



**CITY OF BLACK DIAMOND**  
**July 19, 2012 Workstudy Agenda**  
25510 Lawson St., Black Diamond, Washington

Workstudies are meetings for Council to review upcoming and pertinent business of the City. Public testimony is only accepted at the discretion of the Council.

**5:00 P.M. – CALL TO ORDER, ROLL CALL**

- 1.) Shoreline Master Program – Mr. Nix
- 2.) Adjournment



## CITY OF BLACK DIAMOND

### City Council Memorandum

TO: CITY OF BLACK DIAMOND CITY COUNCIL  
FROM: AARON NIX, PARKS/NATURAL RESOURCES  
SUBJECT: SHORELINE MASTER PROGRAM WORK STUDY  
SESSION, JULY 19, 2012, 5:00 PM, COUNCIL  
CHAMBERS  
DATE: JULY 11, 2012

HONORABLE COUNCIL MEMBERS,

Included in your Work Study Packet are the oral and written testimony we received from the public hearing held on June 21, 2012 with regard to the Planning Commission's Draft version of the Shoreline Master Program and its supporting documents that all can be found on the city's website at [www.ci.blackdiamond@wa.us](http://www.ci.blackdiamond.wa.us). In addition, staff has provided some brief comments based on this testimony for your analysis.

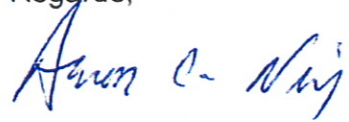
As mentioned before, staff has been very persistent in engaging the public in the review of the Draft Shoreline Master Program and its supporting documentation. This was done through a variety of methods including the use of the City's website, mass email and hard copy mailings to residents by staff (including posts and mass emailing by the Lake Sawyer Community Club on their website and by their current and past Presidents.), newsletter articles, open houses, the use of a Citizen Advisory Committee, two Public Hearings and even door to door communication with effected residents when opportunities presented themselves as discussed previously. We have been very thorough in these efforts and have spent a significant amount of time talking with residents via the phone and through email.

We appear to be getting close in completing this work with some possible adjustments being made by the Council and the preparation of final materials for adoption as required in our contract with the Department of Ecology.

If there are any questions or research that I can do to help this process prior to our meeting on the 19<sup>th</sup> of July, please contact me and I will make it a priority to get this work completed for you. I really do appreciate all the work that has gone into these work products by everyone in the community and I look forward to seeing and discussing the

last remaining issues with you at the study session on the 19<sup>th</sup> of July, 5:00 pm in Council Chambers.

Regards,

A handwritten signature in blue ink that reads "Aaron Nix". The signature is written in a cursive style with a large initial 'A'.

Aaron Nix  
City of Black Diamond  
Parks/Natural Resources  
[anix@ci.blackdiamond.wa.us](mailto:anix@ci.blackdiamond.wa.us)  
360.886.5700

# SOOS CREEK WATER & SEWER DISTRICT

14616 S.E. 192nd St. • P.O. Box 58039 • Renton, WA 98058-1039 • Phone (253) 630-9900 • Fax (253) 630-5289

June 18, 2012

COMMUNITY DEVELOP

#1

City of Black Diamond  
Community Development Department  
PO Box 599  
24301 Roberts Drive  
Black Diamond, WA 98010

JUN 19 2012

RECEIVED

Attn: City Council

RE: draft Shoreline Master Program (May 9, 2012) - City Council Public Hearing

Thank you for the opportunity to review the City's draft Shoreline Master Program (Planning Commission Revised Draft). We would like to thank the Planning Commission for accepting one of our comments regarding the ability to construct utilities (primary) in the Natural designation with conditions. Allowing a conditional use in this area provides for consistency with the utilities (accessory). However, there was one comment that was not incorporated from our letter dated March 13, 2012, which we submit for your consideration:

Page 59

**"C. Shoreline Use Policies and Regulations**

**10. Transportation Facilities**

**C) Regulations**

*4. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate crossing of water bodies to minimize adverse impacts to the shoreline."*

- The District requests ", when feasible," be inserted between "bodies" and "to". This would provide consistency with the "Utilities (Primary)" policies and regulations section of the Shoreline Master Program that discusses joint use of locations.

Thank you again for the opportunity to comment on the City of Black Diamond's Proposed Shorelines Master Program. We look forward to your response. If you have any questions regarding our comments or would like to discuss them in more detail, please feel free to contact me at (253) 630-9900.

Sincerely,



Ron Speer  
District Manager

cc: Aaron Nix - Natural Resources/Parks Director  
Mike Hanis - Hanis Irvine Prothero, PLLC  
Pam Cobley - Roth Hill, LLC



Aaron Nix

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**From:** Jack Sperry [JackSperry@Comcast.net]  
**Sent:** Thursday, June 21, 2012 1:03 PM  
**To:** Aaron Nix  
**Subject:** Pick-ups Found in Draft SMP with Planning Commission Markups

#2

Aaron,

In quickly looking over the latest draft SMP I noticed a few things you may want to correct in the next update:

- 1.) Typo: the word "Sayer" should be "Sawyer" in the first line on page 17.
- 2.) Typo: the word "conditional" should be "conditions" in first line of item 4 on page 27
- 3.) On page 41, item 1a states: The forty (40) foot standard setback in the Shoreline Residential and the fifty (50) foot Shoreline Residential Limited Environments may be reduced down to a minimum of twenty-five (25) feet when setback reduction impacts are mitigated using a combination of the voluntary mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions. Per Table II, on page 39 the minimum setback with enhancement for the Shoreline Residential Limited Environment is 30 feet.
- 4.) The Reduction Allowance in new item #5 of the Water Related reduction mechanisms on page 44 is shown as 5-10 ft. However, the reduction mechanisms in Water Related items 1 through 4 to which it refers range from 5-15 ft. So the Reduction Allowance for item 5 on page should be changed to 5-15 feet.

Jack

**Oral Testimony with attached Written Testimony**

By Jack C. Sperry to the City Council's Public Hearing on the Shoreline Master Program

The single biggest SMP impact will come from doubling the shoreline setback from 20 ft. to 40 ft. in the Shoreline Residential segment. Undeveloped lots with natural shorelines will only be able to reduce the setback to 30 ft. with mitigation. For lots with existing bulkheads the setback can be reduced to 25 ft. with mitigation enhancements, but only by including an expensive shoreline restoration project. In earlier drafts, that meant actually removing the bulkhead or placing logs, boulders, gravel, and native vegetation in front of the bulkhead.

Recently, a 5<sup>th</sup> Water Related reduction mechanism has been added to Table III which will allow landowners to keep their existing bulkhead and beach by contributing an equivalent restoration expense to a city-managed Mitigation Bank. Funds in this bank will be used to help pay for shoreline restoration at Lake Sawyer parks to help meet the City's commitments in the Shoreline Restoration Plan. But, the current language in the draft SMP leaves much uncertainty as to when, and if, this mitigation fund will actually be created and available to landowners. In my separate written testimony I've proposed some minor language changes to assure this worthy option will actually be available when the SMP goes into effect. Similar language is included for the Mitigation Bank planned for restoration projects away from the shoreline. In my written testimony I've also recommended an additional 6<sup>th</sup> Water Related reduction mechanism to provide an alternative method for determining the required contribution to the shoreline mitigation fund. **Please look carefully at these proposed changes to item 5 and the new 6<sup>th</sup> Water Related Action on page 44, and item 15 on page 45 in my written testimony. And please recommend staff make these changes.**

Very few lots on the lake have access to public sewer and must use a septic system. Analysis in my written testimony shows that nearly a quarter of landowners may face difficulties in future development due to insufficient lot length to accommodate a home and septic system with the new setbacks. High-bank lots and angled shorelines compound this problem. The draft SMP now includes something called Alternative Setback Averaging which will be valuable to people who have marginal lot length and angled shorelines between their property lines. **Please recommend that staff vigorously negotiate with the DOE to retain this helpful mechanism.**

For landowners who are precluded from reasonable use of their land by this SMP, there's a Variance process. However, it will require professional preparation of considerable material to present one's case, which must be approved for review by the Shoreline Administrator, and go before a Public Hearing followed by a Hearing Examiner decision. The applicant for the Variance must pay all expenses including those of the City for the entire process. The Variance also has to be approved by the Department of Ecology. If the Variance is not approved, it can be appealed to the Washington Shoreline Hearings Board. This entire process can cost \$15K to \$25K and take up to a year. And there is never any certainty as to the outcome. So this is not a process that should be forced upon landowners unless all possible accommodations are afforded in this SMP.

A remaining concern with this SMP is a requirement which forces homeowners of developed properties with bulkheads to complete, or pay for, a major shoreline restoration project to

achieve the 25 ft. minimum setback. This requirement on a fully developed lot-front, with a hardened bulkhead, seems to go way beyond the DOE standard of assuring no net loss by requiring substantial shoreline restoration, which by law is not required of private landowners.

In my written testimony I've offered an alternative which requires 25 ft. of Upland Related mitigation to achieve a 15 ft. reduction from the 40 ft. standard to the 25 ft. minimum setback. This additional alternative would provide a mechanism for certain undeveloped properties to realize the 25 ft. minimum setback and also provide greater flexibility for developed properties where owners may be reluctant to use the existing Water Related options. **Please consider this recommended change to page 41 in my written submittal and ask staff to work with the DOE to accept it.**

In conclusion, I strongly urge the Council to pay particular attention to how this new legislation will impact the minority of landowners who've yet to fully develop their land. There will be many landowners who have not participated in this process who in the future will be shocked to see how their development options have been constrained. My hope is that the Council will be cognizant of this and will look favorably upon my written suggestions which can add flexibility for those landowners who will be most impacted by these new restrictions.

And lastly, the Council should review all comments returned from the DOE after the City submits its final draft SMP. And the Council should be the body to decide which significant changes are acceptable and which need further negotiation to protect citizens' property rights.

Thank you for your consideration,

Jack Sperry  
29051 229<sup>th</sup> Ave. SE  
Black Diamond, WA 98058  
425-765-2735 [jacksperry@comcast.net](mailto:jacksperry@comcast.net)

**Please see my recommendations and suggested changes to the draft SMP document in my attached Written Testimony**



Written Testimony of Jack C. Sperry for City Council's Public Hearing on Shoreline Master Program

## Recommendations and Suggested Changes to the Draft Shoreline Master Program to Provide Greater Flexibility

The following are two recent additions which have been incorporated into the latest draft of the SMP. I want to be sure they both remain in the final SMP with wording in the second one slightly modified.

### 1. Alternative Setback Averaging (Page 41, 3.1.f of draft SMP):

This recent change to the draft SMP adds language to allow limited setback averaging for land owners with non-perpendicular shorelines to save a few feet of unnecessary setback when the structure's shape facing the water is not the same as the shape of the shoreline. The simplest example is to think of a rectangular lot with a shoreline that is angled and not perpendicular to the side lot lines as shown in the figure on the next page. Without this flexible shoreline setback regulation homeowners on all lots whose shoreline is not perpendicular to the side lot lines would be forced to realize even greater average setbacks than the standard or mitigated value unless the forward building geometry matched the shape of the facing shoreline.

On Lake Sawyer there are many narrow lots whose length may make it difficult, and in many cases impossible, to have enough lot length to provide sufficient area for the home and septic system leach fields with the new doubling of the setback requirement. Every additional foot of increased setback makes more narrow properties undevelopable without sewer systems. And the vast majority of land parcels on the lake don't have sewer available to them.

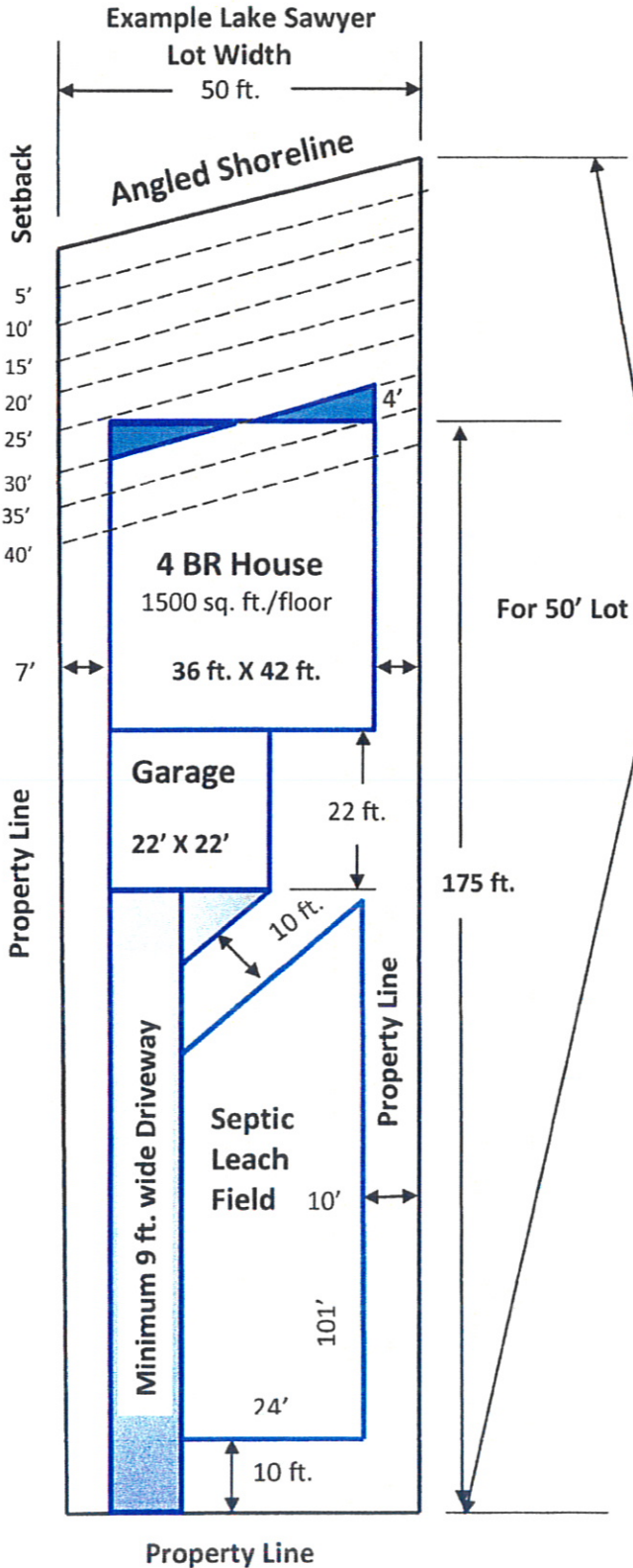
In the illustration on the next page, a 50 ft. wide lot is shown with an angled shoreline, which is typical of many lots on the lake. In this example a four bedroom home is depicted with a typical rectangular shape. Note how the house is situated such that with the angled shoreline the right half of the house is between the 30 and 35 ft. setback line and the left side is between the 25 and 30 ft. setback. Since there is just as much area behind the 30 ft. setback line as is in front of that line, the average setback is 30 ft. and the landowner would have to select setback reduction enhancements equaling 10 ft. from Table III of the SMP.

Without this setback averaging mechanism the entire house would have to be behind the 30 ft. setback line with the right side as far as 38 ft. back. The average setback would be 34 ft. So in this illustration the landowner would be selecting sufficient enhancements from Table III (draft SMP pages 43-45) to gain 10 ft. of setback reduction, but would only realize that at the very left corner of his home and on average would only achieve a 6 ft. setback.

This issue is extremely critical for lots which have limited length and are being forced forward due to the area requirements for the home and septic leach fields, or because of a high bank in the back. The length required for a four bedroom home with septic to meet the area requirements on a 50 ft. wide lot is 175 ft. With the new 40 ft. standard setback that becomes 215 ft. of required lot length (175 +40) and with an angled shoreline, like in the example, could easily become **223 ft.** (175 + 40 + 8). With 15 ft. of setback reduction allowance through landowner selected reduction allowances from Table III that is still **208 ft.** And even for a 60 ft. wide lot a length of **204 ft.** would be required with the example angled shoreline.



**Minimum Lot length Requirements for a 50 ft. Wide Lot  
with 4 BR Home Requiring Septic System  
(Example shown is for 30 ft. setback with "Alternative Setback Averaging")**



**Per King Co. Dep't of Health Code-Chap. 13**

- 4 BR home = 570 (3 X 150 + 120) gal./day dose
- Type 1 Soil will take 1 gal./sq. ft. per day
- 570 gal/day/1 gal/sq. ft./day = **570 sq. ft.**
- Sand Filter Design Required
- Maximum Trench Width = 10 ft.
- Property & Structure Setbacks = 10 ft.
- Dimensions = **7.5 ft. X 76 ft. + 2 ft. perimeter**
- Lot area coverage for Primary & Reserve
  - 10.5 ft. X 80 ft. X 2 = 1,680 sq. ft.
- Dimensions Required for Primary & Reserve
  - **21 ft. X 80 ft.** (see diagram below)

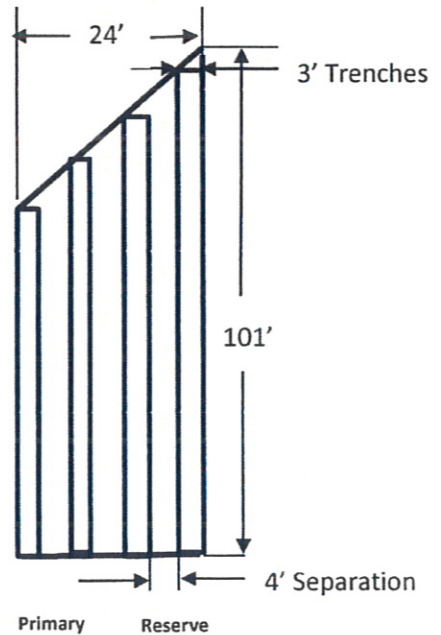
**208 ft.-223 ft.** (175' + 25' to 40') on straight shoreline & up to (175' + 25' to 40' + 8') on long side due to angled shoreline)

**189 ft.-204 ft.** (156' + 25' to 40') on straight shoreline & up to (156' + 25' to 40' + 8') on long side due to angled shoreline)

For 60' Lot

**Septic Leach Field**

Primary & Reserve





Analysis by the City's SMP consultant (Gabe Snedeker) showed that out of 330 lots on the lake, **110 or about 1/3 are 60 feet or narrower**, 82 are 55 feet or narrower, 54 are less than 51 feet in width. The analysis showed that there are **71 lots or about 22% that are less than 200 feet long**. So there are a significant number of people who could benefit by saving a few additional feet of setback reduction with this flexible setback regulation at no harm to the shoreline ecology since the total area contained within the setback area after this type of setback averaging is no less than would otherwise be required. And with this regulation the structure can be at most no closer than 5 ft. than would otherwise occur with the standard or mitigated setback. Plus no part of the structure can still be closer than the minimum setback of 25 ft. from the shoreline.

The final language incorporated for this flexible setback regulation is shown below. This is an important addition that will really help some people to be better able to develop their lot.

***Alternative Setback Averaging*** – In instances of unique lot configurations, the Shoreline Administrator or his/her designee may allow modification either of the standard or mitigated shoreline setback, by allowing a partial reduced setback if a compensating increased setback for other portions of the development is provided. Modified setback averaging may only be allowed where a qualified professional demonstrates that all of the following conditions are met:

- i. Alternative setback averaging will not reduce shoreline functions or functional performance;
- ii. The total area contained in the setback area after averaging is no less than that which would otherwise be required; and all increases in setback dimension for averaging are generally parallel to the shoreline edge;
- iii. The setback depth at its narrowest point is not reduced to less than twenty-five feet;
- iv. Under no circumstances shall a structure encroach more than five feet beyond either the standard or mitigated setback.

**I believe the City Council should ask the Staff to lobby hard with the DOE to retain the above item as it is a no net loss item that adds flexibility.**

2. **Shoreline Restoration Fund:** Reduction Mechanism # 5 on page 44 of the draft SMP creates an option for landowner contributions to a city-managed shoreline restoration fund in lieu of conducting the restoration on the landowner's property. This is a truly win-win option to help the City pay for promised shoreline restoration at the two city-owned parks on Lake Sawyer while allowing the landowner to retain the existing bulkhead for needed protection on his/her own property. Lakeshore land owners could contribute to this fund to receive a Water Related reduction in setback. The language adopted by the Planning Commission is shown below:

***“Contribution to a City restoration fund, or bank, for offsite shoreline restoration and implementation of measures contained in the setback reduction mechanisms of the Water Related Actions, items 1 through 4, of Table III above. Amount shall be determined by the Shoreline Administrator based upon the approximate cost that would be required to accomplish the water-related, shoreline enhancement at the on-site area of improvement. The City must establish the fund or bank, including specific project locations and more specific operational rules, for this reduction mechanism to be available.”*** (Emphasis with red added.)



There are two problems with the way the current language is written, both in the last sentence. That sentence essentially says that this option won't be available to a landowner until, or if, the City gets around to establishing this bank and until a specific project is defined and ready to use the money a landowner might commit. There is no reason why this fund couldn't be established by the time this SMP becomes law with a simple line item in the City's budget. And contributions to this bank could be accumulated until such time that the City is prepared to use them for a restoration or maintenance project. Below are my recommended language changes for fixing this this Water Related reduction mechanism # 5 on page 44 and its related Upland Related reduction mechanism # 15 on page 45.

#### Page 44, Water Related Reduction Mechanism #5

*“Contribution to a City restoration fund, or bank, for offsite shoreline restoration and implementation of measures contained in the setback reduction mechanisms of the Water Related Actions, items 1 through 4, of Table III above. Amount shall be determined by the Shoreline Administrator based upon the approximate cost that would be required to accomplish the applicant selected, water-related, shoreline enhancement at the on-site area of improvement. The City must shall establish the fund or bank, ~~including specific project locations~~ and more specific operational rules, for to make this reduction mechanism ~~to be~~ available.”*

REDUCTION ALLOWANCE ~~5-10~~ 15 feet

#### Page 45, Upland Related Reduction Mechanism # 15

*Contribution to a City mitigation fund, or bank, for offsite vegetation restoration and implementation of other measures contained in setback reduction mechanisms ~~5-6~~ and ~~6-7~~ of Table III above. Amount shall be determined by the Shoreline Administrator based upon what the approximate cost would be to accomplish the vegetation enhancement work in the on-site setback area. The City must shall establish the fund or bank, ~~including specific project locations~~ and more specific operational rules, ~~for to make~~ this reduction mechanism ~~to be~~ available.*

These changes are needed to assure that this mechanism will actually be in place when the SMP regulations become effective. Please recommend that Staff make these changes and that they negotiate with DOE to see that they are retained in the final SMP.

#### New Recommendations

The next two recommendations are new items proposed to be added into the draft SMP to provide greater flexibility with regard to the requirements to achieve the 25 ft. minimum setback in the Residential Shoreline segment. In the draft SMP there is a requirement to have a Water Related action to achieve the minimum setback as delineated in line 3.1.d on page 41. There are five options to choose from, including the recently added 5<sup>th</sup> option for a shoreline oriented city-managed mitigation bank discussed above.

Item # 1 below would add a 6<sup>th</sup> Water Related Action to provide an easier alternative for landowners and the City in ascertaining the required contribution to the city-managed shoreline mitigation fund. In Water Related Action # 5 on page 44, the Shoreline Administrator must determine the required contribution to the city-managed mitigation bank based upon the estimated cost to complete one of

four Water Related shoreline enhancements at the applicant's on-site location. The unique cost for a landowner selected enhancement project at the landowner's lot must be determined by the landowner and provided to the Shoreline Administrator to help in this determination.

For this newly proposed Water Related Action # 6, City staff would estimate in advance a range of appropriate costs per frontage foot for possible shoreline restoration in Lake Sawyer parks and provide the cost per landowner's frontage foot to obtain 5, 10, and 15 ft. of setback reduction. (These costs per foot shown as unknowns (**XXX**, **YYY**, **ZZZ**) in the proposed reduction mechanism below need to be determined in advance and inserted into the proposed reduction mechanism # 6 below for differing amounts of setback reduction.)

For example: If a person wanted to obtain 5 ft., 10 ft., or even 15 ft. of setback reduction, had 80 ft. of frontage on his parcel and the value of **XXX** was \$50 and **YYY** was \$125 and **ZZZ** was \$200 per foot of frontage, the required contribution would be as shown below:

Contribution to achieve a 5 ft. setback reduction = 80ft. times \$50/ft. = **\$4,000**

Contribution to achieve a 10 ft. setback reduction = 80ft. times \$125/ft. = **\$10,000**

Contribution to achieve a 15 ft. setback reduction = 80ft. times \$200/ft. = **\$16,000**

This concept is similar to Water Related Action # 1 which is based upon the project cost of bulkhead removal and beach restoration for 25%, 50% and 75% of the shoreline to obtain 5 ft., 10 ft., or 15 ft. of setback reduction. But this option would be simpler because the costs would be known by both the City and landowner in advance.

The staff analysis used to establish these three values of mitigation costs per frontage foot (**XXX**, **YYY**, **ZZZ**) would need to be based upon potential restoration costs per front foot for the Lake Sawyer parks and what is considered to be a reasonable and fair landowner share contribution to be expected for these setback reductions. This analysis would need to be shown to the DOE to assure them that this option provides meaningful ecological value for offsite shoreline restoration.

**1. Add: a new Water Related Reduction Mechanism # 6 on page 44 for easily calculated costs per setback reduction amount for contribution to a city-managed offsite shoreline restoration fund.**

*“Contribution to a City restoration fund, or bank, for offsite shoreline restoration in the City owned parks on Lake Sawyer. Amount shall be determined based upon the cost per frontage foot shown below times the number of frontage feet on the applicant's parcel as shown in the current King County property tax assessment database. The City shall establish the restoration cost per foot for the three setback reductions below to make this reduction mechanism available.*

*Setback Reduction of 5 ft. = \$XXX per foot of frontage at the on-site location  
Setback Reduction of 10 ft. = \$YYY per foot of frontage at the on-site location  
Setback Reduction of 15 ft. = \$ZZZ per foot of frontage at the on-site location”*



**2. Increased Upland Related Actions Required to achieve minimum setback:** This proposal is recommended to add additional flexibility to the current mandatory requirement for a Water Related action to achieve the minimum setback as proposed in the current draft SMP. This alternative would provide an option to use only Upland Related Actions to achieve the minimum setback of 25 ft. by significantly increasing the required amount of mitigation. It would provide the only available mechanism for an owner of a currently undeveloped lot to build to the allowed 25 ft. minimum setback in the Residential Shoreline segment. This modification provides the option to the landowner to select 15 ft. of additional Upland Related Actions to gain 5 ft. of reduction between 30 ft. and 25 ft. from the OHWM. It would require a total of 25 ft. of reduction Upland related reduction mechanisms to gain 15 ft. of reduction allowance from the 40 ft. standard to the 25 ft. minimum in the Shoreline Residential segment. This could be achieved by modifying sentence 3.1.d and eliminating sentence 3.1.e on page 41 of the draft SMP as shown below.

d. At least one Water Related Action or 25 feet of reduction allowance from selected Upland Related reduction mechanisms in Table III must be undertaken in order to achieve the full setback reduction allowed.

~~e. A maximum of 10 feet in cumulative setback reduction may be achieved under Upland Related Actions.~~

**Please consider and recommend the above to two proposed changes for inclusion into the final draft SMP for discussion and negotiation with the Department of Ecology. Both recommendations can add flexibility for the landowner needing to build as close as the minimum 25 ft. setback.**

Thank you for your consideration,

Jack C. Sperry  
29051 229<sup>th</sup> Ave. SE  
Black Diamond, WA 98010  
425-765-2735 [jacksperry@comcast.net](mailto:jacksperry@comcast.net)

**Staff/Consultant Responses to Public Hearing Testimony,  
(including written material) on Shoreline Master Program  
Black Diamond City Council, June 21, 2012 at 7:00 pm in Council  
Chambers**

1. **Ron Speer (Soos Creek Water and Sewer District, letter dated June 18, 2012 addressed to the Black Diamond City Council.)**

Mr. Speer would like to see "when feasible" be inserted between bodies and to under the Shoreline Use Polices and Regulations on page 59, item 10 c4.

Comment noted and change appears appropriate as conditions are different for different projects. This appears to provide some additional flexibility.

2. **Jack Sperry (Email dated June 21, 2012):** Mr. Sperry provided a list changes to 4 sections of the Planning Commission Draft version of the Shoreline Master Program. These include:

- 1.) Typo: the word "Sayer" should be "Sawyer" in the first line on page 17.

Staff concurs and recommend's change.

- 2.) Typo: the word "conditional" should be "conditions" in first line of item 4 on page 27

Staff concurs and recommend's change.

- 3.) On page 41, item 1a states: The forty (40) foot standard setback in the Shoreline Residential and the fifty (50) foot Shoreline Residential Limited Environments may be reduced down to a minimum of twenty-five (25) feet when setback reduction impacts are mitigated using a combination of the voluntary mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions. Per Table II, on page 39 the minimum setback with enhancement for the Shoreline Residential Limited Environment is 30 feet.

The Consultant's recommendation in the Shoreline Residential Limited Environment was to go with Ecology's recommendation of a 30' minimum setback reduction based on the sensitivity of these areas and that 3 out of 4 of these islands are primarily undeveloped as opposed to the more heavily developed and more likely justifiable 25' minimum setback for the Shoreline Residential Environment. Staff concurs as we are pushing the envelope on the minimum standard setback based on Ecology's comments and best available science and recommends that the 30' minimum setback in the Shoreline Residential Limited Environment should be clarified to be set at 30'.



4.) The Reduction Allowance in new item #5 of the Water Related reduction mechanisms on page 44 is shown as 5-10 ft. However, the reduction mechanisms in Water Related items 1 through 4 to which it refers range from 5-15 ft. So the Reduction Allowance for item 5 on page should be changed to 5-15 feet.

Staff has no opinion either way on this issue as no-net loss should be achieved through offsite mitigation measures if the Council allows for this reduction mechanism. Staff looks to the Council for direction on this issue.

**3. Jack Sperry (Testimony offered at the June 21, 2012 Public Hearing via a hand-out, read to the City Council and submitted with additional written comments that offer suggested adjustments to the Draft Shoreline Master Program, dated June 21, 2012.)**

Mr. Sperry offers some additional recommendations and previously supplied opinions on the Planning Commission's Draft version of the updated Shoreline Master Program to the City Council for their review.

In general, as expressed to the Planning Commission during their review of the Draft Shoreline Master Program, the updated setbacks, with reduction mechanisms are consistent with other Shoreline Master Programs approved by the Department of Ecology during this update cycle and verified with our project officer with the State of Washington. Adjustments have been made by the Planning Commission based on their input and public/written testimony during the public hearing held by the Planning Commission on March 13<sup>th</sup> and 27<sup>th</sup> of this year. Mr. Sperry's oral and written testimony focuses on issues to these reduction mechanisms as it pertains to the Shoreline Residential Environment that have been discussed, adjusted and integrated into the current version, with some additional thoughts on these issues for the Council's consideration.

As background information, a shoreline property lot analysis was conducted by the consultant through the Shoreline Analysis and subsequently added to by additional data gathering, reviewed by the Planning Commission and discussed at great length. It was concluded that only a few lots may be subject to the Variance process, consistent with the creation of this mechanism in order to allow development on properties that do not fit typical physical site conditions. Based on this information, the Planning Commission felt comfortable that the current Draft was adequate in this regard.

In addition, the Department of Ecology provided comment that asked the City to, "Please consider adding language which prioritizes the reduction mechanisms and establishes how many water related actions and upland related actions can be used in combination. A preference should be placed on activities at or near the shoreline." Based on this comment and looking at the issue ecologically, the benefit of an upland and water related enhancement provides in combination, ecologically speaking, provides benefits that aquatic organisms, including insects, fish and plant life as well as other functions including water quality, habitat, etc. that cannot be met by upland improvements alone. The notion that more upland improvements should compensate for new impacts from new development (i.e. larger building footprints, more people and often, impacts from increased use in this area (land/water interface)) does not work ecologically as the

documented, critical functions are occurring at the land/water interface. From this perspective, additional upland improvements can't compensate for the additional impacts of new development alone and gets away from the notion of meeting no-net loss. That's staff's perspective on the issue and welcome more discussion with the Council.