

## ShoreScore Update

Sept. 2014



### Shoreline Management Program Moves Past Hearing Stage

On Monday, Sept. 8th Bellevue City Council continued consideration of the Shoreline Management Program update. In this issue of *ShoreScore Update*, we alert you to the Council's deliberations on items that have been key concerns to shoreline property owners.

#### Our Thanks to You!

First, a round of applause to each of you who have come out to one or both of the public hearings held by Bellevue's City Council. This has made a difference on a number of items we have been representing you on. WSSA's Board thanks you for your support!

#### Accessory Structures – *Will you be able to repair and replace your shoreline cabana?*

This is a question asked by many who attended the second and final SMP Public Hearing before the City Council on August 4<sup>th</sup>. Ambiguous language in staff's report to the Council, possibly only protecting your right to replace your existing house, prompted WSSA to seek clarification.



The Council directed staff to proceed with developing final draft regulations and directed that it be clear that legally developed accessory structures near the shore, such as sheds and cabanas, can be repaired and replaced.

Please be aware, however, that the same is not true for boat houses which extend over the water beyond the Ordinary High Water Mark (OHWM). The City has been firm that boat houses will be considered non-conforming and face tighter regulations.

#### Ordinary High Water Mark – *Will the City alter Lake Sammamish's OHWM?*

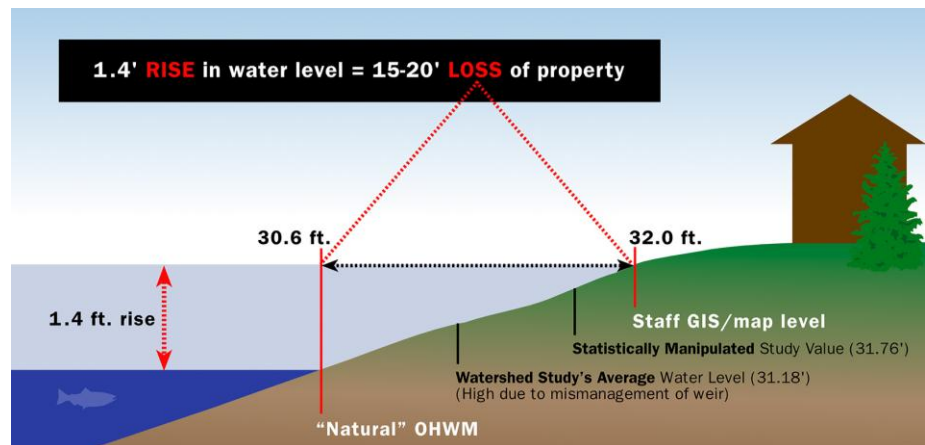
The City has neither the intention nor legal standing to do so. The OHWM is your shoreline property boundary and it can be determined by a licensed professional following a prescribed State methodology. Vegetation and water "marks" are the primary determinants. But, what if these "indicators" are not present or conditions are unnaturally altered?

Residents on Lake Sammamish have been concerned with that lake's OHWM because it has been shifted higher due to poor maintenance of the river's flood control channel at Marymoor Park. The OHWM is controlled by state and federal agencies. It's important because it determines the location of bulkheads and docks (including their height).

The OHWM, until 2004, was also the line from which mandatory, City controlled, setbacks were measured. In 2004 the City had a study carried out on Lake Sammamish to establish a default level

from which the City would measure setbacks. Ostensibly, this study was done to alleviate homeowners the expense of surveys to establish the OHWM. That study arrived at a value over a foot higher than historic water levels and it has been in use by the City since then, even though the study was carried during a period when, as we now know, the lake levels were artificially and unnaturally raised. As you might expect, WSSA raised this issue at the August Public Hearing.

Last week the Council reduced the level to be cited in the SMP. They did NOT return to the historic level, as originally determined by the Corps of Engineers. They will include a level that is 0.6 feet (or 7.2 inches) higher than the Corps' level. Importantly, you will be allowed to have the State surveyor study done, as described above, but at your expense.



Bottom line - The Council will include a lower "default" value, which permit applicants may opt to use. But, keep in mind that using a default that's 0.6 feet high could result in setbacks reaching 5 to 10 feet further upland than under normal conditions. WSSA will recommend that applicants be alerted to this consequence.

### **Setbacks – *Will the City reduce the 50 ft. development setback imposed in 2006?***

City shoreline regulations were originally enacted in the 1970's. Under that program, a mandatory setback of 25 ft. was in place until 2006 when the City declared all lake shorelines to be *critical areas*. Residents were hopeful of, and WSSA has pressed for, a return to something less than 50 ft. given the State's declaration in 2010 that all shorelines are NOT critical areas.

At their last meeting, the Council reaffirmed its intention to keep the 50 ft. setback distance despite the fact that some jurisdictions are not as restrictive. They also indicated this distance can be reduced to as close as 25 ft. from shore. This is consistent with surrounding jurisdictions. However, the Council tossed the approach recommended to them by the Planning Commission. Under the Commission's recommendation traditional gardens and lawns were acceptable forms of vegetation.

### **Shoreline Vegetation – *So, what vegetation requirements are being proposed?***

Should you desire to expand your dwelling forward of the 50 ft. setback line, you will have to undertake *mitigation actions*. At their most recent meeting, the Council directed staff to prepare a menu of optional actions you might undertake to receive permission to develop toward the shore.

A 25 ft. deep buffer is still under consideration, but what you will have to do in that area has not been firmed up. We do know some of the optional actions. They can be as severe as requiring removal of your bulkhead, replacing it with "soft" stabilization and extensive plantings of native vegetation and trees. WSSA continues to raise concerns with these options believing, for example, that a minor

expansion action should not result in obscured views; easily eroded, exposed shoreline; or worse, deed and access restrictions on this part of your property.

**Property Maintenance – *Will you be able to continue routine maintenance of your yard?***



WSSA is very concerned that overreaching restrictions will be imposed on shoreline properties **WHETHER YOU PLAN TO (RE-)DEVELOP OR NOT!** We suspect *any land disturbing activity* beyond minor maintenance, such as mowing or pruning, may necessitate obtaining a permit. While City-wide rules have relatively high thresholds for allowable "disturbance" before permits are required, earlier proposals by staff during the SMP update process would impose stricter limits on our properties. We have requested to receive the draft language which Council directed staff to prepare in the next several weeks. We will object to unreasonable restrictions. **BUT WE NEED YOUR SUPPORT!**

**YOUR SUPPORT - *What can you do to help WSSA?***

We're in the home stretch. The Council has turned staff loose to write the final draft code that will be sent to the Department of Ecology for their review. The draft code must be scrutinized to assure staff does no imbed overreaching language. Issues will need to be brought to the Council's attention. **Help fund that and related efforts keeping in mind that your support are now be tax deductible.** Send a contribution to WSSA today at P.O. Box 6773, Bellevue 98008.