in the form of view platform, interpretive display or other public access enhancement consistent with the Open Space Plan in lieu of on-site access.
11. Required public access sites shall be fully developed and available for public use at the time of occupancy of the development unless the required public access site is on an undeveloped segment of a trail route designated in the Bellingham Open Space Plan. In this case, the required public access shall be fully developed and available for use when the trail segment is developed.
12. Where public access is not required on-site due to one of the factors cited in 8 or 9 above, a payment in lieu may be required prior to permit approval to provide a similar or equivalent amenity.
13. "Required public access" shall include not less than a pedestrian bicycle pathway of suitable surfacing and standards to meet the intended purpose, adequate signage to inform the public of the public access, design features and landscaping to make the facility in harmony with the shoreline setting, and where appropriate, facilities which are designed to meet the anticipated use including use by disabled persons.
 

Where required public access is located on a trail route indicated in the City of Bellingham Open Space Plan, the access-way shall connect to adjoining trail sections including access points and vistas, either existing or planned. If the required access does not connect to a continuous public trail, the required access shall connect to a public right-of-way.
14. Future actions by the applicant shall not diminish the usefulness or value of the public access site.

1  
2 **STAFF RESPONSE:** The proposal will not impact the existing informal foot-path along the shoreline on the subject  
3 property. (Portions of this public access occurs on the owner's private property.)  
4

5 Public access is not required as part of this proposal due to consistency with the criteria in #8, above. Doing so  
6 would cause impacts to wetland buffer areas and require regular maintenance due to seasonal flooding that  
7 occurs along the shoreline of Bug Lake. Furthermore, the Bay to Baker linkage is intended to be located within  
8 the same right-of-way corridor as the public road.  
9

10 A public access easement shall be granted by the owner for the foot-path trail along the northern shoreline of  
11 Bug Lake. Providing such as easement is compliant with #3, above.  
12

13 During the review of this proposal, the Parks and Public Works Departments emphasized the importance of  
14 reserving land area for Bay to Baker Trail linkage while acknowledging the impacts that would occur if that  
15 linkage were to be provided near the shoreline of Squalicum Creek / Bug Lake which is also within the FEMA  
16 100-year floodplain.  
17

18 Please see Condition #10.  
19

20 H. Drain pipes from adjacent properties and other drainage structures shall not extend into a required  
21 setback. Surface storm water run-off shall be collected in grass lined swales except where land  
22 topography makes this infeasible, where erosion would occur or where the City determines that another  
23 means of site drainage is preferable.  
24

25 **STAFF RESPONSE:** Stormwater drainage outfalls shall not occur or encroach into a required shoreline setback.  
26 The 2001 and 2008 wetland delineations and the 2005 Preliminary Stormwater Report indicate that there *may*  
27 *be* suitable sub-grade materials in order to implement low impact development techniques including infiltration.  
28 Updated stormwater and soil reports are required as specified in **CONDITION #5**.  
29

30 **Section 27: USE ACTIVITY REGULATIONS**  
31

32 E. **BULKHEADS:** The following regulations apply to the construction of bulkheads and seawalls and the  
33 placement of rip-rap.  
34

- 35 1. Prior to the granting of a permit, the effect of the bulkhead on downstream or adjacent  
36 properties shall be determined by the Department of Planning and Economic  
37 Development and the disposition of the permit shall reflect such determination. The  
38 applicant for a permit to construct a bulkhead shall supply information as to the  
39 configuration of the shoreline and consistency of bank materials for properties within  
40 300 feet in both directions from the proposed bulkhead.  
41
- 42 2. Construction of bulkheads for the indirect purpose of creating land by filling behind the  
43 bulkhead shall be prohibited unless such landfill is permitted by the Master Program.  
44
- 45 3. Bulkheads shall be prohibited which adversely affect public access to publicly owned  
46 shorelines.  
47
- 48 4. The surface of any bulkhead shall be kept free of protruding wires, cables, metal straps,  
49 etc. Broken concrete or asphalt, or scrap metal materials shall not be used on the  
50 surface of any bulkhead.  
51
- 52 5. The placement of rip-rap and other bank protection materials shall be done in  
53 conformance with Department of Fisheries and Department of Wildlife regulations.  
54

6. The top of any bulkhead or rip-rap installation shall be no higher than the adjacent upland shoreline. Bulkhead materials shall not be placed landward so as to prevent the reestablishment of shoreline vegetation.
7. Bulk-heading for the sole purpose of channelization or channel stabilization is prohibited.

**STAFF RESPONSE: Bulkhead is defined in Section 4 of the SMP as a structure or rip-rapping erected parallel to or near the high water mark for the purpose of protecting adjacent uplands from the action of waves or currents. As shown on the site plan a small bulkhead (between 1 and 3-feet tall) is proposed along the southern extent of the public road.**

**However, this bulkhead, which functions more like a retaining wall in order to maintain structural integrity of the roadway avoids the wetland and is above the elevation of the OHWM associated with Squalicum Creek.**

**The retaining wall does not 'create dry land behind it' nor will it impact or prohibit access to the informal foot path along the shoreline of Bug Lake even though portions of this foot path are on private property. Because the retaining wall is located above the elevation of the OHWM (not located in water) the Department of Fish and Wildlife does not have permitting authority.**

**Finally, the retaining wall is a necessary element of the public road and therefore is permitted within the setback area.**

**Please note that the public road and its supporting elements are located as far from the OHWM (within the to be dedicated right-of-way) of Squalicum Creek at the outflow of Bug Lake as possible in order to comply with design standards, emergency service vehicle requirements for width and space reservation for future sidewalks, bike lanes, etc.**

**The bulkhead associated with the public road is not expected to have negative impacts to downstream properties. The WEST study schematics shown in EXHIBITS G and H of the staff report both indicate that the 100-year floodplain would not change in terms of extent as a result of the entire project. The flood elevations during a 100-year flood event would be relocated slightly upstream. The bulkhead is not located in the main stem of Squalicum Creek nor is it located with the wetland associated with the outflow of Bug Lake. Therefore, during normal or even during the more frequent 1, 2, and 5-year storm events downstream impacts are not expected. Because the bulkhead is not located in-water it is not considered channelization or channel stabilization.**

**Please also see Condition #6.**

- F. COMMERCIAL DEVELOPMENT: The following regulations shall apply to wholesale and/or retail trade establishments, offices, manufacturing and warehousing facilities, public or quasi public uses, private clubs and lodges and similar uses, unless such use is located in an Urban Maritime environment.**
1. The area between any commercial development and the adjacent water body shall be established and maintained in a sightly condition. This requirement includes the elimination of debris and brambles, and may require the installation of suitable landscaping. This requirement shall be the continuing obligation of the property owner.
  2. When a commercial development on the shorelines is designed such that freight loading facilities, solid waste pick up stations or incinerators or material storage exist between the development and the water body, screening and/or landscaping shall be installed to screen such facilities from the water body. Such screening should be located as near to the facility as feasible and in no case shall it be located within the required shoreline setback. Such screening requires the approval of the Planning and Economic Development Department.

- 1  
2 3. No hazardous waste materials shall be stored on its shorelines of the City.  
3  
4 4. Oil separation devices shall be used for the disposal of storm water from parking lots.  
5 Said devices shall be regularly maintained.  
6

7 **STAFF RESPONSE: The medical office buildings do not have storage or freight loading areas between themselves**  
8 **and the adjacent shoreline of Bug Lake. "Service" oriented areas of these buildings shall be located on the north**  
9 **sides of buildings or along the sides of and between buildings.**

10  
11 **Vegetation between fill slope and shoreline shall be maintained and augmented in areas where necessary to**  
12 **improve shoreline and wetland buffer function. The fill slope face – depending on design – may be suitable for**  
13 **certain native vegetation species capable of performing both stabilization and habitat functions. Please see**  
14 **Condition #3.**

15  
16 R. **ROAD AND RAILROAD DEVELOPMENT: The following regulations shall conform to all road and railroad**  
17 **construction on the shorelines of the City.**

- 18  
19 1. Road and railroad development shall be located as far from the land/water interface as  
20 feasible and shall not interfere with other appropriate shoreline uses.  
21  
22 2. Road construction or reconstruction shall be designed to accommodate varied modes of  
23 transportation and, where feasible, be utilized as a means of increasing public access to  
24 the shorelines.  
25  
26 3. The placement of rip-rap or other materials for the purpose of erosion prevention shall  
27 be done on the bank of the road or railroad bed. No broken concrete, asphalt, or scrap  
28 metal materials shall be used on the surface of any bank protection materials. Bank  
29 protection materials shall be placed from the bank. There shall be no dumping of bank  
30 protection material directly from a truck bed onto the bank face.  
31  
32 4. Bridges and trestles shall be designed to cause minimum interference with the natural  
33 function of the water body.  
34

35 **STAFF RESPONSE: As discussed above, the location and alignment of the entrance and public road is consistent**  
36 **with these regulations. The proposed location and alignment meets the objectives of safety for vehicles,**  
37 **pedestrians and bicycles, avoids wetlands and the Squalicum Creek channel and does not interfere with natural**  
38 **function of the adjacent water-body. This right-of-way will provide opportunities for future transportation**  
39 **network connections including those for multi-modal. Condition #6 addresses how the finish slope between the**  
40 **retaining wall and wetland C is designed.**

41  
42 S. **SHORELINE PROTECTION:**

- 43  
44 1. Diking for the purpose of protection from flooding shall not be permitted within any  
45 required setback.  
46  
47 2. Dikes shall be planted with suitable vegetation to prevent erosion.  
48  
49 3. Bank stabilization for the purpose of protecting property from erosion shall conform to  
50 the regulations contained herein relating to bulkheads.  
51

52 **STAFF RESPONSE: Section 4 of the SMP defines a dike as 'an embankment usually placed within or near the edge**  
53 **of a floodplain to protect adjacent lowlands from flooding.' The fill slope by this definition would be the dike in**  
54 **this proposal. The toe of the fill slope is not within the required shoreline setback. The tow of the fill slope (dike)**

1 shall be located landward of the FEMA 100-year floodplain or further than 50-feet from the edge of wetland  
2 buffers associated with Bug Lake – whichever is greater. The 'dike' is located within the regulated 100-foot  
3 buffer of the category I wetlands and hence wetland standards are being applied.

4  
5 The 'embankment' associated with the entrance and public road does not necessarily prevent adjacent lowlands  
6 from flooding but rather provides the necessary gradient in order to maintain safe sight distances for turning  
7 movements out of the site.

8  
9 The fill slope will be vegetated with native plantings that accomplish the function of structural composition and  
10 habitat enhancement. Please see CONDITION #3.

11  
12 U. UTILITIES: The following regulations shall apply to the installation of electrical, gas, oil, telephone,  
13 television, sanitary and storm sewer and water utilities on the shorelines of the City.

- 14  
15 1. All utilities shall be placed underground where feasible. Following  
16 installation/maintenance projects, project areas shall be returned to pre-project  
17 configuration and shall be planted with shrubs, grasses and trees of similar types and  
18 concentration as exists in the general vicinity of the project, PROVIDED, the requirement  
19 for vegetative installation may be waived or altered if, in the opinion of the Planning and  
20 Economic Development Department the utility easement may be utilized for public  
21 access and such access is consistent with the protection of private property.
- 22  
23 2. Electrical, television and telephone lines may be permitted to cross a water body by  
24 overhead suspension. However, when gas, oil, water, sanitary or storm sewer lines must  
25 necessarily cross a water body, such crossing shall be done underground or shall be  
26 integrated with road or railway bridges or dams. Undergrounding of utilities across a  
27 water body must gain the approval of the State of Washington Departments of Fisheries  
28 and Wildlife.
- 29  
30 3. Where feasible, storm water drainage facilities for shoreline development shall be  
31 connected to existing storm water facilities. New storm drainage outfalls shall be  
32 designed to be aesthetically compatible with the shoreline area (i.e., placement of rock  
33 rip-rap as an energy dissipater and streambed armor, designed and constructed to  
34 resemble a natural drainage stream.)

35  
36 **STAFF RESPONSE: Proposed utilities to be extended into the site shall be compliant with the regulations**  
37 **specified above. Stormwater outfalls / discharges will either connect to existing storm mains or infiltrate as is**  
38 **feasible.**

1 **USE ACTIVITY POLICIES:**

2  
3 Commercial Development

4  
5 Commercial developments are those uses, which are involved in manufacturing, production, construction,  
6 wholesale and retail trade or business activities.

7  
8 Policy: Where navigability is a viable asset, and in appropriate environments, commercial development  
9 on the shorelines of the City should be water surface dependent or should provide an  
10 opportunity for a substantial number of general public to enjoy the shorelines.

11  
12 Policy: Where navigability is not a viable asset, and in appropriate environments, commercial  
13 development on the shorelines of the City should not interfere with the natural function of the  
14 shoreline and water body and shall provide open space along the shoreline adequate for  
15 potential public access.

16  
17 Policy: Future appropriate commercial development on the shorelines of the City should be compatible  
18 with existing appropriate uses.

19  
20 **STAFF RESPONSE: Navigability is not affected - much less available - in this location. The proposal maintains**  
21 **open space between the toe of the fill slope and adjacent shoreline and wetland areas including their buffers.**  
22 **The proposed uses are consistent with the adjacent medical office uses to the west along Birchwood Avenue**  
23 **and St. Joseph's Hospital to the south.**

24  
25 Bulkheads

26  
27 Bulkheads or seawalls are structures erected parallel to and near the high water mark for the purpose of  
28 protecting adjacent uplands from the action of waves or currents. While bulkheads protect adjacent upland areas  
29 from erosion, if improperly placed they may increase erosion damage to banks and uplands downstream due to  
30 changes in sediment transport, reflective and refractive action.

31  
32 Policy: Prior to the granting of a permit for bulkhead construction, the effect of the bulkhead on  
33 downstream or adjacent properties should be determined by the Planning and Economic  
34 Development Department and the disposition of the permit should reflect such determination.

35  
36 Policy: Construction of bulkheads for the indirect purpose of creating land by filling behind the bulkhead  
37 should be prohibited unless such landfill is permitted by the Master Program.

38  
39 Policy: Bulkheads should be prohibited which adversely affect public access to publicly owned  
40 shorelines.

41  
42 Policy: Bulkheads should be designed so as not to detract from the aesthetic qualities of the shoreline.

43  
44 **STAFF RESPONSE: The bulkhead (retaining wall) that is necessary to establish the public road does not create dry**  
45 **land behind it. The bulkhead does not prohibit existing informal public access to the northern shoreline of**  
46 **Squalicum Creek / Bug Lake. The portion of the site where the public road is proposed has no aesthetic qualities**  
47 **as it is comprised of compacted fill spoils, Himalayan Blackberry, off-road vehicle tire-ruts and basically, is a**  
48 **previously disturbed area.**

49  
50 Utilities

51  
52 Utilities are necessary to serve shoreline uses with electricity, gas, sewer, water and communications and, if  
53 properly installed, protect the shoreline and water from contamination.

1 Policy: Provisions should be made for the protection of the shoreline during utility installation. Following  
2 installation/maintenance projects, project areas must be returned to pre-project configuration  
3 and adequate vegetation installed to prevent erosion.  
4

5 Policy: Utilities on the shorelines should be installed underground.  
6

7 Policy: Utility corridors should be utilized as pedestrian access ways where practical.  
8

9 Policy: Undergrounding of existing facilities should be encouraged.  
10

11 **STAFF RESPONSE: Necessary public utility extensions of water, sewer or stormwater mains will be underground  
12 and within dedicated right-of-ways or easements.**  
13

#### 14 Shoreline Protection 15

16 Flood protection and stream-way modifications are those activities occurring within the stream-way and upland  
17 areas which are designed to reduce overbank flow of high waters and stabilize eroding stream banks. It is  
18 recognized that improper flood control upstream results in increased flood damage downstream. Floodplain  
19 management as a means of flood control has advantages of maintaining the natural characteristics of the shoreline  
20 while protecting adjacent property without amplifying potential flood damage downstream.  
21

22 Policy: Where protection from flooding is necessary it should be obtained by means of flood plain  
23 management including the prohibition of construction of incompatible structures and fills.  
24

25 Policy: Bank stabilization for the purposes of protecting property from erosion should conform to the  
26 policies contained herein relating to bulkheads.  
27

28 **STAFF RESPONSE: The hydraulic analysis prepared by West Consultants, Inc. specifies that at the time the full  
29 project is built-out there will not be downstream exacerbation of flooding impacts. This requires off-site  
30 improvements to Tributary W in coordination with the project's full build out. The project is consistent with a  
31 prior proposal to develop a flood-control berm in a near identical location applied for by the City and approved  
32 by Department of Ecology. Furthermore, the placement of the fill is consistent with the Squalicum Creek  
33 Floodplain Management Plan as one of several proposed solutions to decrease flooding problems associated  
34 with this segment of Squalicum Creek. Please see Condition #7.**  
35

36 **If only phase I is developed initially, there are additional requirements specified Condition #4 aimed at negating  
37 impacts to downstream and abutting properties to the north.**  
38

#### 39 Road and Railroad Design and Construction 40

41 Road and railroad construction on the shorelines can inhibit or preclude the use of those shorelines for other  
42 activities. Transportation is, however, a necessary prerequisite to many appropriate shoreline uses and if properly  
43 planned and constructed can contribute to the access to the shorelines by the general public.  
44

45 Policy: Road and railroad development should be located as far from the land/water interface as  
46 feasible and should not interfere with other appropriate shoreline uses.  
47

48 Policy: Road and railroad development should not be undertaken unless necessary to accommodate  
49 appropriate shoreline uses, provided that development necessary to span the shorelines to  
50 facilitate the circulation of the City should be permitted.  
51

52 Policy: Road construction or reconstruction should be designed to accommodate varied modes of  
53 transportation and, where feasible, be utilized as a means of increasing public enjoyment of the  
54 shorelines.

1  
2 **STAFF RESPONSE:** The design and location of the proposed public road has been reviewed extensively by various  
3 City departments. Its proposed location and design is compliant with required sight distances, turning and  
4 queuing movements and speed allowances. The location of the road and its supporting elements avoids wetland  
5 C.  
6

7 **SHORELINE GOALS & OBJECTIVES**

---

8  
9 **SHORELINE USE ELEMENT**

10 **GOAL:** Coordinate the regulation of shoreline uses so as to insure uses which result in long-term over  
11 short-term benefit, protect the resources and ecology of the shorelines, increase both visual  
12 and physical public access to the shorelines, and accommodate water dependent uses.  
13

14 **OBJECTIVE:** Identify and reserve shoreline and water areas with unique attributes for particular long-term  
15 uses, including commercial, industrial, residential, recreational and conservational uses.  
16

17 **OBJECTIVE:** All uses should be developed in a manner which will result in the least modification of the  
18 shoreline unless such modification contributes to the attainment of Master Program goals.  
19

20 **OBJECTIVE:** Uses which will provide an opportunity for a substantial number of people to enjoy the  
21 shorelines should be permitted.  
22

23 **OBJECTIVE:** Inappropriate shoreline uses should be identified and established as nonconforming uses.  
24

25 **STAFF RESPONSE:** The proposal provides development of commercial infill uses that are consistent with Area 3  
26 of the Cornwall Park Neighborhood Plan. There is a long-term benefit enabling development of the proposal  
27 that at time of full build-out will not exacerbate existing functions and is expected to alleviate downstream  
28 flooding impacts. Informal public access exists along the shoreline edge and will not be altered as part of this  
29 proposal. (This property has long been utilized for transient residents that take part in various activities that are  
30 not necessarily beneficial to the abutting shorelines and wetlands.)  
31

32 The proposal also provides a real opportunity to continue in the design and location of the Bay to Baker Trail  
33 system which has a long-term public access benefit. Furthermore it is consistent with one of the "5-year Focus"  
34 items in plan's text: "Develop Squalicum Creek Trail from Cornwall Park ... under freeway at bridge over  
35 Squalicum Creek and Milwaukee Railroad."  
36

37 **ECONOMIC DEVELOPMENT ELEMENT**

38 **GOAL:** Provide for economic activity and development of water dependent uses and permit water  
39 enjoyment uses in appropriate locations, consistent with environmental goals.  
40

41 **GOAL:** Recognize the finite quantity of waterfront land and the limits of funds for public acquisition,  
42 direct development towards a multi-use concept to provide public access to the shorelines and  
43 protect the habitat while enhancing and maintaining the economic viability of the use.  
44

45 **OBJECTIVE:** Where navigability is a viable asset, and in appropriate environments, economic development  
46 on the shorelines of the City should be water surface dependent or should provide an  
47 opportunity for a substantial number of the general public to enjoy the shorelines.  
48

49 **OBJECTIVE:** Economic activity on shorelines of the City where navigability is not a viable asset, and in  
50 appropriate environments, should not interfere with the natural function of the shoreline and  
51 water body and should provide open space along the shoreline adequate for potential public  
52 access.  
53

1 OBJECTIVE: Future appropriate economic development on the shorelines of the City should be compatible  
2 with existing appropriate uses.  
3

4 **STAFF RESPONSE:** The proposal is located on shorelines where navigability is not available for water-  
5 dependent or water-related uses. The proposed medical office uses proposed are compatible with other  
6 adjacent uses along this segment of Squalicum Creek to the west and are proximate to St. Joseph's Hospital. A  
7 fractional portion of overall floor area is proposed as retail and a water-enjoyment use (eating and drinking  
8 establishment).  
9

10 CIRCULATION ELEMENT

11  
12 **GOAL:** Develop a balanced and efficient water and land transportation system, which will minimize  
13 the adverse environmental impact on the shorelines while contributing to the functional and  
14 visual enhancement of the system.  
15

16 **OBJECTIVE:** Land circulation development should be located as far from the land/water interface as  
17 feasible and should not interfere with other appropriate shoreline uses.  
18

19 **OBJECTIVE:** Motorized vehicular circulation development should not be undertaken unless necessary to  
20 accommodate appropriate shoreline uses, provided that development necessary to cross the  
21 shorelines and facilitate the circulation of the City should be permitted.  
22

23 **OBJECTIVE:** Existing shoreline circulation should be redesigned to accommodate varied modes of  
24 transportation and, where feasible, be utilized as a means of increasing public enjoyment of  
25 the shorelines.  
26

27 **OBJECTIVE:** Maintain existing water transport systems, both commercial and recreational, and, where  
28 feasible, improve these systems to enhance the economic and recreational benefits to the  
29 public.  
30

31 **STAFF RESPONSE:** The public road will be minimum standard sufficient to provide vehicular and pedestrian  
32 access to the site and eventually through the site to properties and areas east of Interstate-5.  
33 Please also see the STAFF RESPONSE to "Road and Railroad Design and Construction on page  
34 10 of this attachment."  
35

36 CONSERVATION ELEMENT

37  
38 **GOAL:** Preserve, protect, and restore shoreline areas to optimize the support of wild, botanic, and  
39 aquatic life.  
40

41 **OBJECTIVE:** identify those areas of unique geological or biological significance and prohibit or severely  
42 restrict development in those areas.  
43

44 **OBJECTIVE:** Conservation efforts should be aimed at preserving the natural function of the watercourse as  
45 well as the aesthetic and ecological qualities of the shoreline.  
46

47 **OBJECTIVE:** Some areas, because of unique and/or fragile geological or biological characteristics should be  
48 protected from public access.  
49

50 **OBJECTIVE:** Areas, which are biologically and aesthetically degraded, should be reclaimed and restored to  
51 the greatest extent feasible while maintaining appropriate use of the shoreline.  
52

53 **OBJECTIVE:** Standards should be developed for shoreline use, which will insure the optimal harmonious  
54 integration of human use of the shorelines with the shorelines' natural system.

1  
2 OBJECTIVE: The continuous scientific study of Bellingham's shorelines should be encouraged and areas  
3 with unique attributes for scientific study should be identified and protected.

4  
5 Specific areas that should be studied include:

6  
7 Padden Creek Lagoon. The biological function and value of the Padden Creek Lagoon within  
8 the Padden Creek estuarine system should be evaluated prior to the permitting of any  
9 modifications to its water quality conditions.

10  
11 **STAFF RESPONSE: The project, which occurs within a reach of non-natural, previously disturbed shoreline**  
12 **avoids wetlands, decreases flooding impacts downstream, provides an opportunity for**  
13 **realignment of a non-properly-functioning creek back into its historic channel and does not**  
14 **promote or intensify public access along the shoreline edge.**

15  
16  
17 **Wetland Stream Ordinance: BMC 16.50 (Repealed in December 2005 by current CAO: BMC 16.55)**  
18

---

19 .100 PERMIT STANDARDS AND PROCEDURES

20  
21 F. Practicable Alternative Test

22  
23 The purpose of this section is to specify the alternatives that must be considered prior to locating a project on a  
24 Category I or II wetland / stream site that will have an adverse impact on the wetland / stream. Applicants for  
25 permits must demonstrate that no reasonable alternatives are available and / or feasible.

26  
27 There is no practicable alternative when all of the following are demonstrated:

- 28
- 29 1. The basic purpose of the project cannot be accomplished using one or more available alternative sites  
30 in the City that would avoid, or result in less adverse impacts on, a wetland / stream;
  - 31 2. The basic purpose of the project cannot be accomplished by a change in the design, size,  
32 configuration, construction technique, seasonal timing or density of the project as proposed in a way  
33 that would avoid or result in less adverse effects on a wetland / stream;
  - 34 3. In cases where the applicant has rejected alternatives to the project as proposed due to constraints  
35 such as inadequate zoning, infrastructure or parcel size, the applicant has made reasonable attempts  
36 to remove or accommodate such constraints.  
37  
38  
39

40 **STAFF RESPONSE: The Practicable Alternative Test does not apply because City Staff have concluded that the**  
41 **project will not have an adverse impact on the wetlands associated with Squalicum Creek / Bug Lake.**

42  
43 G. Public Interest Test

44  
45 The public Interest Test is based upon 33 Code of Federal Regulations 320.4 (A) as it exists at the date of adoption  
46 of this chapter which is hereby incorporated by reference and paraphrased below.

47  
48 To perform the public interest test, the PCDD shall balance the benefits which may reasonably be expected to  
49 accrue from a proposed regulated activity against its reasonable foreseeable adverse wetland / stream impacts.  
50 For a proposed activity to be found contrary to the public interest, the outcome of this balancing process must  
51 show the adverse impacts of the proposal to significantly outweigh its benefits.

52  
53 Factors which shall be taken into account in the balancing process include, but are not necessarily limited to, the  
54 following: general environmental concerns; wetlands / streams; fish and wildlife values; flood hazards; floodplain

1 values; conservation of resources; water quality; energy needs; food and fiber production; mineral needs; land use;  
2 private property values; economics; historic and aesthetic values, and the general safety and welfare of the  
3 residents of the City.

4  
5 The following general criteria shall be used to evaluate the factors used in the balancing process:

- 6  
7 1. The extent of the public and private need for the proposed activity;  
8 2. The extent and permanence of the beneficial and / or adverse impacts that the proposed regulated  
9 activity may have on the public and private uses to which the area is suited;  
10 3. The quality of the functions of the affected wetland / stream and the extent of the wetland / stream  
11 disturbance;  
12 4. The economic value of the proposed regulated activity to the public;  
13 5. The probable impact of the proposed regulated activity on the health and welfare of plants, fish, wildlife  
14 and people.

15  
16 PCDD shall issue a public written summary of its findings of fact and the results of the balancing process used to  
17 evaluate each proposed activity.

18  
19 **STAFF RESPONSE: This section does not apply because it addresses proposals that involve construction or**  
20 **development within waters of the United States. (i.e. wetlands, streams, lakes, marine waters.)**

21  
22 **.110 PERMIT CONDITIONS**

23  
24 **A.** The Director may attach such conditions to the granting of a wetland / stream permit as deemed necessary to  
25 carry out the purposes of this chapter. Such conditions may include but are not limited to:

- 26  
27 1. Requirements that structures be elevated on piles and otherwise protected against natural hazards;  
28  
29 2. Imposition of operational control, sureties, and deed restrictions concerning future use and subdivision of  
30 lands, such as flood warnings, preservation of undeveloped areas in open space use, and limitation of  
31 vegetation removal;  
32  
33 3. Dedication of easements to protect wetlands;  
34  
35 4. Establishment of vegetated buffer zones separating and protecting the wetland / stream from proposed  
36 activities;  
37  
38 5. Erosion control and stormwater management measures;  
39  
40 6. Setbacks for structures and restrictions on fill, deposit of soil, and other activities in the wetland;  
41  
42 7. Modification in project design to ensure continued water supply to the wetland and circulation of water;  
43  
44 8. Restoration, enhancement or creation of a wetland; and  
45  
46 9. Development of a plan to guide actions involving the restoration, enhancement or creation of a wetland.

47  
48 **B.** The Director may require a bond in an amount and with surety and conditions sufficient to secure compliance  
49 with the conditions and limitation set forth in the permit. The particular amount and conditions of the bond  
50 shall be consistent with the purposes of this chapter. In the event of a breach of any condition of any such  
51 bond, the Director may initiate an action in a court of competent jurisdiction upon such bond and prosecute  
52 the same to judgment and execution.

53  
54 **STAFF RESPONSE: Please see Conditions 1-12, below.**

1  
2 .120 WETLAND / STREAM RESTORATION, ENHANCEMENT AND CREATION  
3

- 4 A. As a condition of a permit issued or as an enforcement action under this chapter, the Director may require  
5 that the property owner engage in "mitigation" or the restoration, enhancement, creation of a wetland /  
6 stream or contribution to a mitigation banking system to offset, in whole or in part, the losses resulting from  
7 an owner's or violator's actions. In making a determination of whether such a requirement will be imposed,  
8 and if so, the degree to which it would be required, the Director will consider the following:  
9
- 10 1. The short and long range impacts of the action upon the wetland / stream and associated ecosystem, and  
11 the reversible potential of the impairment or loss;
  - 12 2. The isolated and cumulative benefit of the wetland / stream functions and associated resources lost;
  - 13 3. The type, size, and location of the wetland/ stream altered, and the effect it may have upon the remaining  
14 system or watershed of which the wetland / stream is a part;
  - 15 4. Observed or predicted trends with regard to the gains or losses of this type of wetland / stream in the  
16 watershed, in light of natural and human processes;
  - 17 5. The cost and likely success of the possible mitigation measures in relation to the magnitude of the  
18 proposed project or violation; and  
19  
20  
21  
22

23  
24 **BMC 16.50.090 E. of the Wetland Stream Ordinance specifies that "...where this chapter imposes greater**  
25 **restrictions, the provisions of this chapter shall prevail."** The provisions include establishing buffer widths for  
26 certain categories of wetlands as well as establishing conditions and demonstrating compliance with a public  
27 interest test.  
28

29 **A 2002 Biological Assessment prepared by David Evans & Associates, Inc. verifies that Puget Sound Chinook and**  
30 **Steelhead utilize the wetlands associated with Bug Lake during high flow events. Both of these salmonid species**  
31 **are listed as "Threatened" under the Endangered Species Act.**  
32

33 **Section .080 B. of the Wetland Stream Ordinance specifies that wetlands containing habitat for species listed**  
34 **under the Endangered Species Act require buffers of 100-feet.**  
35

36 **Please reference SECTION V. #3, "Wetland Delineations" on page 3 of the staff report.**  
37

38 **Please note: This fill and resulting finish slope parallel to the shoreline of Bug Lake is located in nearly the same**  
39 **location as the City's proposed flood control berm which was approved by Department of Ecology in 2002.**  
40

41 **In 2002, the City applied for a variance to construct a flood control berm on the subject property in virtually the**  
42 **same location as the proposed fill slope. A variance was sought because the western 300 feet of the berm was**  
43 **closer than 50-feet to the shoreline of Bug Lake. (Please see the last page of EXHIBIT F)**  
44

45 **DOE approved the variance with the condition that the berm be subject to a 100-foot setback from shoreline**  
46 **edge of Bug Lake with the exception of the western 300 feet. The property owner (Allsop) appealed DOE's**  
47 **decision to the Shorelines Hearings Board in part, because a 100-foot setback requirement would severely**  
48 **decrease developable area on his (Allsop) property. DOE subsequently withdrew its decision including the 100-**  
49 **foot setback condition. They re-issued the permit with a 50-foot setback requirement but required a public**  
50 **access trail along the top of the berm. The City – which needed to acquire a portion of Allsop's property in order**  
51 **to construct the berm – could not agree on a purchase price and the flood control berm was never constructed.**  
52  
53

1 **CONDITIONS:** The following shall be applied to the subject proposal. These are the same Conditions  
2 specified in the Staff Report.

- 3  
4 1. On the subject property the landward extent of the FEMA 100-year floodplain boundary or, a  
5 50-foot setback from the OHWM of Squalicum Creek / Bug Lake and their associated wetlands  
6 (whichever is greater) AND the landward extent of wetland C shall be surveyed, visibly  
7 marked on the subject site and verified by Planning and Community Development  
8 Department (PCDD) staff prior to issuance of any permits for site work on the subject  
9 property.

10  
11 Said survey shall be provided to the PCDD prior to issuance of permits for site work on the  
12 subject property.

13  
14 **EXCEPTION:** site work associated with vegetation removal for line of sight surveying and  
15 exploratory soil borings / test pits that may be necessary for feasibility of soils for future  
16 structure and/or stormwater management facilities is permitted.

- 17  
18 2. In order to mitigate impacts associated with the entrance, public road and its supporting  
19 elements, the owner shall grant an easement or dedicate land area on the subject property in  
20 favor of the City for the future relocation of Squalicum Creek across the eastern portion of the  
21 subject property. This area has been identified approximately on EXHIBIT E.

22  
23 The easement or dedicated land area shall be agreed upon between the owner and the City's  
24 Public Works Department. Easement or dedicated area shall be executed prior to issuance of  
25 any permits for site work on the subject property with same EXCEPTION in #1, above.

26  
27 Easement or dedicated area should be included upon the face of the General / Specific Binding  
28 Site Plan. Said Binding Site Plan may be revised at a later date if execution of easement or  
29 dedication occurs after initial Binding Site Plan approval.

- 30  
31 3. In order to mitigate impacts of development of phases II and III that occurs between 50 and  
32 100-feet from the edge of wetlands associated with Squalicum Creek / Bug Lake, a Mitigation  
33 Plan prepared by a certified arborist and shall be provided to and approved by the PCDD that  
34 achieves the following:

35  
36 Specification of quantity, species and general location of trees greater than 6-inches diameter  
37 at breast height (dbh) within the area specified.

38  
39 Quantity, species and general location of native under-story species.

40  
41 Specifications of a 1:1 replacement ratio for number of trees and understory species identified  
42 above. Replacement vegetation is not required to be like for like, rather, replacement  
43 vegetation should be selected for its ability to provide a diverse riparian buffer area.

44  
45 Planting plan that shows locations of replacement vegetation. Replacement vegetation may  
46 be located in any location between top of fill slope and edge of wetlands or edge of Bug Lake.  
47 Planting of side-slope of fill face is permitted provided native vegetation capable of providing  
48 structural characteristics (holding soil together) such as willow facines, snowberry, osier  
49 dogwood, etc. are installed. Replacement trees on side slopes is also permitted.

1  
2 Installation size of the replacement vegetation shall be determined by the certified arborist  
3 that will achieve the highest percentage of success at the end of each year of monitoring over  
4 a five year period.

5  
6 The mitigation plan for phases II and III shall be implemented on the subject site and  
7 inspected by the PCDD prior to receiving Certificate of Occupancy for the initial building  
8 established in phase II or III.

9  
10 The mitigation plan shall include a five year maintenance and monitoring schedule. 85%  
11 success of replacement vegetation must be demonstrated at the end of each year.

12  
13 A financial surety such as an Assignment of Funds shall be secured by the owner for 150% of  
14 the cost to provide and implement the mitigation plan elements specified above.

15  
16 The mitigation plan including financial surety shall be provided to the PCDD prior to issuance  
17 of any permits for site work associated with phases II and/or III. EXCEPTION in #1, above also  
18 applies.

- 19  
20 4. If Phase I (including the entrance, road and its supporting elements) is established without  
21 placement of the entire proposed fill (accompanying phases II and III) it shall be demonstrated  
22 via a hydraulic analysis that there will not be downstream or off-site flooding impacts from  
23 increased velocities, volumes and elevations associated with the 100-year storm event. Said  
24 analysis should include flows as designed in the Squalicum Creek reroute. Said hydraulic  
25 analysis shall be reviewed and approved by the Public Works Department prior to issuance of  
26 permits for any site work. EXCEPTION in #1 also applies.

27  
28 If said analysis requires additional mitigation measures to alleviate anticipated impacts from  
29 development of phase I only, those measures shall be installed and completed by the owner  
30 prior to receiving Certificate of Occupancy for the initial building in phase I.

31  
32 Said mitigation measures – if necessary – will be included within the scope of this permit and  
33 henceforth are considered part of this subject proposal.

- 34  
35 5. An updated soil analysis and stormwater report that demonstrates the ability of the site to  
36 infiltrate the 2-year up to the 100-year storm events based on existing groundwater storage  
37 potential shall be submitted prior to issuance of permits for site work on the subject property.  
38 EXCEPTION in #1, above applies. Said updated report shall be reviewed and approved by the  
39 Planning and Public Works Departments.
- 40  
41 6. Site entrance and public road, retaining wall and side-slope shall be the minimum necessary to  
42 facilitate safe vehicle movements including emergency service vehicles. These shall be  
43 reviewed and approved by the Public Works Department within a Public Facilities Contract.  
44 Demonstration of “bio-engineered” techniques for stabilization of finish slope between  
45 retaining wall and edge of wetland C shall be included.
- 46  
47 7. Final location and design of fill necessary to establish phases I and/or II and III shall be  
48 submitted to the City prior to issuance of permits for site work associated with these phases.

1 This information will be reviewed and approved by the Building Services Division and the  
2 Public Works Department via building and stormwater permits.

3  
4 Toe of said fill for phases II and III shall be located landward of the boundary specified in #1  
5 above. The fill shall at a minimum be an elevation of 1-foot above the 100-year flooding  
6 elevation as established by the West Consultants model. Building and utility plans will  
7 additionally need to meet appropriate requirements to prevent damage to buildings or  
8 infrastructure from flood water.

9  
10 This condition does not prohibit the owner / applicant from placing all fill in order to establish  
11 all three phases at one time.

- 12  
13 8. Site work on the subject property associated with the following elements shall only occur  
14 between May 1 and October 1 of any given year:

15  
16 Establishment of fill and/or finish grades for any phase;  
17 Development of site entrance, public road and its supporting elements; and  
18 Construction or installation of mitigation measures that may be required pursuant to  
19 Condition #4, above.

- 20  
21 9. In addition to compliance with requirements in BMC 15.42 – Stormwater Management - Low  
22 Impact Development techniques for stormwater management shall be incorporated and  
23 implemented for each phase of the project to the extent feasible.

- 24  
25 10. A public access easement shall be granted to the City for the informal shoreline trail along the  
26 northern edge of Bug Lake. No other public access improvements are required.

- 27  
28 11. Conditions within MDNS #SEP2005-00064 shall apply.

- 29  
30 12. Other applicable local, state and federal permits as required shall be secured prior to site  
31 disturbance with EXCEPTION in #1.  
32