



PLANNING COMMISSION
PUBLIC HEARING AND REGULAR MEETING
THURSDAY, MARCH 9, 2017
6:00 – 9:00 PM
COUNCIL CHAMBER
280 MADISON AVE N
BAINBRIDGE ISLAND, WA 98110

AGENDA

- 6:00 PM CALL TO ORDER**
Call to Order, Agenda Review, Conflict Disclosure
- 6:05 PM REVIEW AND APPROVAL OF MINUTES**
January 12, 2017
February 9, 2017
- 6:10 PM PUBLIC COMMENT**
Accept public comment on off agenda items
- 6:15 PM NICKUM OPEN SPACE TAX CLASSIFICATION ([PLN50744 OS](#))**
Public Hearing & Recommendation
Project Manager: Jennifer Sutton
- 6:30 PM CARLSON OPEN SPACE TAX CLASSIFICATION (PLN50745 OS)**
Public Hearing & Recommendation
Project Manager: Jennifer Sutton
- 6:45 PM BAINBRIDGE LANDING (PLN 50520 [SPR/SUB](#))**
SITE PLAN & DESIGN REVIEW/SUBDIVISION
Recommendation
Project Manager: Heather Wright
- 7:45 PM MADRONA SCHOOL (PLN 18970B SPR/CUP)**
SITE PLAN & DESIGN REVIEW/CONDITIONAL USE PERMIT
Recommendation
Project Manager: Joshua Machen
- 8:55 PM NEW/OLD BUSINESS**
- 9:00 PM ADJOURN**

*****TIMES ARE ESTIMATES*****

Public comment time at meeting may be limited to allow time for Commissioners to deliberate. To provide additional comment to the City outside of this meeting, e-mail us at pcd@bainbridgewa.gov or write us at Planning and Community Development, 280 Madison Avenue, Bainbridge Island, WA 98110

**For special accommodations, please contact Jane Rasely, Planning & Community Development
206-780-3758 or at jrasely@bainbridgewa.gov**

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
REVIEW AND APPROVAL OF MINUTES – October 5, 2016 and October 13, 2016
PUBLIC COMMENT – Accept public comment on off agenda items
MONTESSORI COUNTRY SCHOOL SITE PLAN & DESIGN REVIEW/CONDITIONAL USE PERMIT
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure

Chair J. Mack Pearl opened the meeting at 7:05 PM. Planning Commissioners in attendance were Michael Lewars, William Chester and Michael Killion. Lisa Macchio, Maradel Gale and Jon Quitslund were absent and excused. City Staff present were Planning Manager Joshua Machen, Planner Kelly Tayara and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

The agenda was reviewed. There were not any conflicts.

REVIEW AND APPROVAL OF MINUTES – October 5, 2016 and October 13, 2016

Commissioner Killion noted that Commissioner Quitslund's name was missing from the list of attendees on the October 5, 2016 minutes. Ms. Rasely stated she would add his name to the minutes.

Motion: I move we approve the minutes.

Lewars/Killion: Passed Unanimously 4-0

As Commissioners Lewars and Chester were not present for the October 13, 2016 meeting, those minutes were carried over to the next Planning Commission meeting.

PUBLIC COMMENT – Accept public comment on off agenda items

None.

MONTESSORI COUNTRY SCHOOL SITE PLAN & DESIGN REVIEW/CONDITIONAL USE PERMIT

City Planner Kelly Tayara gave a brief introduction of the project introducing Ms. Meghan Skotheim who gave an overview of the vision behind the expansion of their school. She stated the new campus would allow them to enroll the students on their waiting list.

Brandon Högg gave a presentation of the proposed school improvements highlighting the wooded nature of the site as well as showing the landscaping plan that retained that wooded nature as well as added trees to the buffer. He described the buildings as ranging across the land

by grade level and stated not all the buildings were being proposed at this time. One-way traffic circulation was described citing an increased separation between access points for additional safety. Parking spaces were separated from the drive aisle as well. Commissioner Killion asked how close the neighboring property to the north's driveway was to the exit. Mr. Högg estimated 80 feet. He stated the start and stop times of the grade levels were staggered to create less impact on the traffic in the neighborhood.

Public Comment

Denise McDonnell, Citizen – Stated she lived about 150' from the SW corner of the site and was stated her intent was to mitigate any concerns so the project could move forward and commence work on their project which sounded very exciting. Ms. McDonnell had expressed some concerns and considerations related to the expected increase in noise associated with the increase in students and staff within her SEPA comments submitted back in July 2016. She wanted to respectfully challenge the assessment in completing the approval process regarding the noise levels associated with this increase. She estimated an increase of 76% based on the number of heads that would be added. Ms. McDonnell stated her home office was located 150 feet from the children's play area and that between the hours of 7:00 AM to 5:00 PM, Monday through Friday, she conducted business that included conference calls and clients on the phone with her. She felt the increased noise level would have an impact on the quality and effectiveness of her work which would in turn could impact her income. Ms. McDonnell stated she had spoken with City Planner Tayara who had estimated the noise decibels as 60-65. She went on to reference the Washington Administrative Code (WAC) as saying that was the equivalent to office noise. Ms. Tayara was reported to have said the impact to Ms. McDonnell's home with the windows closed would be that of a dishwasher. Ms. McDonnell felt it was important to note that she was challenging the noise level being that as an office noise level. She went on to quote the WAC stating "in a residential area, the maximum amount of noise coming into a property is 55 decibels from another residential area and 57 decibels from a commercial area." She compared that standard with the project chart for the decibel levels for everyday noises, she estimated the noise level as more around the noise of a lawnmower and that was estimated by WAC at 100 decibels. Ms. McDonnell reiterated she was strongly challenging the estimation of decibels associated with the noise and what has been cited in the WAC and other sources and respectfully requested consideration to conduct some type of noise abatement test which the WAC had set standards and adoption of any of the solutions she had proposed in her SEPA comments which centered around sound absorption and landscape architecture that could help deflect the noise associated with the increased head counts. She went on to say she had recommended specific types of trees and plants which were known for their sound absorption qualities. Chair Pearl asked if Ms. McDonnell felt it was the current noise or the increase in noise? Ms. McDonnell replied it was the increase in noise.

Patty Christiansen, Citizen – Stated she was the daughter of school founder Dorothy King and was the head of the school for 27 years. She was really excited about the project saying it was

the dream of the school for a very long time to have the full spectrum and that it would be one of the very few schools in Washington State that ran from infancy through sixth grade. Ms. Christiansen said the school had been there for a very long time and thought over the years there had been times when they worked with neighbors and the Parks Department and she believed there was a way to make it work so that there would not be an impact for the neighbors. She was really excited to see the design of the new driveway saying it would take care of a huge issue and wanted to say she was excited and hoped to see it go forth.

Mr. Hōgg, Architect – Addressed Condition 9 of the Staff Report stating it was a hardship to put chain link fence around the construction site and asked for orange plastic fencing as a cost saving measure instead.

Kia Micau, Landscape Architect – Addressed the concerns of Ms. McDonnell about noise mitigation stating in the planting plan there was additional vegetation being proposed that would help buffer or reduce the amount of playground noise.

Chair Pearl asked the applicant if there was a willingness to work with the homeowner about this issue. Ms. Skotheim nodded they were willing. Commissioner Lewars asked whether the new students were the ones coming from the facility on High School Road and then projecting the toddler numbers would not increase. Ms. Skotheim stated the number of toddler students would not increase, the play yard closest to Ms. McDonnell's home was the toddler play yard and the primary-aged playground was separated by a hedge from the pre-school playground. She also stated the students would have outdoor time on different schedules so there would not be an increase in the number of children out on the playground at the same time. After further questions from Commissioner Killion, Ms. Skotheim also stated they anticipated utilizing Battle Point Park for physical education classes.

Chair Pearl asked about the tree retention plan and whether there was a covenant to preserve the trees. Discussion ensued about whether the trees in the drain field area were required to be retained.

Commissioner Killion asked if it was known how many trees they were planning on cutting down. The applicant was unsure of the exact number. Planning Manager Machen was asked if it was possible to use the orange netting fence instead of a chain link fence. He stated both were included in City Code, but that it was up to the Planning Director's discretion. The Commissioners agreed they felt the applicant should come up with a plan for which areas would require chain link versus netting fence and they would find that acceptable. The Development Engineering condition of widening Arrow Point Drive was discussed stating the Non-Motorized Transportation Plan required 3 to 5 foot gravel shoulders.

Motion: We recommend approval of this site plan review conditioned, I guess, on the two things that we talked about. I hope Jane or Kelly or somebody has gotten those down right? One of them had to do with the fencing, whether it was plastic or chain link and the other one had to do with this whole business of the covenant with the trees (the covenant on the whole 65%).

City Planner Kelly Tayara - Okay, so perhaps I'll try to summarize, say recommendation for approval provided that the condition related to fencing, that that chain link versus orange construction fencing be left to the discretion of the director.

Chair Mack Pearl – That there's a diagram provided that shows what they intend to do and that it gets reviewed by the Director.

City Planner Kelly Tayara – And that the Declaration of Covenant include the

Chair Mack Pearl – Or we just strike that line that says, “except for the drain field “so the whole thing that shows on C-2 has the protective covenant on it.

City Planner Kelly Tayara - Okay, got it.

Chair Mack Pearl – Strike on 6-S.

Commissioner William Chester – The area in the reserve drain field area should not be included in the covenant. That one's been taken out. Okay?

City Planner Kelly Tayara – Got it.

Chair Mack Pearl – Is there a second?

Commissioner William Chester – Second.

Chair Mack Pearl – Bill. Any more discussion? All in favor?

All Commissioners say, “Aye.”

Chair Mack Pearl – Opposed?

Silence.

Chair Mack Pearl – It passes, so, thank you all for coming.

Lewars/Chester: Passed Unanimously 4-0

NEW/OLD BUSINESS

None.

ADJOURN

The meeting was adjourned at 8:09 PM.

Approved by:

J. Mack Pearl, Chair

Jane Rasely, Administrative Specialist

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
REVIEW AND APPROVAL OF MINUTES – October 13, 2016
PUBLIC COMMENT – Accept public comment on off agenda items
GROW COMMUNITY PHASE 2 SITE PLAN & DESIGN REVIEW MAJOR
AMENDMENT/FINAL SUBDIVISION ALTERATION - Recommendation
REVIEW OF MAJOR SITE PLAN AND DESIGN REVIEW PROJECTS - Discussion
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure

Chair Mack Pearl called the meeting to order at 6:34 PM. Commissioners in attendance were Michael Lewars, Maradel Gale, Jon Quitslund, William Chester and Michael Killion. Lisa Macchio was absent and excused. City Staff present were Planning Director Gary Christensen, Planning Manager Josh Machen, Senior Planner Heather Wright and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

The agenda was reviewed. There were not any conflicts

REVIEW AND APPROVAL OF MINUTES – October 13, 2016

Commissioner Quitslund asked that the quoted term “undesirable” be removed and replaced with the words “poorly planned.”

Motion: I move they be approved as amended.

Gale/Killion: Passed Unanimously 5-0

PUBLIC COMMENT – Accept public comment on off agenda items

None.

**GROW COMMUNITY PHASE 2 SITE PLAN & DESIGN REVIEW MAJOR
AMENDMENT/FINAL SUBDIVISION ALTERATION - Recommendation**

Planning Manager Joshua Machen gave an overview of the proposed changes to the site plan of the Grow Community which included open spaces and garden plots. He highlighted the change from mixed use commercial to additional housing. Mr. Machen referenced amendments that had changed certain aspects of the community center and presented the changes in the open space for the subdivision. Commissioner Gale asked which buildings on the site plan had already been constructed. Mr. Greg Lotakis clarified which buildings had been built, which were under construction and which were not. Mr. Machen went on to describe four single family homes poised to the east and west of Building Q (the building in question) stating all four homes shared a common bottom floor parking garage together while providing a private garage within the

community garage for each single-family home. Commissioner Lewars asked if the condos were going to be sold or rented. Mr. Lotakis stated that at this time they were planned as rental units but were designed with possible future sale in mind. Mr. Lotakis also introduced project architect Glen Hartman and managing investor John Ellis. He went on to describe the differences between the originally proposed and approved mixed-use building and the current proposed multi-family building. Discussion continued with buffer width. Chair Pearl asked why a sidewalk would be allowed within a buffer. Mr. Machen stated the City's code allowed it. Commissioner Quitslund felt the applicant was transforming Shepard Way. Commissioner Killion asked what the City hoped to accomplish by participating in the HDDP program. Senior Planner Heather Wright stated there were basically three goals: 1) Innovative site design; 2) Housing unit size cap; and 3) Different housing types. Commissioner Lewars asked what was currently required in the way of affordable housing in order to achieve HDDP status. Mr. Lotakis stated 10%. Ms. Wright concurred that was the current standard. Mr. Machen reminded the Commissioners that this project was vested to previous HDDP provisions that did not require affordable housing. Commissioner Killion asked for specific water/sewer capacity information. Ms. Wright referred him to Aaron Claiborne in the City's Operations and Maintenance Division. Commissioner Gale shared her experience at the beginning of the Grow Community project detailing community meetings led by Marja Preston and the One Planet model. It bothered her that the finished product was not anything like the conceptual design presented then. Changes she mentioned had to do with parking, community gardens and the on-site school that had not materialized. Commissioner Quitslund was glad to hear there were successful integrations between Phase I and Phase II and felt if the effort was made, it would grow. Commissioner Lewars felt that although modest, this was a small step in the right direction in terms of traffic on Shepard Way and a number of much smaller units.

Charles Schmid, Citizen – Stated he worked on trails and that the trail went between Grow and Madison but on a bigger scale it went all the way down Shepard, past the strawberry plant all the way to Gowen Place. He said it was important to have the feeling of being on a trail which in the past had been a public trail. He asked to see the landscape plan and asked about the trees on the plan placed within 5 feet of the asphalt, the 5-foot wide sidewalk and then 5 feet more of vegetation. He then read from page 5 of the staff report: "Consistent with the hearing examiner's condition on the plat, plantings along Shepard Way shall be in a 10-foot buffer and meet the full screen landscaping requirements. (Note: 5 feet of the buffer will be occupied by sidewalk.)" He stated that he had attended the Design Review Board (DRB) meetings and the motion made by Chair, Alan Grainger was "We've reviewed the Grow Community Phase III and we are recommending approval of revised plans submitted today, 11/21/16, with one condition: that the applicant ensure full screen requirements per hearing examiner's condition 42 are met and that Josh Machen confirms whether the 10-foot wide landscaping buffer can be met. The hearing examiner said 10 feet. The Design Review Board said 10 feet. Mr. Schmid stated it was really wrong to have it be changing things like that it, especially saying HDDP was going to justify it.

HDDP was supposed to make things better though you could call it innovative to change vegetation into concrete. It was just wrong.

Conversation ensued about the changes made to the end of the dirt trail, Shepard Way, to create a more urban setting with sidewalk, curb and gutters. Mr. Machen stated the from the edge of the curb to the building was about 12 feet up to 20 feet in certain areas. He went on to say the project still had to meet the number of tree and shrub requirements for a full screen within the space (even though the sidewalk takes up five feet of the space) which meant it would be fairly densely planted.

Motion: I move that we recommend what the staff has recommended and was reviewed tonight.

Lewars/Chester: Passed 3-2

REVIEW OF MAJOR SITE PLAN AND DESIGN REVIEW PROJECTS - Discussion

Planning Director Gary Christensen opened the discussion by speaking about the general trend in the Planning world to have early coordination, collaboration and consultation on projects. He stated regulations and requirements had become more complex and there was a lot more discussion occurring early on in the design review process. Mr. Christensen said City Staff had discussed the idea of doing just that by bringing certain land use proposals to the Planning Commission earlier on for their review, collaboration, consultation and so forth. He went on to say this was in particularly in regard to major site plan and design reviews as was recently discovered in the Bainbridge Island Municipal Code (BIMC). He said that not only should they be following this code, but that it also made a lot of sense. BIMC 2.16.040 D4c dealt with site plan and design reviews, more specifically major site plan review and those actions that were to come before the Planning Commission. He cited the code: "The director shall determine what the major issues are and the specific aspects of the project" and that "the director should identify those and bring them to the Planning Commission early on. Mr. Christensen said the form would not necessarily be a staff report but something in advance of the Department doing its thorough review. He described how he envisioned this process playing out was by staff identifying the major issues and some of the major aspects of the proposal and would prepare a directive memorandum with a project description, major issues and other specific project aspects that would be reviewed by the Planning Commission. There would already have been a DRB recommendation as well as criteria for the Planning Commission to consider and make recommendations to staff on. Mr. Christensen felt one of the major objectives to that kind of process was that it allowed the Planning Commission to be involved early on in the design review process. It gave them an opportunity to influence, suggest and recommend issues with regards to major projects earlier instead of feeling as though the project was complete when it came before them. So instead of feeling like they were simply rubberstamping a project, they would have the chance to make constructive comments and recommendations. Mr. Christensen told the Commissioners they just wanted to talk about this approach and gauge their interest in it.

Commissioner Quitslund asked where this approach would take place relative to the Pre-App process. Mr. Machen answered that it would still take place during the site plan design review process which was after the Pre-App. He also said it was still part of the formal process and they were still having to follow the code as part of the formal process. Mr. Machen said the Grow Community project they had just recommended was a prime example. They had spent four months making sure everything was right and in place before it was presented to the Planning Commission which may leave the Commissioners feeling as though they did not have any meaningful input. Commissioner Gale asked which activities would fall under this. Mr. Machen stated major site plan and design review which was required by any commercial or multi-family development. Chair Pearl asked if this was in addition to the normal review they were performing currently. Mr. Machen said no, it would be an earlier opportunity to provide input to the director versus at the 11th hour the stamp that goes to the director. He felt having their review earlier in the process gave them the opportunity to have more meaningful input than it did at the end. He stated it was still incumbent upon staff and the director that every project meets every aspect of the BIMC. The question was asked if the projects would come back for a second review and Mr. Machen stated they would not. The Planning Commissioners felt the projects had to come back to them again a second time. Commissioner Chester argued the earlier review should happen before the DRB made a recommendation because once the DRB review was completed, the design was set. Commissioner Lewars agreed they should review the projects earlier but added they needed to see the projects at the end as well. Commissioner Gale agreed she would not want it to be an either/or situation. Mr. Christensen mentioned that while City Council was reviewing the draft Comprehensive Plan, they were discussing the roles of the Planning Commission and the DRB and whether there should be more involvement in a wider range of project review and the results of that discussion were yet unknown. He went on to say there would be more discussion on this in the future. Commissioner Quitslund offered the idea of a retreat with the Planning Commissioners and Staff to sort out their priorities and work plan.

NEW/OLD BUSINESS

None.

ADJOURN

The meeting was adjourned at 8:47 PM.

Approved by:

J. Mack Pearl, Chair

Jane Rasely, Administrative Specialist



Open Space Land

Program Summary

Chapter 84.34 RCW provides property tax relief for properties that meet certain use requirements. *Open space land* is defined as any of the following:

1. Land zoned for open space
2. Any land area, the preservation of which, in its present use, would:
 - a) conserve and enhance natural or scenic resources
 - b) protect streams or water supply
 - c) promote conservation of soils, wetlands, beaches or tidal marshes
 - d) enhance the value to the public of abutting or neighboring parks, forest, wildlife preserves, nature reservations or sanctuaries or other open space
 - e) enhance recreation opportunities
 - f) preserve historic sites
 - g) preserve visual quality along highway, road, and street corridors or scenic vistas
 - h) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification
3. Any land meeting the definition of “farm and agricultural conservation land”, which means either:
 - a) Land previously classified as farm and agricultural land that no longer meets the criteria and is reclassified under open space land.
 - b) “Traditional farmland”, not classified, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential of returning to commercial agricultural.

Basis of Assessment

Kitsap County has adopted an Open Space Plan (WAC 458-30-330) that results in values based on sensitive characteristics of the land and its benefit to the public. If a parcel of land qualifies with two sensitive characteristics, taxable value would be reduced by 50%. If a parcel qualifies with three sensitive characteristics, and if a permanent conservation easement exists on the property, taxable value would be reduced by 80%. If public access is allowed, in appropriate measure so that the integrity of the land is not compromised, an additional 10% reduction would be granted. Generally, if the land characteristics make it reasonable, public access in some measure is expected as part of the public benefit for the classification. If a residence exists on the parcel, a minimum one-acre residence site is excluded from classification.

Application Requirements

Applications must be filed with the Department of Community Development. An application fee will apply. If the property is located within city limits other city fees may also apply. A farm plan may be required. The application may be for an entire parcel or any portion thereof. Complete applications received on or before December 31 are processed during the next calendar year for the following year's taxes.

Review Process

Applications are reviewed by the Department of Community Development and by the city planning department, if the property is located within a city limits. Following a public hearing, applications are approved or denied by the Board of County Commissioners and, if in a city, by the city council. Denial may be appealed in Superior Court. Upon approval, an Open Space Taxation Agreement will be sent to the applicant, who may accept or reject the agreement. The signed agreement is recorded with the county auditor.

(Continued on the back)

Property Use Restrictions

Land approved for classification as open space will be subject to certain use restrictions, designed to ensure that the natural character of the land will not be disturbed. While specific restrictions may vary from property to property, the following is a list of standard conditions that will apply to most properties:

1. No motorized vehicles
2. No domestic animals or livestock (except on "traditional farm land")
3. No clearing of vegetation
4. No hunting, fishing, or trapping
5. No camping
6. No smoking, campfires, or firearms
7. No mining, storage or excavation of materials
8. No dumping

All conditions of approval become part of the recorded agreement.

Removal of Classification

Classification will be removed, and back taxes imposed, upon the occurrence of any of the following:

- Owner's request: The request for withdrawal must be made in writing and signed by all owners. Forms for withdrawal are available from the assessor.
- Change of use: Determination is made by Kitsap County that the property is no longer primarily devoted to the use for which it was classified.
- Sale or transfer of the property, and the new owner does not wish to continue classification: Back taxes must be collected before the conveyance is recorded.

Transfer of Ownership

A new owner may request to continue classification by signing a "Notice of Continuance". All new owners must sign, and an updated management plan may be required. The new owners assume all tax liability accrued by the previous owner, including liability related to this classification.

Back Taxes

Back taxes equal the difference between the tax paid under open space classification and the tax at true and fair value for the current year and the last seven years, plus interest at 1% per month. A 20% penalty is also applied if the property was classified less than ten years or a 2 year written notice of removal was not given or if there was a change in use. Back taxes are not collected under the following circumstances:

1. Transfer to a government entity in exchange for other land within the state
2. Land is taken by power of eminent domain or transferred in anticipation of the exercise of such power
3. A natural disaster changes the use of the property
4. Official action by the state, county, or city disallows the present use of such land
5. Transfer of land to a church when such land would qualify for a property tax exemption pursuant to RCW 84.36.020
6. Acquisition of property interests by public agencies for the purpose of preserving open space lands and riparian easements

Back taxes become due 30 days following notification of the owner, and are subject to additional interest of 1% per month after the due date.

Kitsap County Assessor's Office

614 Division Street MS-22

Port Orchard, WA 98366-4677

Telephone: (360) 337-7160

Fax: (360) 337-4874

E-mail: assessor@co.kitsap.wa.us

www.kitsapgov.com/assr/



CITY OF
BAINBRIDGE ISLAND

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM

DATE: FEBRUARY 23, 2017
TO: PLANNING COMMISSION
FROM: JENNIFER SUTTON, AICP
SENIOR PLANNER
SUBJECT: NICKUM OPEN SPACE CLASSIFICATION APPLICATION
FILE NO: PLN50744OS

I. INTRODUCTION

Applicant: William and Cathy Nickum
8387 Fletcher Bay Road NE
Bainbridge Island, WA 98110

Request: The applicant has submitted an application to the Kitsap County Assessor's Office (attached) to classify 4.15 acres of a 5.88 acre parcel as "Open Space Land" for current use assessment under [Revised Code of Washington \(RCW\) Chapter 84.34](#).

Tax account number: 202502-4-050-2002

Zoning & Comprehensive

Plan Designation: R-0.4, One unit per 100,000 square feet zone/ Open Space Residential(OSR)-0.4

II. RECOMMENDATION

Based on the analysis, staff recommends approval of the Nickum application to classify a portion of their property as "Open Space Land" pursuant to RCW 84.34.020(1)(b).

III. PLANNING COMMISSION REVIEW

The Planning Commission's is responsible for reviewing and making recommendations on all Open Space Classification Applications. The recommendation is forwarded on to a joint meeting of County Commissioners and City Council for a decision.

IV. ANALYSIS & FINDINGS

City of Bainbridge Island Comprehensive Plan

The property is designated Open Space Residential (OSR-0.4) in the City's Comprehensive Plan. The Open Space Residential District is designated for areas appropriate for low-density, residential development and a variety of agricultural and forestry uses and the preservation of open space.

Zoning and Land Use

The property is zoned R-0.4, One Unit per 100,000 square feet zone. The property currently one residence and accessory buildings upon it, concentrated in the northern quarter of the property. The residence was constructed in 1985. At 5.88 acres in size, the property theoretically could yield one additional single-family residential lot, if subdivided. However, the southern three quarters of the property qualifies as "critical areas" and associated buffers pursuant to BIMC Chapter 16.20, which would make additional subdivision difficult. Those critical areas are Springbrook Creek, a fish bearing stream, wetlands surrounding the stream and required buffers to the stream and wetland. Those buffers extend north to the residence.

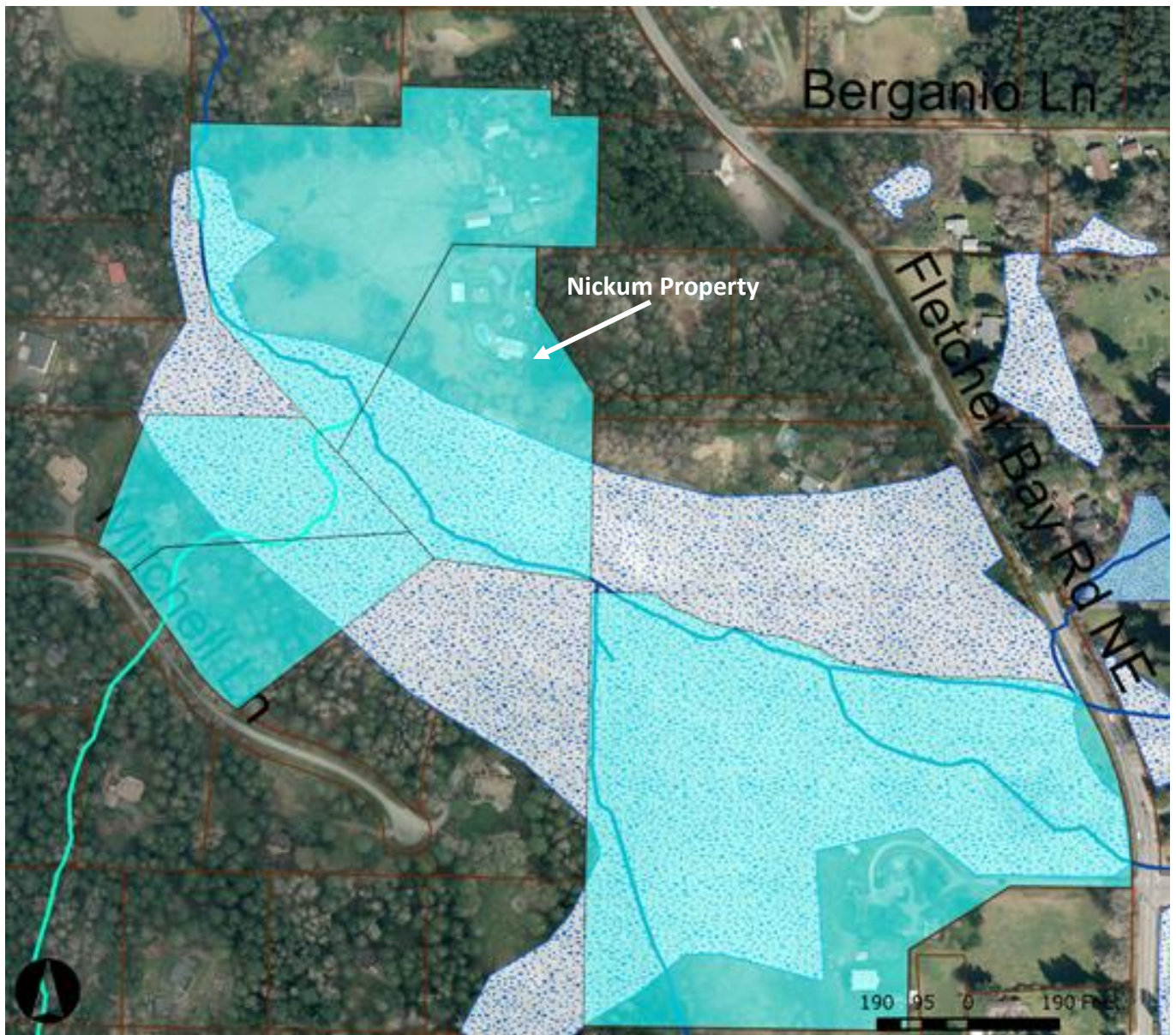
Current Use Tax Reduction

The Kitsap County Assessor's Office is working to complete a property tax comparison table to understand the tax implications of the Nickum Current Use Assessment application. That comparison will be available to the Planning Commission at the February 23, 2017 Commission meeting.

Findings

The application has been reviewed for consistency with the Kitsap County Open Space Plan (April, 1987, amended October, 1992) and found to be consistent with the criteria for current use assessment for Open Space Classification- *Open Space Land*. The Nickum property currently has several high priority natural resources- the fish bearing stream, associated wetlands, riparian wildlife habitat, and enhancing the value of the abutting or neighboring properties that are also classified as open space under the current use tax program- see photo. Those adjacent conservation properties also protect Springbrook creek and associated wetlands and are located:

- One property immediately north of the Nickum property; and
- Two properties across Springbrook Creek, adjacent to the south and west of the Nickum property; and
- The large Boundy Farm property, located upstream to the southeast of the Nickum property.



DEC 19 2016

DEC 13 2016



PROJECT APPLICATION
LAND USE, ENVIRONMENTAL
& SITE DEVELOPMENT



For Departmental Use Only
Related Application #s:

Project Name: Nickum property open space reclassification

Please Identify the Permit Types for This Project

A Supplemental Application and Checklist must be submitted with this application.

- ☐ Buffer Reductions
 - ☐ Critical Area Buffer Reduction
 - ☐ Critical Area Variance
 - ☐ Reasonable Use Exception
- ☐ Comp Plan Amendment
 - ☐ Area Wide
 - ☐ Pre-Application Meeting
 - ☐ Site Specific
 - ☐ Textual
- ☐ Conditional Use (CUP) / Administrative CUP
- ☐ CUP/Administrative CUP Revision
- ☐ Conditional Waiver from View Blockage Requirements
- ☐ Critical Areas Ordinance Site Visit
- ☐ Flood Hazard Areas Variance
- ☐ Home Business
- ☐ Pre-Application Meeting
- ☐ Master Plan Scoping
- ☒ Open Space
 - ☒ Open Space Land
 - ☐ Farm and Agriculture Conservation Land
 - ☐ Timber Land
- ☐ Performance Based Development (PBD)
- ☐ Rezone
- ☐ Right of Way - Public Works
- ☐ Road Approach (w/o Building Permit or SDAP)
- ☐ SEPA Review
- ☐ Shoreline Permits - JARPA
 - ☐ Shoreline Conditional Use - JARPA
 - ☐ Shoreline Substantial Development - Commercial - JARPA
 - ☐ Shoreline Substantial Development - Residential - JARPA
 - ☐ Shoreline Variance - JARPA

- ☐ Site Development Activity Permit (SDAP)
 - ☐ Minor ☐ Engineered; ☐ Non-engineered
 - ☐ Grading (<500 cyds)
 - ☐ Grading 2 (≥500 cyds, but <5,000 cyds)
 - ☐ Commercial
 - ☐ Subdivision
 - ☐ Short Subdivision
 - ☐ Large Lot Subdivision
 - ☐ Right of Way Use/Improvement - Minor
 - ☐ Single-family residence
 - ☐ Major Development
 - ☐ Grading 3 (≥5,000 cyds)
 - ☐ Commercial
 - ☐ Subdivision
 - ☐ Short Subdivision
 - ☐ Large Lot Subdivision
 - ☐ Right of Way Use/Improvement - Major
 - ☐ Single-family residence

Land Subdivision

- ☐ Preliminary
 - ☐ Preliminary Subdivision
 - ☐ Preliminary Short Subdivision
 - ☐ Preliminary Large Lot Subdivision
- ☐ Final
 - ☐ Final Plat
 - ☐ Final Short Plat
 - ☐ Final Large Lot Plat
 - ☐ Binding Site Plan
- ☐ Amendment
 - ☐ Preliminary Subdivision Amendment
 - ☐ Preliminary Short Subdivision Amendment
 - ☐ Preliminary Large Lot Subdivision Amendment
- ☐ Alteration
 - ☐ Final Plat Alteration

☐ Shoreline Revision ☐ Shoreline Exemption – JARPA ☐ Shoreline Exemption-Mooring Buoys - JARPA ☐ Sign Permit ☐ Timber Harvest ☐ Major ☐ Minor ☐ Variance - Zoning	☐ Final Short Plat Alteration ☐ Final Large Lot Plat Alteration ☐ Binding Site Plan Alteration
--	---

The authorized agent/representative is the primary contact for all project-related questions and correspondence. The County will email requests and information about the application to the authorized agent/representative and will 'copy' (Cc) the owner noted below. The authorized agent/representative is responsible for communicating information to all parties involved with the application. It is the responsibility of the authorized agent/representative and owner to ensure their mailbox accepts County email (i.e., County email is not blocked or sent to 'junk mail'). There may be instances where regular USPS or courier mail is used.

Applicant/Property Owner Information

Property Owner:

Name: Will & Cathy Nickum
 Address: 8387 Fletcher Bay Road NE, Bainbridge Island, WA 98110
 Phone #: 206-842-4632 Cell Phone #: 206-799-0459
 Email Address: wcnickum@gmail.com

Applicant:

☒ Owner
 ☐ Applicant (other than owner)
 ☐ Authorized Agent/Representative

Name: _____
 Address: _____
 Phone #: _____ Cell Phone #: _____
 Email Address: _____

Note: For projects with multiple owners, attach a separate sheet with each owner(s) information and signatures.

Professional:

☐ Engineer
 ☐ Architect
 ☐ Surveyor
 ☐ Contractor

☐ Check if this is the Authorized Agent/Representative for this project.

Name: _____ Title: _____
 License Number: _____ Liability Certificate: _____
 Address: _____
 Work Phone #: _____ Cell Phone #: _____
 Email Address: _____

Professional:

☐ Engineer
 ☐ Architect
 ☐ Surveyor
 ☐ Contractor

☐ Check if this is the Authorized Agent/Representative for this project.

Name: _____ Title: _____
 License Number: _____ Liability Certificate: _____
 Address: _____
 Work Phone #: _____ Cell Phone #: _____
 Email Address: _____

Project Information

Project Name:

Nickum property open space reclassification

Description of Work (include proposed uses):

Property reclassification

Property Information:

Site Address: 8387 Fletcher Bay Road NE, Bainbridge Island, WA 98110

Section: 20

Township: 25 North

Range: 2 East

Assessor Tax Parcel Number(s): 202502-4-050-2002

Total Parcel Area: 5.87 Acres

Area of Project Site (in square feet if less than 1 acre; in acres, if greater): 4.15 Acres

Present Zoning: R 0.4

Present Use of Property: Residential

Proposed Zoning:

Access (name of street(s) from which access will be gained): Fletcher Bay Road NE

Environmental Features on or near Site (show areas on site plan):☐ Yes ☒ No ☐ Don't Know Marine Shoreline: Shoreline Designation:☒ Yes ☐ No ☐ Don't Know Creek or stream (name): Springbrook☐ Yes ☒ No ☐ Don't Know Lake (name): Shoreline Designation:☒ Yes ☐ No ☐ Don't Know Endangered or threatened species (identify): Salmon/cutthroat trout☒ Yes ☐ No ☐ Don't Know Wetlands☐ Yes ☒ No ☐ Don't Know Steep slopes or Geological hazard☐ Yes ☒ No ☐ Don't Know Flood hazard area☐ Yes ☐ No ☒ Don't Know Critical Aquifer Recharge Area**Utilities:****Water Source:**Existing: ☒ Yes ☐ NoProposed: ☐ Yes ☒ NoWell: ☒ Yes ☐ NoPublic Water: ☐ Yes ☒ No

Name of Water Provider:

Power:Existing: ☒ Yes ☐ NoProposed: ☐ Yes ☒ No

Name of Power Provider: PSE

Sewer:Existing: ☒ Yes ☐ NoProposed: ☐ Yes ☒ NoSeptic: ☒ Yes ☐ NoPublic Sewer: ☐ Yes ☒ No

Name of Sewer Provider:

Other Utilities:Existing: ☒ Yes ☐ NoProposed: ☐ Yes ☒ No

Name of Utility Provider(s): Century Link

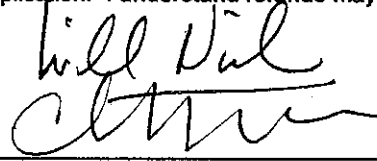
NOTE: If any of the above utilities needs to be installed and disturbance will occur in a public maintained or unmaintained county road and/or Right-of-Way easement then a Right-of-Way Supplemental Application is required.

I affirm, under penalty of perjury, that all answers, statements, and information submitted with this application are correct and accurate to the best of my knowledge. I also affirm that I am the owner of the subject site. Further, as owner, I grant permission to any and all employees and representatives of the County of Kitsap and other governmental agencies to enter upon and inspect said property as reasonably necessary to process this application. I understand, in accordance with the Department of Community Development fee policies, the base fee is determined by an average processing time. If staff hours required to process the permit exceeds the base fee, additional charges may be incurred, and I agree to pay all fees of the County that apply to this application. I understand refunds may also be issued for those permits that require less processing time.

Will Nickum

Cathy Nickum

Print Name



Owner Signature

12/9/16

12/9/16

Date



SUPPLEMENTAL APPLICATION **FOR CLASSIFICATION** **OR RECLASSIFICATION** **OPEN SPACE LAND**

Kitsap County Code is available online at <http://www.codepublishing.com/wa/kitsapcounty/>
Click on Title 18 Environment, Click on Chapter 18.12 Open Space Plan
Washington State Department of Revenue

Chapter 84.34 RCW

NOTE: This permit type requires a Submittal Appointment. When you have assembled all required submittal items, please call (360)337-5777 to schedule your Permit Submittal Appointment.

File With the County Legislative Authority: Kitsap County

Name of Owner(s): Will & Cathy Nickum Phone No: 206-842-4632

Address: 8387 Fletcher Bay Road NE, Bainbridge Island, WA 98110

Parcel Number(s): 202502-4-050-2002

Legal description: See attached sheet

Total acres in application: 4.15

Indicate what category of open space this land will qualify for:

- ☒ Conserve or enhance natural, cultural, or scenic resources
- ☒ Protect streams, stream corridors, wetlands, natural shorelines, or aquifers
- ☒ Protect soil resources, unique or critical wildlife, or native plant habitat
- ☒ Promote conservation principles by example or by offering educational opportunities
- ☒ Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces
- ☐ Enhance recreation opportunities
- ☐ Preserve historic or archaeological sites
- ☒ Preserve visual quality along highway, road, street corridors, or scenic vistas
- ☐ Retain in natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the granting authority
- ☐ Farm and agricultural conservation land previously classified under RCW 84.34.020(2), that no longer meets the criteria
- ☐ Farm and agricultural conservation land that is "traditional farmland" not classified under Chapter 84.33
or Chapter 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture

1. Describe the present use of the land.

The land proposed for open space classification represents about 70% of a 5.87 acre rural residential lot. This portion of the lot is open and undeveloped, largely wetlands, with a creek along the southern boundary. It was used many years ago as grazing pasture, as the land & lot were part of a large dairy farm. No domestic animals are kept on the land now. The land is accessed by the owners now on foot and tractor for maintenance and to enjoy the natural setting.

2. Is the land subject to a lease or agreement which permits any other use than its present use?

☐ Yes ☒ No

If yes, attach a copy of the lease agreement.

3. Describe the present improvements (residence, buildings, etc.) located on the land.

The portion of land proposed for open space has no buildings or structures on it. The lot itself is relatively fully developed with two residences, a swimming pool, large barn and several small outbuildings, but these are contained on the raised portion of the lot to the north. There are fences along the east and west lot boundaries. The southern boundary used to be fenced, but it fell into disrepair and has been removed.

4. Is the land subject to any easements?

☐ Yes ☒ No

If yes, describe the type of easement, the easement restrictions, and the length of the easement.

5. If applying for the farm and agricultural conservation land category, provide a detailed description below about the previous use, the current use, and the intended future use of the land.

NOTICE:

The county and/or city legislative authorities may require owners to submit additional information regarding the use of the land.

As the owner of the parcel(s) described in this application, I hereby indicate by my signature below that I am aware of the additional tax, interest, and penalties involved when the land ceases to be classified under the provisions of Chapter 84.34 RCW. I also certify that this application and any accompanying documents are accurate and complete.

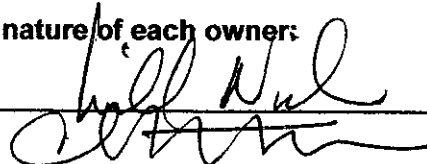
The agreement to tax according to use of the property is not a contract and can be annulled or canceled at any time by the Legislature (RCW 84.34.070)

Print the name of each owner:

Will Nickum

Cathy Nickum

Signature of each owner:



The granting or denial of an application for classification or reclassification as open space land is a legislative determination and shall be reviewable only for arbitrary and capricious actions. Denials are only appealable to the superior court of the county in which the land is located and the application is made.

Statement of Additional Tax, Interest, and Penalty Due Upon Removal of Classification

1. Upon removal of classification, an additional tax shall be imposed which shall be due and payable to the county treasurer 30 days after removal or upon sale or transfer, unless the new owner has signed the Notice of Continuance. The additional tax shall be the sum of the following:
 - (a) The difference between the property tax paid as "Open Space Land" and the amount of property tax otherwise due and payable for the last seven years had the land not been so classified; plus
 - (b) Interest upon the amounts of the difference (a), paid at the same statutory rate charged on delinquent property taxes; plus
 - (c) A penalty of 20% will be applied to the additional tax and interest if the classified land is applied to some other use except through compliance with the property owner's request for withdrawal as described in RCW 84.34.070(1).
2. The additional tax, interest, and penalty specified in (1) shall not be imposed if removal resulted solely from:
 - (a) Transfer to a governmental entity in exchange for other land located within the State of Washington.
 - (b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power.
 - (c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property.
 - (d) Official action by an agency of the State of Washington or by the county or city where the land is located disallows the present use of such land.
 - (e) Transfer of land to a church when such land would qualify for property tax exemption pursuant to RCW 84.36.020.
 - (f) Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108(6)(f)).
 - (g) Removal of land classified as farm & agricultural land under RCW 84.34.020(2)(e) (farm home site).
 - (h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification.
 - (i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120
 - (j) The creation, sale or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040.
 - (k) The sale or transfer of land within two years after the death of the owner of a least a fifty percent interest in the land if the land has been assessed and valued as designated forest land under chapter 84.33 RCW, or classified under this chapter 84.34 RCW continuously since 1993. The date of death shown on the death certificate is the date used.
 - (l) The discovery that the land was classified in error through no fault of the owner.

FOR LEGISLATIVE AUTHORITY USE ONLY

Date application received: _____ By: _____

Amount of processing fee collected: \$ _____

- Is the land subject to this application designated as open space by a comprehensive land use plan adopted by a city or county and zoned accordingly? ☐ Yes ☐ No

If yes, application must be processed in the same manner in which an amendment to the comprehensive land use plan is processed.

If no, application must be acted upon after a public hearing and after notice of the hearing shall have been given by one publication in a newspaper of general circulation in the area at least ten days before the hearing.

- Is the land subject to this application located within an incorporated part of the county? ☐ Yes ☐ No

If yes, application must be acted upon by three members of the county legislative authority and three members of the city legislative authority. See RCW 84.34.037(1) for details.

If no, application must be acted upon by three members of the county legislative authority.

☐ Application approved ☐ In whole ☐ In part

☐ Denied ☐ Date owner notified of denial (Form 64 0103):

If approved, date Open Space Taxation Agreement (OSTA) was mailed to owner:

Date signed OSTA received by Legislative Authority:

Date copy of signed OSTA forwarded to Assessor:

To ask about the availability of this publication in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users, please call (360) 705-6718. For tax assistance, call (360) 534-1400.

August 15, 1999

Legal Description for Proposed Boundary Line Adjustment
Will & Cathy Nickum
8387 Fletcher Bay Road
Bainbridge Island, WA 98110
(206) 842-4632

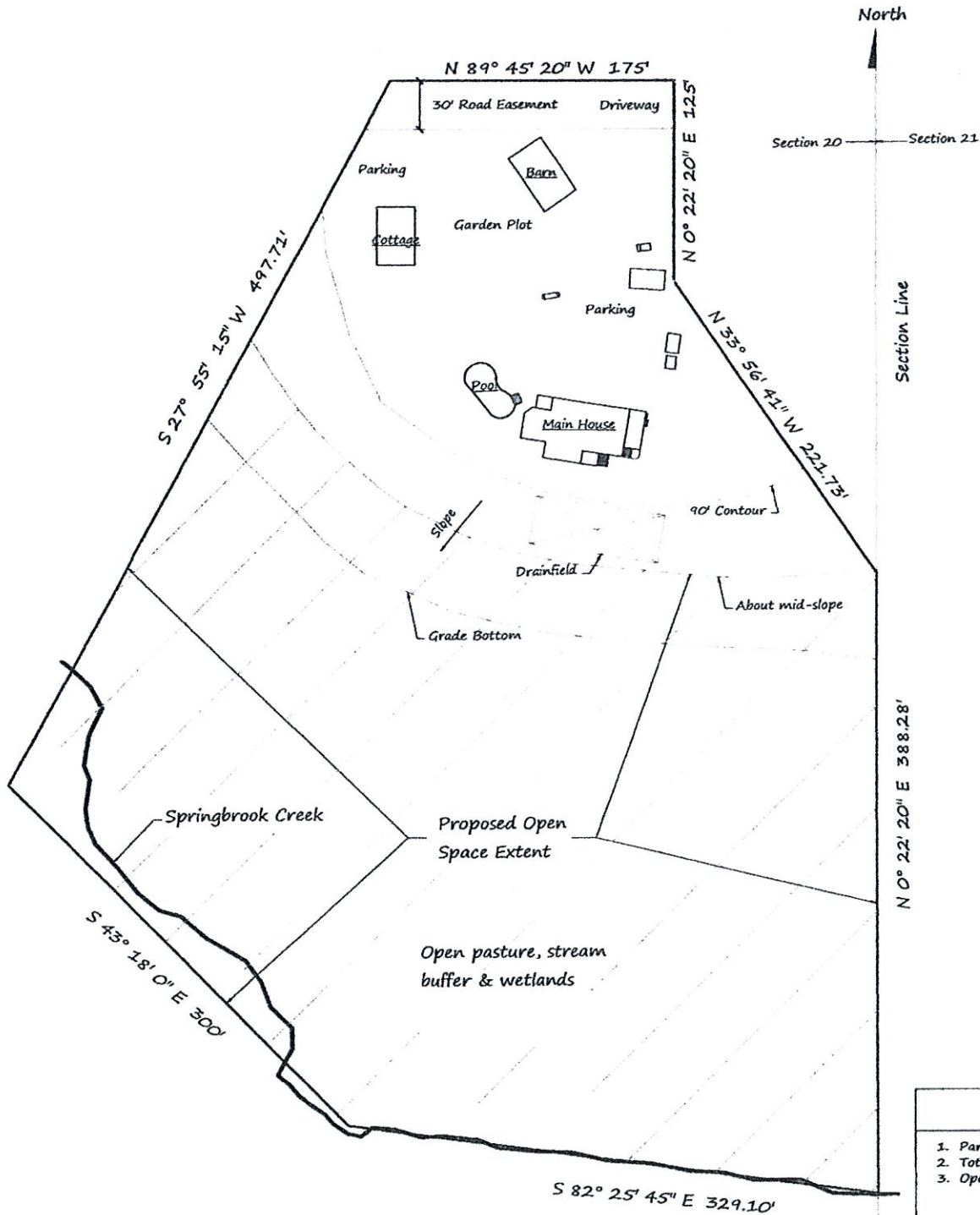
That portion of the southeast quarter of Section 20, Township 25 North, Range 2 East, W.M., described as follows:

Beginning at a point on the easterly line of said section which bears S 0 degrees 03' 48" W from the northeast corner of the southeast quarter of said section, a distance of 1317.46 feet, thence N 89 degrees 45' 20" W a distance of 125 feet to the northeast corner of Parcel "C" of the Rekow 1981 Short Plat No. 2735, as recorded under Kitsap Auditor's file number 8110280106, the true point of beginning; thence along the westerly extension of said northerly limits N 89 degrees 45' 20" W, a distance of 175 feet to the northwest corner of Lot "D" of the 1989 Rekow Short Plat No. 4878 as recorded under Kitsap County Auditor's file number 8902240145; thence S 27 degrees 55' 15" W a distance of 497.71 feet to a point on the northeasterly line of Rekow Valley Farm, Division No. 1 as per plat recorded in Volume 29 of Plats, pages 29, 30 and 31, Records of Kitsap County, Washington; thence along said northeasterly plat limits S 43 degrees 18' 03" E a distance of 300 feet to the easterly-most corner of Lot 5 of said Plat, said point being the southwest corner of said Parcel "C"; thence S 82 degrees 25' 45" E a distance of 329.10 feet to the southeast corner of said Parcel "C"; thence continuing N 0 degrees 22' 20" E a distance of 388.28 feet; thence N 33 degrees 56' 41" W a distance of 221.73 feet; thence N 0 degrees 22' 20" E a distance of 125.0 feet to the northeast corner of said Parcel "C" and the true point of beginning.

Together with an easement for ingress, egress and utilities as recorded under Kitsap County Auditor's File No. 8110280106.

Containing 5.87 acres, more or less.

Situate in Kitsap County, Washington.



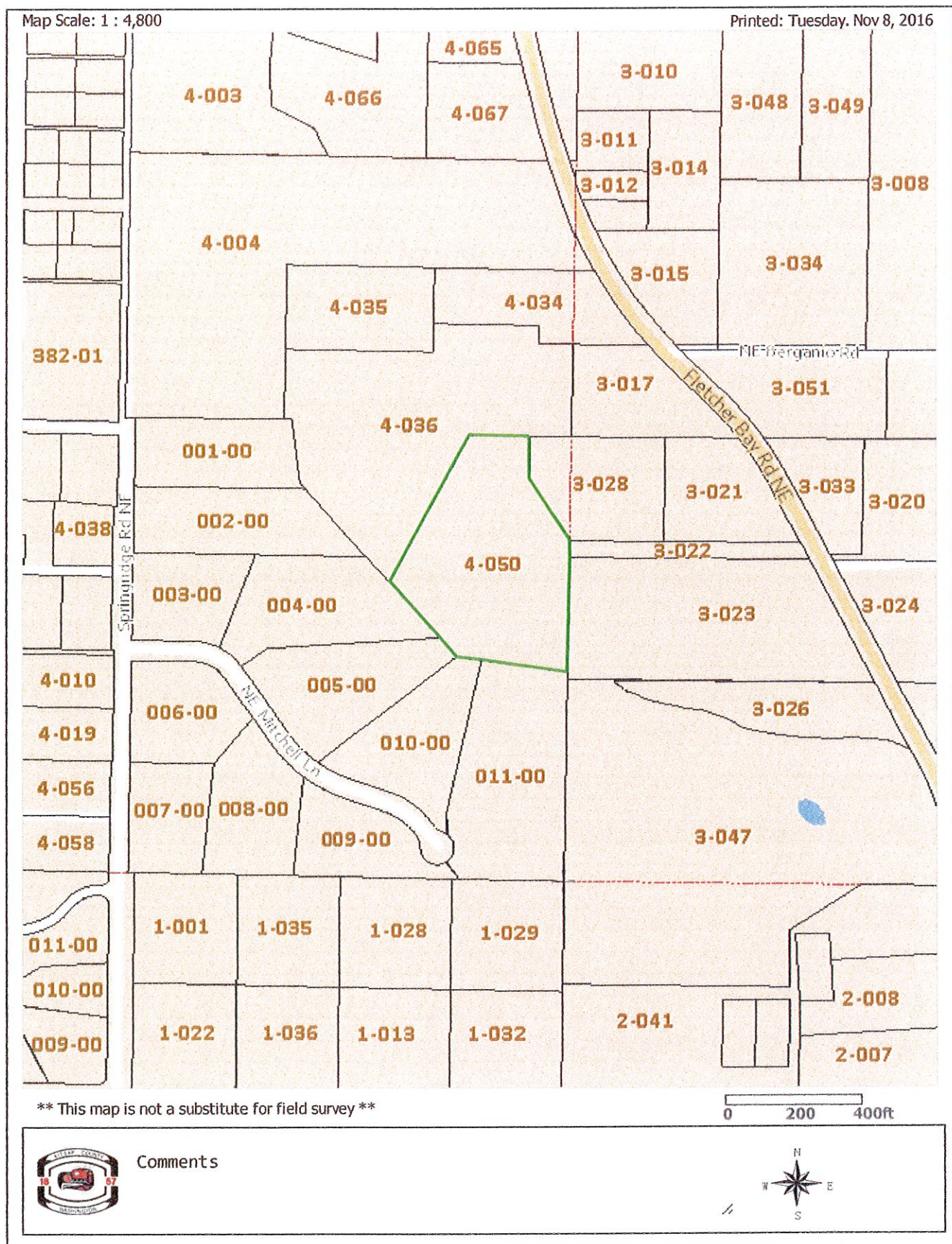
General Notes

1. Parcel Number: 202502-4-050-2002
2. Total Lot Size = 5.87 Acres.
3. Open Space Portion = 4.15 Acres.

Will & Cathy Nickum
8387 Fletcher Bay Road NE
Bainbridge Island, WA 98110
(206) 842-4632

Property Plan

File: Property 2016	Scale: 1" = 100'
By: WCN	Date: November 2016





Looking Southeast



Looking Southwest

Photos taken from the hill in front of the main house.



Looking North



Looking East

Photos taken from the SW corner of the property.

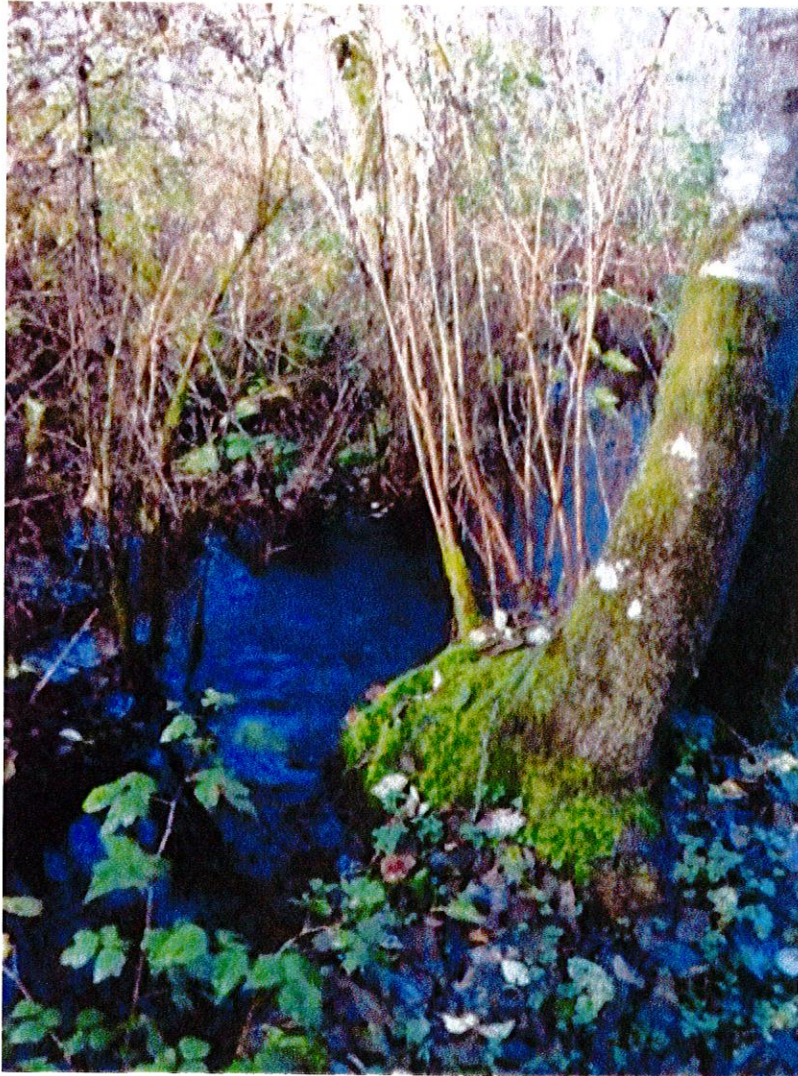


Looking West



Looking East

Photos taken from about the middle of the property (east to west) along the southern edge.



Photos of Springbrook Creek at a few points along its route.



Looking North



Looking West

Photos taken from the SE corner of the property.



CITY OF
BAINBRIDGE ISLAND

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM

DATE: MARCH 9, 2017
TO: PLANNING COMMISSION
FROM: JENNIFER SUTTON, AICP
SENIOR PLANNER
SUBJECT: CARLSON OPEN SPACE CLASSIFICATION APPLICATION
FILE NO: PLN50745OS

I. INTRODUCTION

Applicant: William Carlson
7211 48th Way NW
Olympia, WA 98502

Request: The applicant has submitted an application to the Kitsap County Assessor's Office (attached) to classify a total of 21.65 acres as "Open Space Land" for current use assessment under [Revised Code of Washington \(RCW\) Chapter 84.34](#). The total acreage represents 3 adjacent properties, located south of Arrowpoint Drive. Two of the properties are currently classified as "Forest Land" under the current use assessment program; this application would transfer those two properties from "Forest Land" to "Open Space Land".

Tax account

Numbers: 172502-1-028-2002 (5.66 Acres)
172502-1-029-2001 (5.66 Acres, designated "Forest Land")
172502-1-041-2005 (10.33 Acres, designated "Forest Land", "Forest to Sky Trail")

Zoning & Comprehensive

Plan Designation: R-0.4, One unit per 100,000 square feet zone/ Open Space Residential(OSR)-0.4

II. RECOMMENDATION

Based on the analysis, staff recommends approval of the Carlson application to classify the entirety of the three properties as “Open Space Land” pursuant to RCW 84.34.020(1)(b).

III. PLANNING COMMISSION REVIEW

The Planning Commission’s is responsible for reviewing and making recommendations on all Open Space Classification Applications. The recommendation is forwarded on to a joint meeting of County Commissioners and City Council for a decision.

IV. ANALYSIS & FINDINGS

City of Bainbridge Island Comprehensive Plan

The property is designated Open Space Residential (OSR-0.4) in the City’s Comprehensive Plan. The Open Space Residential District is designated for areas appropriate for low-density, residential development and a variety of agricultural and forestry uses and the preservation of open space.

Zoning and Land Use

The property is zoned R-0.4, One Unit per 100,000 square feet zone. The three properties do not have any residences upon them. At 21.62 acres in size, the property theoretically could yield nine single-family residential lots if subdivided.

Conservation Easements

In 2015, Mr. Carlson entered into a conservation easement with the Bainbridge Island Metropolitan Parks & Recreation District (BIMPRD) and the Bainbridge Island Land Trust for all three properties (see attached). The conservation easement on the three properties create a habitat corridor between the Grand Forest and Battle Point Parks by conserving the properties as forest, taking two of them out of the “Forest Land” program, a program intended for ongoing timber harvest. A portion of the BIMPRD “Forest to Sky Trail” that connects the two parks has been constructed on the southernmost property, 172502-1-041-2005. Public access on the trail is a part of the conservation easement. A stream running north/south cuts through the middle of the properties.

Current Use Tax Reduction

The Kitsap County Assessor’s Office is working to complete a property tax comparison table to understand the tax implications of the Carlson Current Use Assessment application. It is possible that the property taxes may increase for the two properties are currently classified as “Forest Land” under the current use program. That comparison will be available to the Planning Commission at the March 9, 2017 Commission meeting.

Findings

The application has been reviewed for consistency with the Kitsap County Open Space Plan (KCC Chapter 18.12) and found to be consistent with the criteria for current use assessment for Open Space Classification- *Open Space Land*. The Carlson property currently has several high, medium, and even low priority natural resources- see table below.

Resource List: Carlson Property (KCC 18.12.020)	
High Priority Resources	
2.	Wetlands, Ponds and Streams
5.	Significant Wildlife Habitats
7.	Urban Open Space
11.	Conservation easement
12.	Land or interest acquired for open space or conservation futures
Medium Priority Resources	
2.	Secondary Stream Buffers
4.	Public Lands Buffer
Low Priority Resources	
4.	Preservation of visual quality



SUBMITTAL CHECKLIST **OPEN SPACE APPLICATIONS**



This submittal checklist is intended to assist you in preparing and submitting a complete application.

Part 1 - Submittal Requirements You must complete & submit all items for your application to be accepted.

Part 2 - Fully Complete Details provides you with more detail and code references for certain submittal items. Use Part 2 as a reference to submit the required items correctly. Once your application is determined to be complete, a review for technical completeness is conducted and you may be required to submit additional information in order to proceed with further review of your application.

RECEIVED

DEC 19 2016

Kitsap County

Dept of Community Development

☒ Open Space

☐ Farm and Agriculture
Conservation Land

☐ Timber Land

Applicant Name: William C. Carlson Assessor Tax Parcel #: 172502-1-028-2002,
172502-1-029-2001, 172502-1-041-2005.

Project Name: Reclassification of land in conservation easement to open space from timberland or undeveloped land.

Part 1 – Submittal Requirements

Please be aware that permit application submittals can take 30 – 45 minutes for each application. This is to ensure application materials are complete and accurately prepared for a timely review from county staff. Use the column to the left to check off items included with your application.

✓ Use the Column to the left to check off items included with your Application		Number
☒	1. Submittal Checklist	1 Paper
☒	Fees are due at the time of submittal. <u>See Current Fee Schedule</u> to estimate fee. Accepted forms of payment: 2. Cash 3. Check/Cashier's Check- Checks payable to Kitsap County Department of Community Development 4. Electronic Checks - \$1.00 flat fee per electronic check 5. All Major credit cards- a Third Party convenience fee will apply	-
✓	Required Applications	
☒	6. Project Application	1 original, 1 copy & 1 electronic*
☒	7. Supplemental Application ☒ Classification or Reclassification Open Space Land ☐ Current Use Application Timber Land Classification Parcels with Same Ownership ☐ Current Use Application Timber Land Classification Parcels with Multiple Ownerships	1 original, 1 copy & 1 electronic

✓	Required Submittal Items	
☒ N/A	8. Timber Management Plan, with date prepared and/or revised (for Timber Land applications only)	2 copies & 1 electronic
☒ N/A	9. Farm Management Plan, with date prepared and/or revised (for Farm and Agriculture Conservation Land applications only)	2 copies & 1 electronic
☒	10. A site plan reduced to 8½ x 11, showing: ☐ Map scale and north arrow ☒ Property location ☐ Home location and other buildings ☒ Area in open space ☒ Location of any critical areas (wetlands, streams, shorelines, steep slopes, etc.)	2 copies & 1 electronic
☒	11. Photographs of the subject property	2 copies & 1 electronic

*Electronic means documents are submitted on either USB drive or disc. Electronic documents must be in a searchable PDF format (saved as PDF, not scanned) and no more than 150MB per file.

Part 2 – Fully Complete Details

Detailed application requirements are noted below, but space limitations preclude the listing of complete code requirements. Please note that additional items or information may be required if the review process indicates more information is needed to evaluate the project.

Kitsap County Code is available online at: www.codepublishing.com/wa/kitsapcounty.

Code Requirement	Code Reference
A vicinity map showing the location of the property and surrounding properties (A copy of the assessor's quarter section map may be used to identify the site.)	17.430.050
Location of existing and proposed buildings and structures showing the buffers and setbacks and intended use of each (for shoreline properties, adjacent property building(s) location(s) shall be shown)	17.430.050
Location of any critical areas (wetlands, streams, shorelines, steep slopes, etc.) and their associated buffer and/or setback requirements	17.430.050
Open Space	18.12



SUPPLEMENTAL APPLICATION
FOR CLASSIFICATION
OR RECLASSIFICATION
OPEN SPACE LAND

RECEIVED

DEC 19 2016

Kitsap County
Dept of Community Development

Kitsap County Code is available online at <http://www.codepublishing.com/wa/kitsapcounty/>

Click on Title 18 Environment, Click on Chapter 18.12 Open Space Plan

Washington State Department of Revenue

Chapter 84.34 RCW

NOTE: This permit type requires a Submittal Appointment. When you have assembled all required submittal items, please call (360)337-5777 to schedule your Permit Submittal Appointment.

File With the County Legislative Authority: Kitsap County

Name of Owner(s): William C. Carlson Phone No: 360-481-7199

Address: 7211 48th Way NW, Olympia, WA 98502

Parcel Number(s): 172502-1-028-2002, 172502-1-029-2001 and 172-1-041-2005

Legal description: SE/NE 17-25-2E Detailed description attached

Total acres in application: 21.65

Indicate what category of open space this land will qualify for:

- ☒ Conserve or enhance natural, cultural, or scenic resources
- ☒ Protect streams, stream corridors, wetlands, natural shorelines, or aquifers
- ☐ Protect soil resources, unique or critical wildlife, or native plant habitat
- ☐ Promote conservation principles by example or by offering educational opportunities
- ☒ Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces
- ☐ Enhance recreation opportunities
- ☐ Preserve historic or archaeological sites
- ☐ Preserve visual quality along highway, road, street corridors, or scenic vistas
- ☐ Retain in natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the granting authority
- ☐ Farm and agricultural conservation land previously classified under RCW 84.34.020(2), that no longer meets the criteria
- ☐ Farm and agricultural conservation land that is "traditional farmland" not classified under Chapter 84.33 or Chapter 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture

Describe the present use of the land. This land, part of my great grandfather, Andrew Miemois

1. Anderson's homestead has mostly remained in timber since the homestead was filed in 1883. A small portion on north edge was in pasture for about 55 years until reforestation in 1966. It was selectively logged in 1899 and 1966 and is now a stand of timber from 50 to 116 years old with Miemois Creek running through it. I put it into a Conservation Easement with Bainbridge Island Land Trust on December 21st 2015. See Auditors file 201512210155.

☐☐

2. Is the land subject to a lease or agreement which permits any other use than its present use? **No it is not.**

Yes

No

If yes, attach a copy of the lease agreement.

3. Describe the present improvements (residence, buildings, etc.) located on the land.

4. Is the land subject to any easements?

☐ X Yes ☐ No

If yes, describe the type of easement, the easement restrictions, and the length of the easement. Conservation Easement – perpetual See Auditors file 201512210155. There is also a 12 ft. wide trail easement through a small portion of the property for the Forest to Sky Trail of the Bainbridge Island Metropolitan Parks District. This is also perpetual. It allows the public to use a 12 ft wide trail which crosses Miemois Creek on a wooden bridge that I own, but which is maintained 90% by BIMPD and 10% by me.

5. If applying for the farm and agricultural conservation land category, provide a detailed description below about the previous use, the current use, and the intended future use of the land.

NOTICE:

The county and/or city legislative authorities may require owners to submit additional information regarding the use of the land.

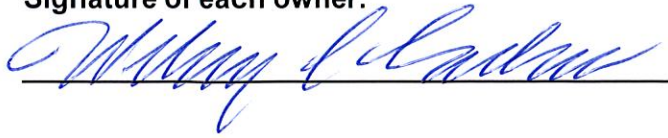
As the owner of the parcel(s) described in this application, I hereby indicate by my signature below that I am aware of the additional tax, interest, and penalties involved when the land ceases to be classified under the provisions of Chapter 84.34 RCW. I also certify that this application and any accompanying documents are accurate and complete.

The agreement to tax according to use of the property is not a contract and can be annulled or canceled at any time by the Legislature (RCW 84.34.070)

Print the name of each owner:

William C. Carlson

Signature of each owner:



The granting or denial of an application for classification or reclassification as open space land is a legislative determination and shall be reviewable only for arbitrary and capricious actions. Denials are only appealable to the superior court of the county in which the land is located and the application is made.

FOR LEGISLATIVE AUTHORITY USE ONLY

Date application received: _____ By: _____

Amount of processing fee collected: \$ _____

- Is the land subject to this application designated as open space by a comprehensive land use plan adopted by a city or county and zoned accordingly? ☐ Yes ☐ No

If yes, application must be processed in the same manner in which an amendment to the comprehensive land use plan is processed.

If no, application must be acted upon after a public hearing and after notice of the hearing shall have been given by one publication in a newspaper of general circulation in the area at least ten days before the hearing.

- Is the land subject to this application located within an incorporated part of the county? ☐ Yes ☐ No

If yes, application must be acted upon by three members of the county legislative authority and three members of the city legislative authority. See RCW 84.34.037(1) for details.

If no, application must be acted upon by three members of the county legislative authority.

☐ Application approved ☐ In whole ☐ In part

☐ Denied ☐ Date owner notified of denial (Form 64 0103):

If approved, date Open Space Taxation Agreement (OSTA) was mailed to owner:

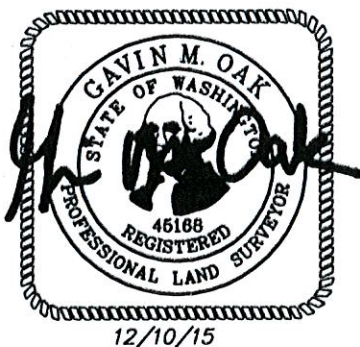
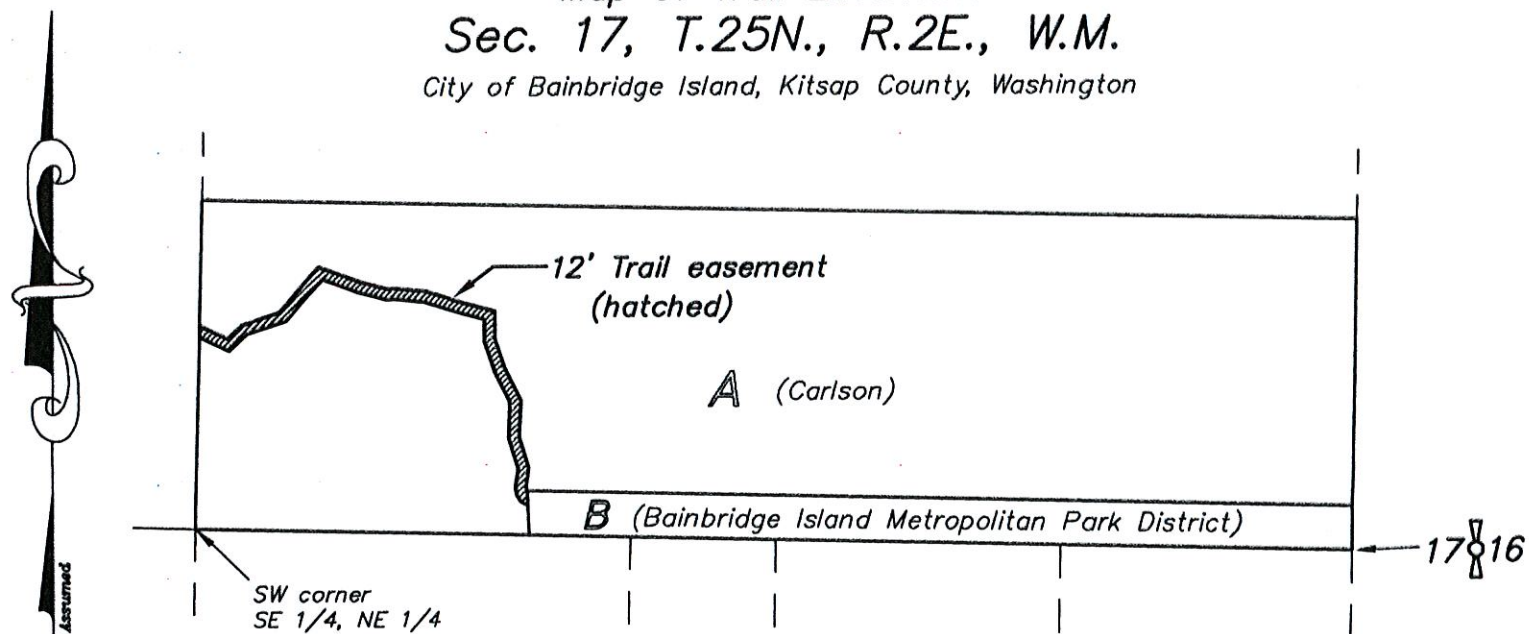
Date signed OSTA received by Legislative Authority:

Date copy of signed OSTA forwarded to Assessor:

To ask about the availability of this publication in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users, please call (360) 705-6718. For tax assistance, call (360) 534-1400.

EXHIBIT B6 BIMPRD Trail Easement Page 1 of 2 Carlson Conservation Easement

Map of Trail Easement
Sec. 17, T.25N., R.2E., W.M.
City of Bainbridge Island, Kitsap County, Washington



ADAM • GOLDSWORTHY • OAK

A G O LAND SURVEYING, LLC

1015 NE HOSTMARK ST. (360)779-4299
POULSBORO, WA 98370 (206)842-9598

DATE 12/10/15

FIELD BOOK 1320

DRAWING 5718ESM1

SHEET 1/1

The existing dirt woods road is approximately 15' wide, and is located outside the area designated in the BIMPRD access easement. All parties are aware of this and acknowledges the use of the dirt woods road for BIMPRD access.

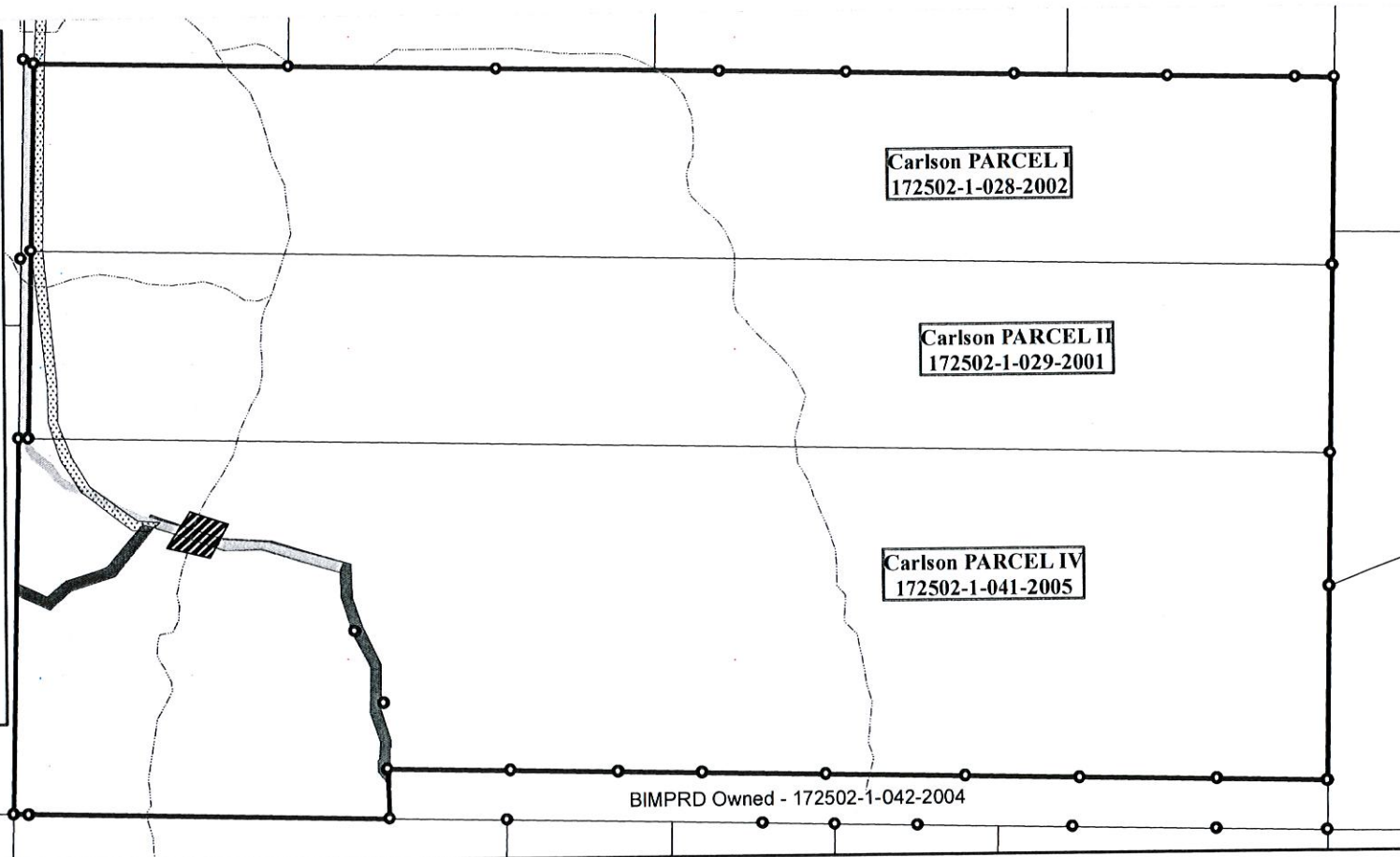


Exhibit B7 BIMPRD Easements (trail and access)

Zoomed Out All Parcels
December 19, 2015 - Not a survey - Map by BILT



Bainbridge Island Land Trust
206-842-1216

0 90 180 360 Feet

1 inch = 180 feet



Legend

- 3/4" iron pipe survey marker
- Stream
- ▭ Carlson Conservation Easement
- ▭ Kitsap Co. Tax Parcel
- ▭ BIMPRD Trail Easement
- ▭ BIMPRD Access Easement
- ▭ Existing Woods Road
- ▭ BIMPRD Bridge



**EXHIBIT B 6 page 2 of 2 BIMPRD Trail Easement
Carlson Conservation Easement**

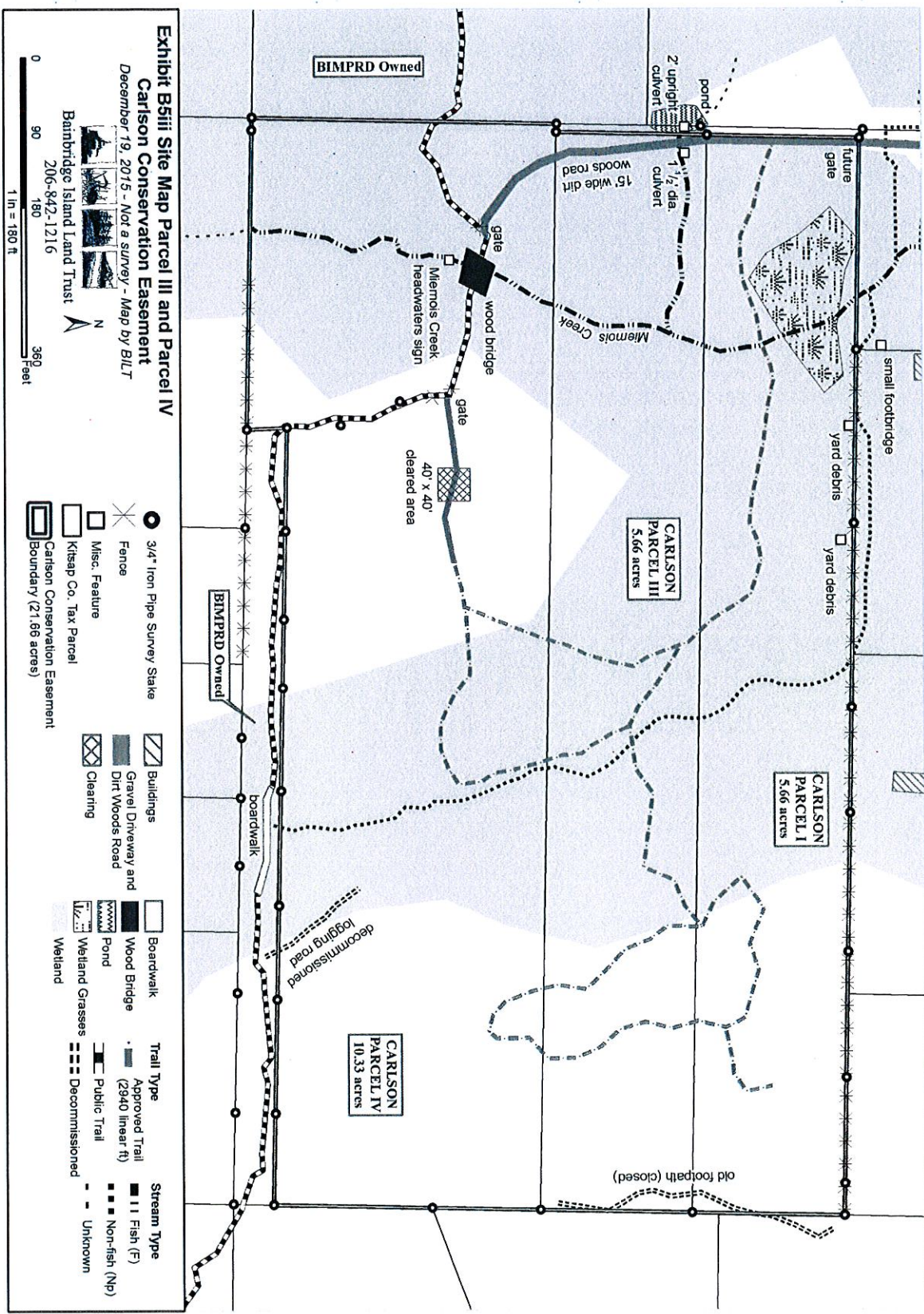
December 7, 2015

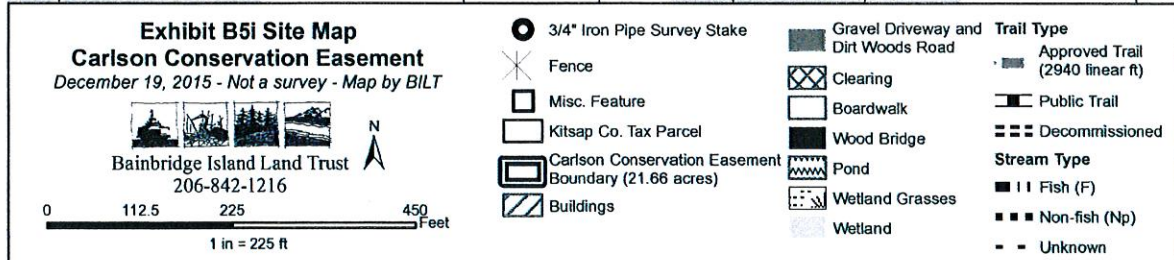
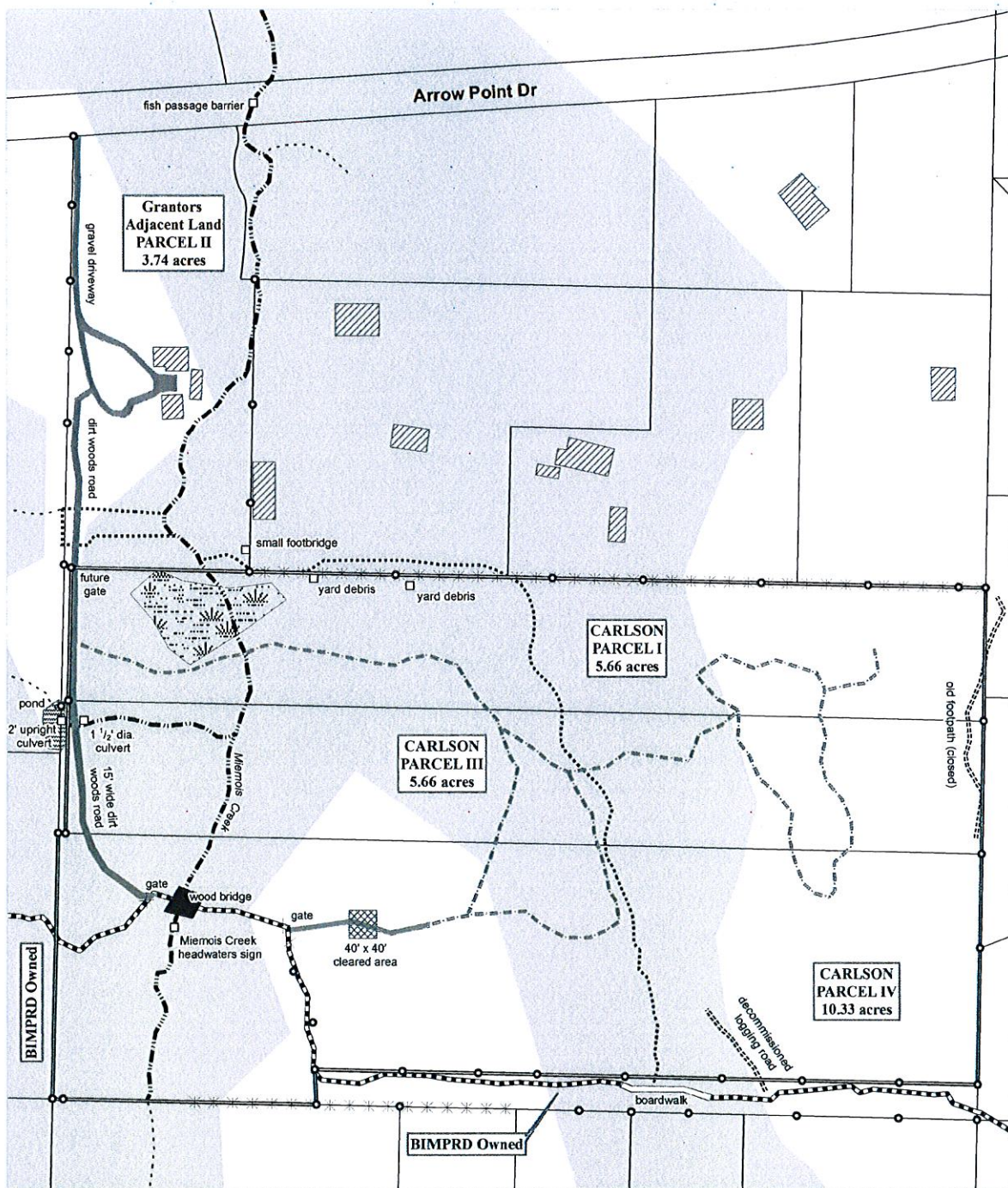
BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT
JOB NO. 14-5718

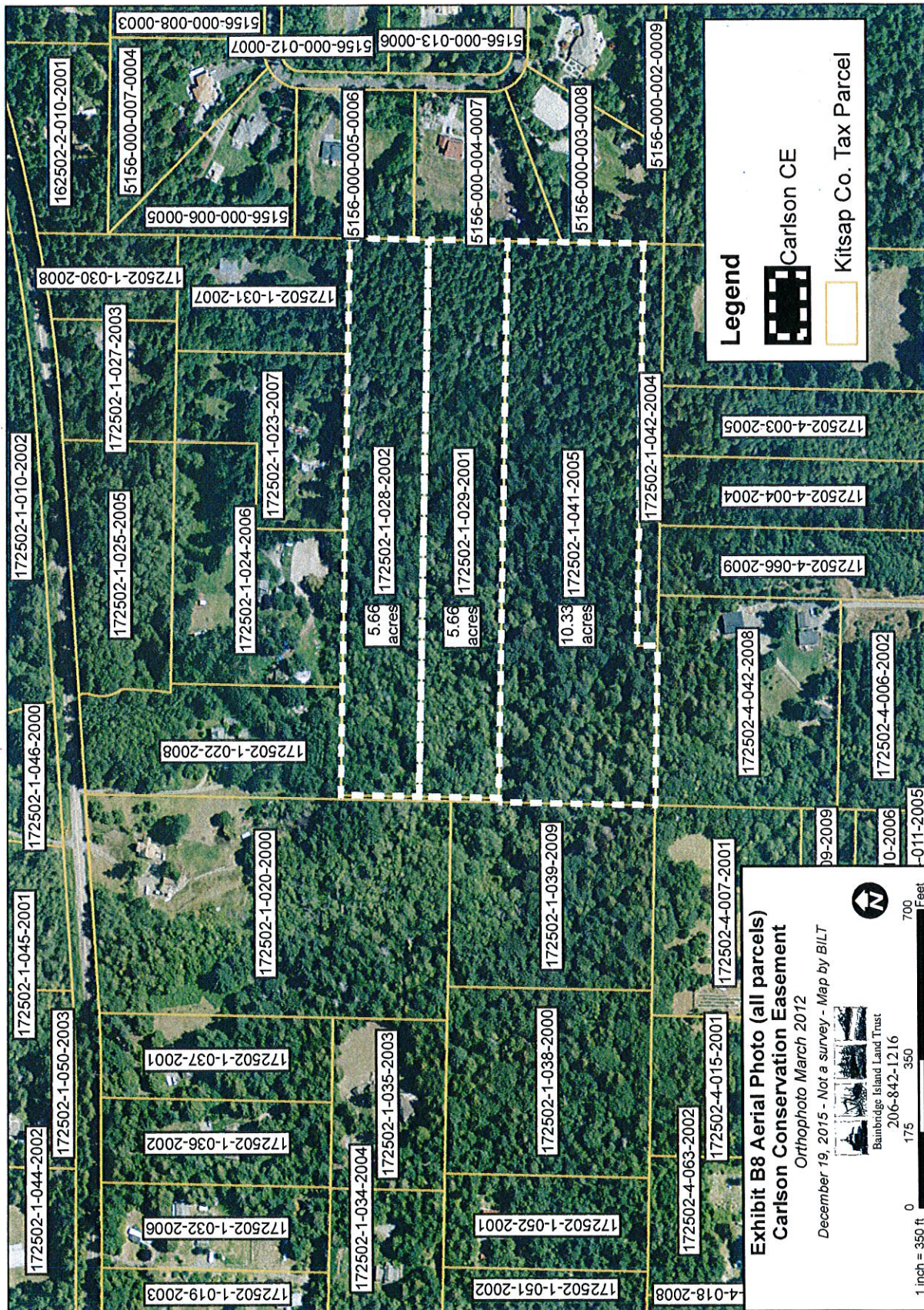
12 FOOT TRAIL EASEMENT DESCRIPTION

A 12.00 foot wide strip of land being a portion of Resultant Parcel A of the Carlson/Jenkins-Bainbridge Island Metropolitan Park and Recreation District Boundary Line Adjustment recorded under Kitsap County Auditor's File No. 200712120158, situate in the Southeast quarter of the Northeast quarter of Section 17, Township 25 North, Range 2 East, W.M., City of Bainbridge Island, Kitsap County, Washington, the centerline of which is described as follows:

Beginning at the Northwest corner of Resultant Parcel B of said Boundary Line Adjustment;
Thence along the West line thereof, South 02°20'07" East 9.14 feet to the True Point of Beginning;
Thence leaving said West line, North 58°11'18" West 3.74 feet;
Thence North 34°36'04" West 6.00 feet;
Thence North 05°48'09" West 7.00 feet;
Thence North 08°41'03" East 21.00 feet;
Thence North 17°12'16" West 37.00 feet;
Thence North 02°32'45" East 41.00 feet;
Thence North 26°05'49" West 40.96 feet;
Thence North 17°25'54" West 35.56 feet;
Thence North 00°38'34" West 28.26 feet;
Thence North 74°15'31" West 29.25 feet;
Thence North 73°29'23" West 47.90 feet;
Thence North 84°22'05" West 35.12 feet;
Thence South 85°35'20" West 8.25 feet;
Thence North 75°17'28" West 32.88 feet;
Thence North 70°03'33" West 46.34 feet;
Thence South 40°28'09" West 65.12 feet;
Thence South 71°46'49" West 46.58 feet;
Thence South 47°06'21" West 25.46 feet;
Thence North 64°19'09" West 36.47 feet to the West line of said Resultant Parcel A and the terminus of said centerline.







Legend

 Carlson CE

 Kitsap Co. Tax Parcel

Exhibit B8 Aerial Photo (all parcels)
Carlson Conservation Easement

December 19, 2015 - Not a survey - Map by BILT
Orthophoto March 2012

 700 Feet
0 175 350

Bainbridge Island Land Trust
206-842-1216



Exhibit B9 Wetlands, Topography, and Stream Map

Carlson Conservation Easement

December 19, 2015 - Not a survey - Map by BILT

1 in = 170 ft

0 85 170 340 Feet

Bainbridge Island Land Trust

206-842-1216

Kitsap Co. Tax Parcel

Carlson Conservation Easement

Boundary (21.66 acres)

Wetland

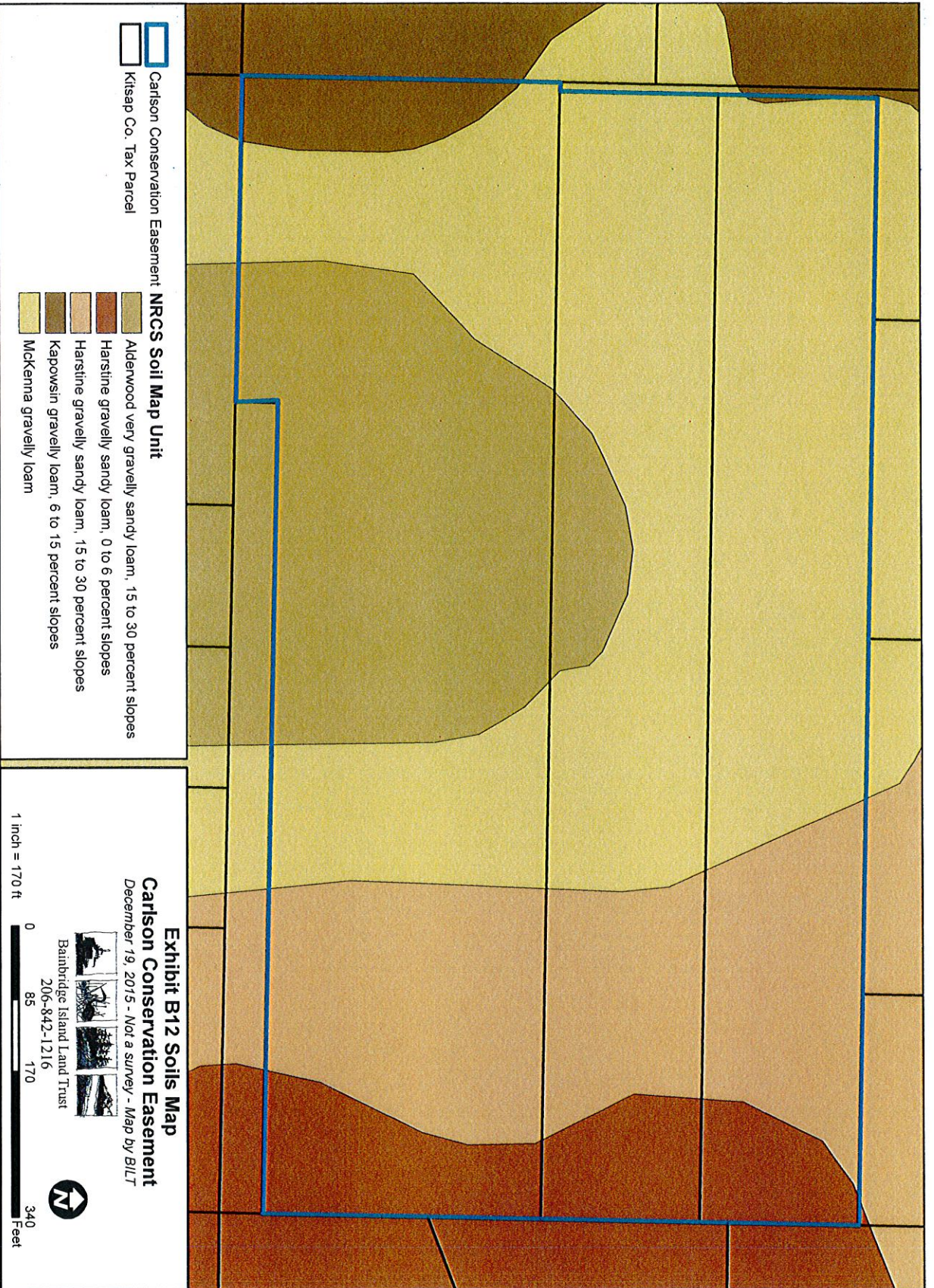
5 ft Contours

Stream Type

1 Fish (F)

Non-fish (Np)

Unknown



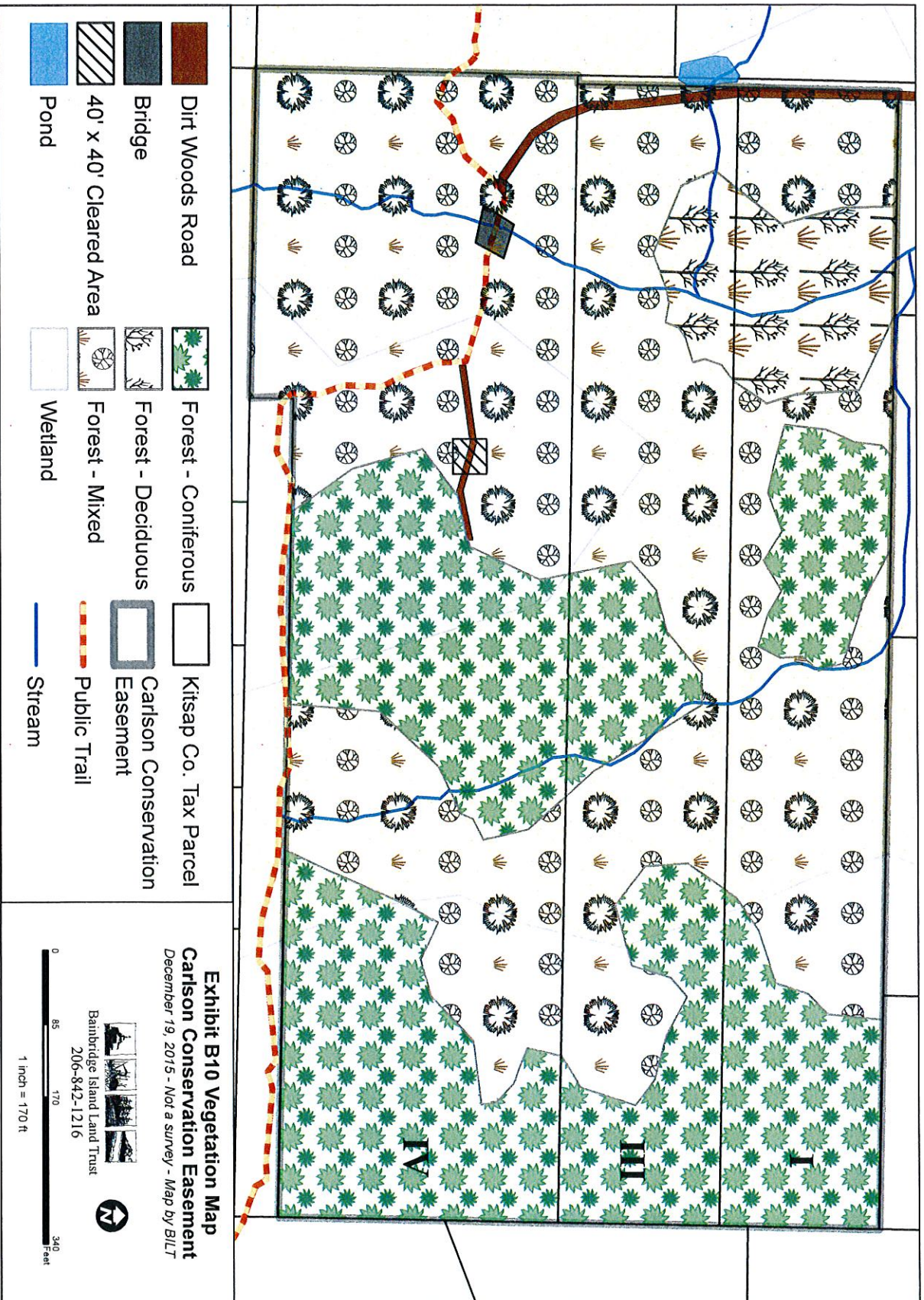


Exhibit B10 Vegetation Map
Carlson Conservation Easement
 December 19, 2015 - Not a survey - Map by BILT

Bainbridge Island Land Trust
 206-842-1216



After recording mail to:

Bainbridge Island Land Trust
P.O. Box 10144
Bainbridge Island, WA 98110

Attn: Executive Director

Deed of Conservation Easement and Access License

GRANTOR:	William C. Carlson	
GRANTEE:	BAINBRIDGE ISLAND LAND TRUST, a Washington nonprofit corporation	
LEGAL DESCRIPTION:	SE/NE 17-25-2E	
ASSESSOR'S TAX PARCEL NO.:	Conservation Easement 172502-1-028-2002 172502-1-029-2001 172502-1-041-2005	Access License 172502-1-022-2008
REFERENCE NO:		

RECEIVED

DEC 19 2016

Kitsap County
Dept of Community Development

EXHIBIT A – page 1 of 2

Legal Description

Parcels I (172502-1-028-2002), III (172502-1-029-2001), and IV(172502-1-041-2005)
The Protected Property

Office File No.: E-253771

PARCEL I:

THE NORTH HALF OF THE NORTH HALF OF THE FOLLOWING DESCRIBED
PROPERTY:
THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17,
TOWNSHIP 25, RANGE 2 EAST, W.M, IN KITSAP COUNTY, WASHINGTON;
EXCEPT THE WEST 10 FEET THEREOF;
AND EXCEPT THE NORTH 577 FEET THEREOF.

PARCEL II:

AN EASEMENT FOR ACCESS AND UTILITIES AS MORE FULLY DESCRIBED
UNDER AUDITOR'S FILE NO. 7812280081, BEING A PORTION OF THE SOUTHEAST
QUARTER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 25 NORTH,
RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON.

(PARCEL II BENEFITS PARCEL I)

PARCEL III:

THE SOUTH HALF OF THE NORTH HALF OF THE FOLLOWING DESCRIBED
PROPERTY:
THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, SECTION 17,
TOWNSHIP 25 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON;
EXCEPT THE WEST 10 FEET THEREOF;
AND EXCEPT THE NORTH 577 FEET THEREOF.

PARCEL IV:

RESULTANT PARCEL A OF CITY OF BAINBRIDGE ISLAND BOUNDARY LINE
ADJUSTMENT NO. BLA14622 RECORDED DECEMBER 12, 2007 UNDER AUDITOR'S
FILE NO. 200712120158, BEING A PORTION OF THE SOUTHEAST QUARTER OF
THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 25 NORTH, RANGE 2
EAST, W.M., IN KITSAP COUNTY, WASHINGTON.

Exhibit A – page 2-2
Parcel II (172502-1-022-2008)
Grantor's Adjacent Land

Office File No.: E-253772

PARCEL I:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 25 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, DEFINED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF SAID SUBDIVISION; THENCE SOUTH TO THE SOUTHWEST CORNER THEREOF; THENCE EAST 10 FEET; THENCE NORTH TO A POINT 577 FEET SOUTH OF THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE EAST TO A POINT 1056 FEET WEST OF THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 577 FEET TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE WEST TO THE POINT OF BEGINNING;
EXCEPT THAT PORTION OF THE NORTH 165 FEET OF THE ABOVE DESCRIBED TRACT LYING EAST OF CREEK.

PARCEL II:

THAT PORTION OF THE FOLLOWING DESCRIBED PROPERTY LYING SOUTH OF COUNTY ROAD NO. 72 AND EAST OF THE WEST LINE OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 25 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON:
THAT PORTION OF GOVERNMENT LOTS 1 AND 2 DEFINED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 2; THENCE SOUTH ALONG WEST BOUNDARY OF SAID GOVERNMENT LOT TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 760 FEET SOUTHERLY (MEASURED AT RIGHT ANGLES) FROM THE NORTH LINE OF SAID SECTION 17, BEING THE TRUE POINT OF BEGINNING; THENCE EAST ALONG SAID LINE 1500 FEET, MORE OR LESS, TO THE CENTER OF CREEK; THENCE SOUTHERLY ALONG SAID CREEK TO THE SOUTH LINE OF SAID GOVERNMENT LOT 1; THENCE WEST ALONG THE SOUTH LINE OF SAID GOVERNMENT LOTS 1 AND 2, 1570 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 2; THENCE NORTH TO THE TRUE POINT OF BEGINNING;
EXCEPT COUNTY ROAD;
EXCEPT THAT PORTION CONVEYED UNDER AUDITOR'S FILE NO. 200401210464.

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT (the "Easement") is made this 21 day of December, 2015, by William C. Carlson having an address at 7211 48th Way NW Olympia, WA 98502 ("Grantor"), in favor of BAINBRIDGE ISLAND LAND TRUST, a Washington nonprofit corporation, having an address at P.O. Box 10144, Bainbridge Island, Washington 98110 ("Grantee").

I. Background and Intention

1. Grantor is the sole owner in fee simple of that certain real property in Kitsap County, Washington, more particularly described as Parcels I, III, and IV collectively consisting of approximately 21.67 acres ("the Protected Property") in Exhibit A, attached to and incorporated into this Easement. Grantor is also the joint owner of approximately four acres of land adjacent to the Protected Property and developed for residential use, which real property is described as Parcel II in Exhibit A (the "Grantor's Adjacent Land"). The Protected Property and Grantor's Adjacent Land together constitute four assessor's tax parcels.

2. The Protected Property, contains the biologically significant fish bearing stream (Miemois Creek) and its associated riparian habitat, forestland, wetlands, foraging and nesting habitats for bald eagles and other raptors, woodpeckers, and a number of bird species, open space, scenic and watershed values (collectively, referred to herein as the "Conservation Values") of great importance to Grantor, Grantee and the people of Bainbridge Island, Kitsap County and the State of Washington.

3. The specific Conservation Values are more particularly described and documented in a baseline resource report consisting of narratives, maps, photographs of the Protected Property and other documentation prepared by Grantee and kept in the office of Grantee that collectively provide an accurate representation of the Protected Property and description of the Conservation Values at the time of the grant of the Easement ("the Baseline Documentation"). Excerpts from the Baseline Documentation are contained in Exhibits B and C attached to and incorporated into this Easement by this reference. The Baseline Documentation is intended to serve as an objective information baseline for monitoring compliance with the terms of this Easement.

4. Grantor intends that the Conservation Values of the Protected Property be preserved and maintained by prohibiting uses of or activities on the Protected Property as expressly set forth in this Easement.

5. Grantor further intends to convey to Grantee the right to preserve and protect the Conservation Values of the Protected Property in perpetuity, and to convey to Grantee all rights to future development appurtenant to or inherent in the Protected Property, pursuant to the express terms of Section II. 6. below.

6. Grantee is a “nonprofit nature conservancy corporation” as defined in the Revised Code of Washington (“RCW”) 64.04.130 and RCW 84.34.250. Grantee is tax exempt under Internal Revenue Code Section 501(c)(3) and is a “qualified organization” under Internal Revenue Code Section 170(h). Grantee's primary purpose is to conserve and preserve the waters, wetlands, shorelines, wildlife habitat, forests, undeveloped land, scenic areas, open spaces, and recreational and agricultural lands on Bainbridge Island, Washington.

II. Terms of Easement

1. Grant of Easement and License for Access.

1.1. Grantor hereby grants and conveys to Grantee a perpetual conservation easement over the Protected Property of the nature and character and to the extent set forth in this Easement. Grantor makes no representations or warranties with respect to the condition of the Protected Property (express or implied), except as expressly set forth herein. Grantor and Grantee covenant and agree to comply with and be bound by all of the terms and provisions of this Easement. This Easement is a conveyance of an interest in real property pursuant to the laws of the State of Washington and, in particular, RCW 84.34.200-250 and RCW 64.04.130. Grantor intends this Easement to be an absolute, unconditional, unqualified and completed gift to Grantee, subject only to the mutual covenants and restrictions set forth in this Easement, and for no other consideration whatsoever. This Easement and the rights, restrictions and covenants contained in it shall be perpetual and run with the land. This Easement (including the License in Section 1.2 below) is subject and subordinate to existing easements, agreements and encumbrances of record, including the Declaration of Trail Easements and Access Easement (Trail Easement, Gravel Driveway, and Dirt Woods Road), dated the 19th day of November, 2007 between William Carlson, Shirley Jenkins, and The Bainbridge Island Metropolitan Park and Recreation District (“BIMPRD”) recorded as Document No. 200712120030 in the records of the Kitsap County Auditor, and as amended dated and recorded contemporaneously herewith (collectively, as so amended, the “BIMPRD Declaration”). Specifically the BIMPRD Trail Easement is depicted in Exhibit B6.

1.2. Grantor hereby grants to Grantee a permanent, non-exclusive license to use the existing Gravel Driveway and portion of the Dirt Woods Road or any future reconfiguration of the Gravel Driveway or Dirt Woods Road on Grantor's Adjacent Land (Exhibit B3 Parcel II) that collectively runs from Arrow Point Drive to the Protected Property; for ingress to and egress from the Protected Property for the purposes expressly set forth in this Easement (collectively, the “License”), provided the License is subject to all recorded instruments and matters of record as of the date hereof. The existing Gravel Driveway and Dirt Woods Road are shown on Exhibit B5i and B5ii. Grantor makes no representations or warranties with respect to the condition of the Grantor's Adjacent Land (express or implied), except as expressly set forth herein. Grantor and Grantee covenant and agree to comply with and be bound by

all of the terms and provisions of the License. The License is deemed to be an integral part of this Easement. The License may not be used for public access to the Protected Property.

2. **Purposes and Intent.** Pursuant to and in compliance with the requirements of Section 170(h)(4)(A) of the Internal Revenue Code and Section 1.170A-14(d) of the Treasury Regulations, this Easement will protect the following conservation attributes, as further set forth in Exhibits B and C: (i) headwaters of a biologically significant fish bearing stream (Miemois Creek) and its associated riparian habitat, scenic, forestland, wetlands, foraging and nesting habitats for bald eagles and other raptors, woodpeckers, and a number of bird species, open space and watershed values of the Protected Property; and (ii) the preservation of open space on the Protected Property pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and where such preservation will yield significant public benefits (but subject to Section II.4 below).

Public benefits include but are not limited to:

- a. Preservation of biologically diverse undeveloped Miemois Creek watershed, riparian, forestlands, wetlands, and other lands necessary for protection of water resources and fish, and wildlife habitat;
- b. Protect a fish stream and its associated riparian areas, wetlands, wildlife habitats, or other sensitive areas from surrounding development;
- c. Protection of scenic views from public trails, and adjacent open space; and
- d. Protection of an open space or a resource in a targeted area per federal, state and local plans.

The purposes of this Easement are to assure that the Conservation Values and above-described attributes will be retained forever by (i) preventing any use of the Protected Property that will materially impair or interfere with the Conservation Values of the Protected Property, and (ii) by prohibiting certain specific uses of the Protected Property, as expressly set forth herein. Grantor intends that this Easement will convey to Grantee future development rights to the extent set forth in Section II.6 below.

3. **Rights of Grantee.** To accomplish the purposes of this Easement, the following rights are hereby conveyed to Grantee:

3.1. To preserve and protect the Conservation Values and the future development rights expressly conveyed to Grantee herein in perpetuity.

3.2. To enter upon the Protected Property at reasonable times to monitor Grantor's compliance with and otherwise enforce the terms of this Easement. Additionally, Grantee may enter upon the Protected Property to perform other stewardship tasks including the removal of invasive plants. Grantee shall provide reasonable prior notice to Grantor before entering upon the Protected Property which,

except in the case of emergency, shall not be less than two days. This right of entry includes the License granted pursuant to Section II.1.2 above for ingress to and egress from the Protected Property. In exercising this right of entry, Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property (except as such rights of use and quiet enjoyment are otherwise limited by the grant of this Conservation Easement) or Grantor's Adjacent Land.

3.3. To prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Easement, as defined in Section II 2 and to require the restoration of such areas or features of the Protected Property that may be damaged by any such inconsistent activity or use pursuant to Section II.8.

3.4. To place one or more signs or boundary markers no larger than one (1) square foot along the boundary of the Protected Property, providing notice that the Protected Property is being preserved pursuant to a conservation easement held by Grantee and stating other information about Grantee and/or the Easement (appearance and location of sign(s) and/or boundary marker(s) as shall be mutually agreed to by Grantor and Grantee).

3.5. To require that the boundary of the Protected Property (as shown on Exhibit B4 attached hereto) be clearly and permanently marked in a manner acceptable to both parties and consistent with customary surveying practices.

3.6 To enter upon the Protected Property at reasonable times and as necessary to perform and implement restoration actions as identified in Section 4.3 "Restoration Plan" or other activities needed to ensure Conservation Values are maintained and protected. Grantee shall provide reasonable prior notice to Grantor before entering upon the Protected Property which shall not be less than two days. This right of entry includes the License granted pursuant to Section II.1.2 above for ingress to and egress from the Protected Property. In exercising this right of entry, Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property (except as such rights of use and quiet enjoyment are otherwise limited by the grant of this Conservation Easement) or Grantor's Adjacent Land."

4. **Reserved Rights.** Grantor (for himself/herself, and for his/her tenants, guests, family members, agents and invitees) expressly reserves the right to use the Protected Property for all activities and uses that are not inconsistent with the purpose and terms of this Easement. Notwithstanding the activities and uses expressly prohibited in Section II. 5, or any other terms herein to the contrary, the following activities and uses are deemed consistent with the purposes of this Easement and the right to carry out such activities and uses on the Protected Property are expressly reserved by Grantor.

4.1. Trails/Footpaths.

4.1.1 Grantor may construct, use, maintain, renovate, or replace Approved Trails (which total up to 3,000 feet in length as depicted on Exhibit B5 (which include B5i, B5ii, and B5iii). Trail locations shown in Exhibit B5 are only approximate, and documentation will be improved as trails are built. Said "Approved Trails" shall consist of foot trails/footpaths existing within the Protected Property or those that have been planned, mapped and approved as of the date hereof by the Grantee as shown in Exhibit B5 and further documented in the Exhibit B (Baseline Documentation) and Exhibit C (Photo Documentation). Upon prior notice to and approval by the Grantee (not to be unreasonably withheld) in accordance with Sections II.7.1, II.7.3, and II.15, existing Approved Trails may be relocated provided that such trails and improvements are limited in scope as to not yield more trail length, are designed to not unreasonably interfere with surrounding stream, wetland, wildlife habitat or native vegetation communities or otherwise diminish the Conservation Values. If an Approved Trail is abandoned in order to be relocated, that portion of the abandoned trail will be restored with native vegetation by the Grantor and will result in replicating the existing native vegetation structure adjacent to the trail. The entry point to Approved Trails shall be designed in a manner to discourage access by the public, motor vehicles, bicycle and equestrian users (e.g., designing access away from public Trail Easement, using fencing, gates, bollards, board walks, signs, or other means). Approved Trails shall be established outside of wetlands, the stream or stream riparian area. In areas where this requirement is not possible to attain, the trails may cross the wetlands or stream in a manner that causes the least damage and disruption to the wetland or stream, and the crossing may not obstruct the water flow and will minimize impact on wetland vegetation. Approved Trails shall be no wider than three (3) feet, shall have a dirt, wood chip or other natural pervious surface. Approved Trails shall be for foot use only, with the exception of non-motorized wheeled vehicles (such as a cart or similar device) used for vegetation management or other land management needs. Approved Trails may cross Miemois Creek, as shown in Exhibit B5 in a manner not to impede water flow, and must comply with applicable local, state and federal regulations, existing easements or legal restrictions pertaining thereto.

4.1.2 Grantee acknowledges that a Trail Easement, as depicted on Exhibit B5 "Public Trail" and Exhibit B6 "Trail Easement" commonly known as the public "Forest to Sky Trail", maintained by BIMPRD, crosses a portion of the Protected Property pursuant to an easement granted by the Grantor in favor of BIMPRD for that purpose (Appendix IV, BIMPRD Declaration), and such trail and the rights granted in the BIMPRD Declaration (including the right to allow bicycle and equestrian use of the Trail Easement and the right to use motorized vehicles to maintain the trail) shall not be affected by this

Easement.

4.2. Road, Bridge, Gates and Cleared Area.

4.2.1 Grantor may use and maintain, repair, and/or replace as applicable the existing 15-foot wide non-public Dirt Woods Road on the Protected Property at the location depicted in Exhibit B5. The Dirt Woods Road will be maintained using the same or similar pervious surface material as documented in the Baseline Photo Documentation (Exhibit C). The Dirt Woods Road, is an extension of the Existing Gravel Driveway included in the License, as depicted on Exhibit B5 and Exhibit B7. For avoidance of doubt, use of, work or maintenance performed on the Dirt Woods Road pursuant to the terms of the BIMPRD Declaration, whether by Grantor, any holder of rights under the BIMPRD Declaration, or their contractors, is allowed. Maintenance may include brushing or clearing using hand tools or mechanical means. The Dirt Woods Road is not a public trail.

4.2.2 Grantor may maintain, repair and replace the existing Bridge at the location depicted on Exhibit B5 Site Map and Exhibit C Photo Documentation. Maintenance, repair, and replacement activities should be undertaken in a manner that minimizes impact to Miemois Creek. For avoidance of doubt, use of, work or maintenance performed on the Bridge at its current location pursuant to the terms of the BIMPRD Declaration, whether by Grantor, any holder of rights under the BIMPRD Declaration, or their contractors, is allowed.

4.2.3. Grantor may construct, install, maintain and repair gates on the Dirt Woods Road to prevent public access at the locations reserved for such gates as depicted on Exhibit B5. Gates should not impede the ability for wildlife to pass through. Gates may be constructed using materials similar to existing gates as depicted and described in Exhibit C Photo Documentation, and should be designed to be characteristic of preserve or forest environment. New gates can be installed with prior notice to and approval of Grantee in accordance with Sections II.7 and II.15,

4.2.4 Grantor may maintain and use a 40 foot by 40 foot Cleared Area (turnaround site) at the east end of the Dirt Woods Road as depicted on Exhibit B5. The Cleared Area is comprised of dirt and mowed vegetation and can be used for short term family gatherings and property maintenance activities. Hand and mechanical means of managing vegetation in the Cleared Area is allowed.

4.3. Trees/Vegetation. This Easement protects a healthy forest and native plant community (Exhibit B10), except in areas noted on Exhibit B11, which are

subject to a restoration plan to control invasive species not native to the region as provided for in Appendix II Restoration Plan of the Baseline Documentation. Grantor's responsibility to avoid taking actions that harm the health of the native vegetation communities in the Protected Property is acknowledged and accepted by Grantor. Accordingly, and notwithstanding the foregoing, where not obstructing an Approved Trail, the Trail Easement, fences, Bridge, or Dirt Woods Road, or creating a hazard, dying and dead trees will be left standing as wildlife trees, and downed trees and other woody debris should be left on the ground within the Protected Property to support healthy forest ecology. The provisions of the previous sentence shall also apply to any portion of a tree that may fall into the Protected Property from the Grantor's Adjacent Land or other adjoining property but do not apply to any portion of a tree which may fall into Grantor's Adjacent Land from the Protected Property. Grantor may clear or remove trees, shrubs or other vegetation on the Protected Property as is necessary for the maintenance of Approved Trails, the Trail Easement, fences, Bridge, or Dirt Woods Road or as is incidental to the cultivation of native vegetation in a way that does not materially and adversely affect the Conservation Values; provided that no trees shall be removed with a diameter greater than six (6) inches at breast height (dbh), unless: (a) the tree is unsafe, as determined by a duly qualified arborist or forestry professional in accordance with Section II.7.1, II.7.3 and II.15, in which case the tree shall be cut to a minimum height of 30 feet, unless this height threatens an adjoining building or structure in which case a minimum height of 10 feet is acceptable, so as to provide habitat for wildlife including, but not limited to, birds and cavity nesting mammals; (b) such tree has fallen across an existing Approved Trail, the Trail Easement, fence, Bridge, or the Dirt Woods Road in which case the section any of these may be removed, or (c) pursuant to Grantor's reserved right to cut firewood as provided in Section II 4.3.5; (d) as a condition of the Trail Easement agreement between BIMPRD and the Grantor. Unsafe trees adjacent to Dirt Woods Road may be cut to a stump height of 2 feet.

4.3.1. Grantor may plant and maintain native vegetation throughout the Protected Property, without the need to notify Grantee or to obtain Grantee's prior approval.

4.3.2. Grantor and Grantee acknowledge there are areas on the Protected Property (Exhibit B11) in which invasive plant species are present. The Grantor and Grantee hereby agree to make a good faith effort to reduce their impact and implement the Restoration Plan, Appendix II to Exhibit B, or approved equivalent activity, , in order to reduce the populations of and the spread of invasive plants to other areas of the Protected Property and to protect the Conservation Values of the Protected Property. The Restoration Plan calls for the control of, but not necessarily the eradication of, invasive plant species. The goal of the Restoration Plan and ongoing maintenance activities is to protect the healthy forest and native plant community of the Protected Property. Grantee acknowledges that Grantor has the discretion to

select cost effective means of implementing the Restoration Plan and subsequent maintenance activities. Expenditures by the Grantor on invasive species control are at the sole discretion of the Grantor. Expenditures on invasive species control by the Grantee are at the sole discretion of the Grantee. Grantor may engage in activities outlined in the Restoration Plan without prior consent of the Grantee and without the need to notify Grantee or to obtain Grantee's prior approval. Grantee may engage in activities outlined in the Restoration Plan per the terms of Section II 3.6. Grantee shall coordinate actions relevant to this section with approval of the Grantor. As used herein, "**invasive plant species**" means plants listed on the current State Noxious Weed List, Chapter 16-750, Washington Administrative Code, as updated from time to time, or a non-native plant of concern as identified by the Kitsap County Noxious Weed Control Board. Both the State list and Kitsap lists are included in the Restoration Plan.

4.3.3 As part of the Restoration Plan as referenced in Section 4.3.2 or an integrated pest management plan to control disease or invasive plants that cannot be controlled cost effectively by any other means, Grantor may utilize herbicides to control nonnative plants as long as they are used according to state and local laws.

4.3.4 To protect the Conservation Values of the Protected Property, Grantor may, in the face of increased fire danger due to climate change, take necessary vegetation management actions, as determined by a qualified forestry professional or fire ecologists and approved in accordance with Section II 7.1, II 7.3 and Section 15, in coordination with the Grantee, to reduce fire danger that threaten the Conservation Values.

4.3.5. Grantor may cut already downed trees for the production of not to exceed four (4) cords of firewood per year for family use. This right extends to Grantor and his nephew Eric J. Jenkins (and people assisting them) and is extinguished if the Protected Property is sold by Grantor. Firewood removal within fifty (50) feet of Miemois Creek is not allowed. Grantor may also make temporary trails as required to remove firewood without prior notice to, or permission of Grantee. Grantor will endeavor to minimize the impact of any such temporary trails on the Conservation Values. GPS or other visual position of firewood cutting areas and temporary trails will be supplied to Grantee by Grantor after the completion of firewood cutting for a given year to facilitate examination during annual visit.

4.4. **Fences.** With prior notice to Grantee in accordance with Sections II.7.1,II 7.3 and II.15, Grantor may build, maintain, repair, construct and/or replace existing or new fences along the outer boundaries or perimeters of the Protected Property, provided the fences are designed so as to not unreasonably interfere with passage of

wildlife or otherwise diminish Conservation Values. Grantor may remove trees or parts thereof which have fallen across a fence. Grantor will obtain the prior approval of Grantee per Sections II.7.1., II. 7.3 and II.15, for any fences not provided for in this Section 4.4.

4.5 Pond and Culvert. Grantor may maintain the Pond located on Grantor's Adjacent Land (Exhibit B5, Parcel II) west of the Dirt Woods Road as shown on Exhibit B5, and Grantee acknowledges that such maintenance may result in increased or decreased surface water runoff onto the Protected Property. With prior notice to and approval of Grantee in accordance with Sections II.7.1, II.7.3, and II.15, Grantor reserves the right to maintain, repair, or replace the existing 1 ½ foot diameter culvert connected to the Pond and located under the Dirt Woods Road as shown Exhibit B5 and Exhibit C Photo Documentation .Water flows from the Pond towards Miemois Creek. Measures will be taken to reduce sediment runoff into Protected Property, and to protect amphibians and fish, during maintenance, repair, or replacement activities.

4.6 Stream. Miemois Creek is a fish bearing stream. It is recognized that downstream and off the Protected Property a culvert exists at Arrow Point Drive that blocks anadromous fish from utilizing the portion of the Creek on the Protected Property. Should fish passage be restored off the Protected Property, enhancement of Miemois Creek within the Protected Property, per a Washington Department of Fish and Wildlife approved restoration plan, is permitted per the approval process of Section II 7.1, II.7.3 and Section II15. Installation of any stream restoration effort will be designed in consultation with a qualified stream restoration ecologist, fish biologist, or equivalent.

4.7 Passive Recreation. The Protected Property may be used for Grantor's and Grantor's invitees' passive recreational activities, such as walking, bird watching, picnicking, photography, berry picking, family gatherings and recreation, and for other temporary low impact activities.

4.8 Public Access. Nothing contained in this Easement should be construed as affording the general public any rights of physical access to or on the Protected Property, or affording Grantee the right to offer, permit or encourage such access by any members of the public to or on the Protected Property without the prior approval of Grantor. However, nothing in this Easement should be construed to preclude the Grantor's right, after obtaining the approval of Grantee in accordance with Section II.7.3, to permit passive recreation use of the Protected Property, or public access for educational or scientific research purposes, or for restoration activities, provided that such use does not conflict with preservation of the Conservation Values of the Protected Property. For the avoidance of doubt, and in accordance with Section II 4.1, Grantee acknowledges that a portion of the Protected Property is subject to the BIMPRD Declaration which contains a public Trail Easement, and this Easement is subject to and shall not affect the rights granted in the BIMPRD Declaration.

4.9 Hazard Mitigation. Grantor may remove or otherwise mitigate potential hazards to people and personal property, such as cutting down live or dead trees that threaten roads or other structures. Any such activity shall be conducted to minimize adverse impacts on the Conservation Values to the extent practicable. Grantor shall provide Grantee prior notice of its intent to so mitigate such hazard to the extent practicable.

4.10 Emergency Action. Grantor may take other actions necessary to protect health or safety, or that are actively required by and subject to compulsion of any governmental agency with authority to require such activity ("Emergency Action"), provided that any such activity shall be conducted to minimize adverse impacts on the Conservation Values to the extent practicable. Grantor shall provide Grantee prior notice of its intent to take such actions to the extent practicable.

5. Prohibited Activities and Uses. Any activity on or use of the Protected Property inconsistent with the purpose and terms of the Easement or the License is prohibited. Without limiting the generality of the foregoing, except to the extent such activities are expressly reserved by Grantor the following are prohibited:

5.1. Subdivision. The legal or de facto subdivision of the Protected Property (including by boundary line adjustment), separate conveyance of tax parcels or physical partition of ownership of the Protected Property for any purpose.

5.2. Construction and Improvements. The placement or construction on the Protected Property of any buildings, structures, towers, poles, new roads, parking areas, enclosures, water features, fences or other improvements of any kind (except as expressly allowed for in Section 4). Poles to support bird, bat boxes or scientific monitoring equipment are allowed.

5.3. Utility Systems. The installation on the Protected Property of new utility systems or extensions of existing utility systems, including, without limitation, water, sewer, septic, power, fuel, communication lines or towers and related facilities, except to the extent the same are installed pursuant to any utility easement existing prior to the date hereof.

5.4. Commercial Use or Development. Any commercial, agricultural or industrial use of or activity on the Protected Property.

5.5. Surface Alteration. Any material alteration of the surface of the land on the Protected Property, including, without limitation, grading and the excavation or removal of soil, sand, gravel, rock, peat, or sod.

5.6. Soil and Water. Any use or activity on the Protected Property that causes

or is likely to cause excessive soil degradation, excessive soil erosion, or pollution of any surface or sub-surface waters.

5.7. Trees/Vegetation. The cutting down or other destruction or removal of trees or other plants on the Protected Property, and any use or activity that causes or is likely to cause harm to or loss of any native vegetation on the Protected Property, except as provided in Section II 4.3 above.

5.8 Unauthorized Trail Development. The establishment of any trails within the Protected Property other than Approved Trails and the existing BIMPRD Trail Easement which prohibition Grantor shall endeavor to comply with by making a good faith effort to dissuade development of unauthorized trails.

5.9. Wetlands. The disturbance, draining, filling, dredging or diking of any wetland areas on the Protected Area, or the disturbance of any soil within 50 feet of a wetland, except for trail development as provided in Section II 4.1, road improvements identified in Section II 4.2.1, bridge improvements identified in Section II 4.2.2, culvert replacement per Section II 4.5, or stream restoration per Section II 4.6.

5.10. Pond, Stream and Watercourses Courses. The alteration of streams, seeps, pond, or other watercourses, the creation of new water impoundments or water courses, or the disturbance of any soil within fifty (50) feet of the thread of any watercourse except as permitted under Section II 4.1, 4.5, 4.6 as is necessary for the stability of the existing road included in the License. [Note: Pond is located on Grantor's Adjacent Land as noted on Exhibit B5.]

5.11. Waste Disposal. The dumping or other disposal on the Protected Property of any waste, refuse or debris of any description, including, but not limited to, toxic or hazardous substances as defined in any applicable federal, state or local laws, regulations or ordinances.

5.12. Mineral Development. The exploration for minerals, including sand and gravel, or hydrocarbons, or development or extraction thereof by any method on the Protected Property.

5.13. Hunting and Fishing. Hunting, trapping, or otherwise catching or killing fish, birds, or animals on the Protected Property except for the purpose of controlling feral domestic animals or non-native invasive species.

5.14. Motorized Vehicles. The operation of any motorized vehicles on the Protected Property, including without limitation automobiles, trucks, motorcycles, all-terrain vehicles, dune buggies, recreational vehicles, motor homes and go-carts EXCEPT as may be reasonably necessary in the Grantor's judgment for the

maintenance of the Protected Property or Grantor's Adjacent Land; and except to enter and exit the Protected Property and/or Grantor's Adjacent Land on the Gravel Driveway and Dirt Woods Road and Cleared Area for maintenance, family gatherings and to collect firewood as provided in Section II 4.3.5 , and as provided for in Section II 4.1 and 4.2.

5.16. Chemicals. The application of pesticides, herbicides, fertilizer or other chemical substances within the Protected Property, except as provided for in Section II 4.3.3 as may be a best management practice for managing the Protected Property to maintain and enhance the Conservation Values.

6. Development Rights. Grantor hereby grants to Grantee all development rights that are now or later allocated, assigned or reserved to, or inherent in, the Protected Property except as reserved in this Easement or which are subject to the BIMPD Declaration or other easements or encumbrances of record (collectively, the "Extinguished Rights"). The parties agree that the Extinguished Rights are permanently severed and extinguished from the Protected Property, and may not be used on or transferred to any portion of the Protected Property as it now or later may be bounded or described, or to any other property adjacent or otherwise, or used for the purpose of calculating permissible lot yield or density of the Protected Property or any other property. Grantor agrees, upon Grantee's request, to promptly take such action, including execution and delivery of such papers or documents, as may be now or later necessary to carry out the purpose and intent of this section in accordance with applicable law.

7. Notice of Permitted Actions; Request for Approval of Actions; Grantee's Approval; Mediation

7.1. Notice and/or Request for Approval of Permitted Action. If Grantor is expressly required under this Easement to notify Grantee or to obtain Grantee's approval before undertaking certain uses or activities expressly permitted in this Easement in Section II.4 or II.5 or elsewhere, the purpose is to afford Grantee an opportunity to confirm that the uses or activities in question are designed and carried out in a manner consistent with the purpose of this Easement. Whenever notice or approval is required, Grantor shall notify Grantee in writing not fewer than thirty (30) days before the date on which Grantor intends to begin such use or activity. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the terms of this Easement. Where Grantee is required to give approval, such approval must not be unreasonably delayed, conditioned or withheld.

7.2. Precautionary Request for Approval of Action. In addition to any notices explicitly required by the terms of Sections II.4 or II.5 above, if Grantor believes or reasonably should believe that an activity may have a material adverse

impact on the Conservation Values, or if Grantor is unsure whether a proposed use or activity is prohibited by the Easement, Grantor shall request approval by Grantee describing the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to whether it is inconsistent with the purpose of the Easement or within the meaning of an express prohibition or is consistent with the terms of the Easement or within the meaning of an express permitted use.

7.3. Grantee's Approval. Where Grantee's approval of any use or activity is requested, Grantee shall notify Grantor in writing of its approval or disapproval of such use or activity within thirty (30) days after receipt of Grantor's notice or request. Where Grantee's approval is expressly required hereunder, Grantee may disapprove if the proposed action is expressly prohibited by this Easement or upon Grantee's reasonable determination that the proposed use or activity would be inconsistent with the terms of this Easement. If Grantee reasonably disapproves, Grantor shall not undertake the proposed use or activity. If Grantee does not notify Grantor, in writing, of its disapproval of the proposed use or activity within the thirty (30) day period, Grantee shall be deemed to have approved the request.

7.4. Dispute Resolution/Mediation. If, pursuant to Section II.7.1, 7.2 or 7.3, Grantor is required to or elects to obtain Grantee's approval of a proposed use or activity and Grantee notifies Grantor of its disapproval, then the Parties shall meet together within fourteen (14) days after a request to discuss the dispute and attempt resolution. The Parties agree not to proceed with the use or activity pending resolution of the dispute at the meeting. If the Parties do not resolve the matter at the meeting, then the matter may be referred to mediation by mutual agreement of the Parties. The mediation shall be conducted and completed within thirty (30) days after referral to the mediator. Each party shall bear its own costs, including attorneys' fees, if mediation is pursued under this Section 7.4. The Parties shall share equally the fees and expenses of the mediator. If the Parties agree to submit the dispute to mediation, then the Parties agree not to proceed with the use or activity pending resolution of the dispute for a period of up to sixty (60) days from the date of Grantee's notice of disapproval, unless the Parties mutually agree to a longer period.

8. Grantee's Remedies.

8.1 Notice of Violation; Corrective Action; Remedies.

8.1.1. If Grantee believes that Grantor is in violation of the terms of this Easement or the License or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation. Where the violation involves injury to the Protected Property resulting from any prohibited uses or activity, or any use or activity inconsistent with the purpose of this Easement, Grantee shall give

written notice requiring the Grantor to restore the injured portion of the Protected Property.

8.1.2. If Grantor fails to cure the violation within thirty (30) days after receipt of the notice from Grantee, or if the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action in a court of competent jurisdiction to 1) enforce the terms of this Easement and the License, 2) enjoin the violation, ex parte as necessary if Grantor fails to appear and defend after service of process in accordance with court rules (but with prior notice to Grantee consistent with applicable court rules), by temporary or permanent injunction, 3) recover any damages to which it may be entitled for violation of the terms of this Easement or the License or injury to any Conservation Values protected by this Easement, including damages for the loss of any Conservation Values, and/or 4) require the restoration of the Protected Property to the condition that existed before the injury.

8.1.3. Grantee shall apply any damages recovered to the cost of enforcing this Easement and undertaking any corrective action on the Protected Property. If Grantee, in its reasonable discretion, determines that circumstances require immediate corrective action to prevent or mitigate significant impairment of or interference with the Conservation Values, Grantee may take such corrective action as it reasonably deems appropriate and may pursue its remedies under this section without waiting for the period provided for cure to expire but Grantee shall give written notice to Grantor prior to taking such action.

8.1.4. Grantee's rights under this Section II.8. apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that if Grantee's remedies at law for any violation of the terms of this Easement or the License are inadequate Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement and the License, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or later existing at law or in equity.

8.1.5. Grantee agrees not to bring any action against Grantor (or against Grantor's family members, agents, contractors, employees, guests or invitees) for any injury or damage to the Conservation Values unless and only to the extent that such injury or damage arises from the negligence, intentional

or willful act, omission or conduct of Grantor. Dr. William Carlson as the initial Grantor, and his nephew Eric J. Jenkins (if Grantor's successor), shall make good faith efforts to control invasive plants as per Section 4.3 and the Restoration Plan. Grantee agrees to not bring any action against Grantor for the injury or damage to Conservation Values resulting from invasive plants, and Grantee agrees that its sole remedy for any harm to the Conservation Values resulting from inadequate control of invasive plants is to enter the Protected Property and conduct remediation measures at Grantee's expense.

8.1.6 In the event that either Grantor and Grantee discovers injury or damage to the Conservation Values that does not arise from the acts or omissions of Grantor or Grantor's family members, agents, employees, guests or invitees, such party shall exercise reasonable efforts to promptly notify the other in writing of the facts, circumstances and causes of the injury and damage to the extent that such party is aware of such facts, circumstance and causes and either (i) commence diligent prosecution of any and all rights and remedies available to Grantor to prevent, abate, or mitigate such injury or damages, including restoration of the Conservation Values, or (ii) assign all the rights and remedies to Grantee so as to permit Grantee to enforce the rights and remedies in its own name or the name of Grantor, and shall cooperate with Grantee in any action undertaken by Grantee to enforce such rights and remedies.

8.2 Costs of Enforcement. In any action brought pursuant to or to enforce this Easement, each party shall bear its own costs and attorney's fees unless the court enters an express finding that the non-prevailing party was acting in bad faith.

8.3. Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of Grantee. Any forbearance, delay or omission by Grantee in the exercise of its rights or remedies under the Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement, nor impair or be deemed a waiver of any of Grantee's rights or remedies under this Easement.

8.4. Waiver of Certain Defenses. Each Party hereby waives the right to assert any present or future claims against the other, or defenses to the enforcement of this Easement based upon any theory or doctrine of laches, estoppel, adverse possession or prescription.

8.5. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Conservation Values or the Protected Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and

earth movement, invasive species, climate change or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Conservation Values or the Property resulting from such causes.

8.6. Trespassers. In the event the terms of this Easement are violated by acts of trespassers, Grantor agrees to join in any suit with Grantee at Grantee's cost (unless otherwise agreed) for the purpose of pursuing enforcement action against the responsible parties. Grantor also reserves the right, independent of any action by Grantee under this Section, to pursue actions against trespassers. Grantor shall have no liability for the actions of persons entering the Protected Property without Grantor's permission, and shall be under no obligation to remediate or otherwise address any damage to the Protected Property caused by trespassers. Separately, the Grantor and Grantee acknowledge that certain terms of the Declaration between Grantor and BIMPRD pertain to Trespassers of which Grantor has no obligation to remediate or address damages made to the Protected Property.

8.7. Limitation on Damages and Actions. Notwithstanding any other provision of this Easement, Grantee shall have no right of action for damages, specific performance, or other remedy pertaining to any condition existing prior to the effective date of this Easement.

9. Costs and Liabilities; Taxes.

9.1. Grantor's Responsibilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation and maintenance of the Protected Property, including the cost of adequate comprehensive general liability insurance coverage, other than those responsibilities, costs and liabilities that relate to Grantee's, its agents', employees', contractors' or invitees' use of the Protected Property or Grantor's Adjacent Land pursuant to this Easement and License. Grantee shall maintain adequate insurance covering its use and its agents', employees', contractors' and invitees' use of the Protected Property and License hereunder and its indemnity and defense of Grantor obligations hereunder. Nothing in this Easement shall impose any liability on Grantor for the negligence, acts, omissions, or misconduct of Grantee or Grantee's agents, employees, contractors, or invitees, and Grantee shall be responsible for the same.

9.2. Taxes Defined. Grantor shall pay before delinquency all taxes, assessments, fees and charges of any kind levied on or assessed against the Protected Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, unless non-payment is permitted by law in connection with any legal challenge by Grantor to the validity or amount of such taxes, assessments, fees, and/or charges. Grantor shall furnish Grantee with satisfactory evidence of payment of taxes upon request.

9.3. Payment by Grantee. Grantee is authorized, but in no event obligated, to make or advance any payment of taxes, after ten (10) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement or estimate; provided that Grantee is not entitled to make or advance any such payment so long as Grantor is diligently proceeding with a legal challenge to the validity or amount of such taxes, unless such payment is necessary to avoid a foreclosure against the Protected Property or some other legal action that threatens the validity or priority of this Easement. If Grantee does make any such payment of taxes, Grantor shall upon demand reimburse Grantee with interest until paid (such interest to be calculated at the rate applicable to judgments entered in the courts of the State of Washington on the date upon which Grantee made payment).

10. Indemnity. Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors and assigns of each of them (collectively "Grantee's Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments arising from Grantor's Indemnified Parties' acts or omissions relating to the Protected Property, this Easement or the License; provided however that such obligation shall not extend to the extent of the negligence or other fault of any of Grantee's Indemnified Parties. Grantee shall hold harmless, indemnify, and defend Grantor and Grantor's members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Grantor's Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments arising from Grantee's Indemnified Parties' acts or omissions relating to the Protected Property, this Easement or the License; provided however that such obligation shall not extend to the extent of the negligence or other fault of any of Grantor's Indemnified Parties. The obligations to hold harmless and indemnify contained in this Section 10 shall not include payment of attorney's or consultant fees unless a court determines that the non-prevailing party acted in bad faith. Nothing in this Easement shall be construed to impose any liability upon Grantor for injury to or death of the Grantee's Indemnified Parties accessing or using the Protected Property, or upon Grantee for injury to or death of the Grantor's Indemnified Parties accessing or using the Protected Property, and any such liability shall be determined solely in accordance with applicable Washington law.

11. Extinguishment.

11.1. Termination. This Easement constitutes a real property interest immediately vested in Grantee. If circumstances arise in the future that render the purpose of the Easement impossible to accomplish, the Easement can be terminated or extinguished, whether in whole or in part, only by judicial proceedings in a court of competent jurisdiction.

11.2. Proceeds. In the event of any sale, exchange or involuntary conversion of all or any portion of the Protected Property contemporaneous with or following such termination or extinguishment, unless otherwise provided by Washington law at the time, out of the proceeds remaining after satisfaction of any claims adjudged to have priority over the Easement, Grantee shall be entitled to the then current fair market value of the Easement as defined in Section 11.3 or so much thereof as may be satisfied out of the proceeds.

11.3. Fair Market Value. The fair market value of the Easement at any time shall be determined by multiplying the then current fair market value of the Protected Property unencumbered by the Easement, less any increase in value after the date of this grant attributable to improvements, by the ratio of the value of the Easement as of the date of the Easement to the value of the Protected Property unencumbered by the Easement as of the date of the Easement. For the purposes of this Section 11.3., the ratio shall remain constant.

11.4. Definition of Value. The "value of the Easement as of the date of the Easement" and "the value of the Protected Property unencumbered by the Easement as of the date of the Easement" are those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue Code of 1954, as amended.

12. Assignment; Executory Limitation.

12.1. Assignment by Grantee. Grantee or Grantee's successor may assign its rights and obligations under the Easement and License only to a qualified governmental entity or an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code, as amended or any successor provision then applicable, and the applicable regulations promulgated under that section, and authorized to acquire and hold conservation easements under RCW 84.34.250, as amended. As a condition of the transfer, Grantee shall require assurances that the transferee will enforce the terms of the Easement in furtherance of its conservation purpose. In the event that this Easement and/or License are to be assigned by Grantee or pursuant to Article 12.2, then priority shall be given to qualified private organizations, and assignment to a qualified government entity shall only be made if no qualified private organization is available in the State of Washington and willing to assume the Easement and/or License from Grantee.

12.2. Reassignment of Easement. If Grantee is dissolved or ceases to be a qualified organization under Section 170(h) of the Internal Revenue Code, as amended, and 1) the dissolution is not reversed and the corporate charter reinstated, or 2) the Section 170(h) qualification is not reinstated, within one (1) year thereafter, and a prior assignment as provided above has not been made, then Grantee's rights and obligations under the Easement and License shall be deemed assigned to and become

immediately vested in a land trust organization or governmental entity qualified under Section 170 (h) of the Internal Revenue Code.

12.2.1. If the chosen governmental entity or organization is no longer in existence at the time, or is not qualified or authorized to hold conservation easements as required for an assignment to it as provided above, or if it shall refuse to accept these rights and obligations, then a court of competent jurisdiction shall direct an organization to hold the Easement, pursuant to the applicable Washington law and with due regard to the requirements for an assignment as described above.

13. **Grantee's Certification.** Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor any document that may be reasonably requested by Grantor, including an estoppel certificate or compliance certificate, to certify, as of the date of the Grantee's most recent monitoring visit, and to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantor contained in this Easement or otherwise to evidence the status of this Easement.

14. **Notice of Change of Ownership.** Grantor or Successors shall notify Grantee in writing of the intent to change or convey ownership of the Protected Property or any interest in it at least ten (10) days prior to making the property available for new ownership or listing the property for sale or other means. This is to afford the Grantee the opportunity to provide the Grantor or Successors with copies of all conservation easement documents that should be fully disclosed to a potential new owner prior such change or conveyance. Additionally, Grantor or Successors shall notify Grantee in writing at least ten (10) days prior to the actual change or conveyance of ownership with the name and contact information of the new owner. In the case of sudden death of Grantor or Successor, his/her heirs or assigns where notice is not possible, notice of change or conveyance of ownership by Grantor's or Successor's estate or assigns shall be provided to Grantee no less than 30 days following the death of Grantor, Successor, heirs or assigns. Nothing in this Section 14 shall be deemed or construed to require approval from Grantee for any sale, exchange, encumbrance, or other conveyance of the Protected Property.

15. **Notices.** Any notice, demand, request, consent, approval or communication that either party is required to give to the other shall be in writing and either delivered personally or sent by certified mail, postage prepaid, addressed as follows:

To Grantor: **William C. Carlson**
7211 48th Way NW
Olympia, WA 98502

To Grantee: **Bainbridge Island Land Trust**
P.O. Box 10144
Bainbridge Island, WA 98110

or to such other address as either party from time to time shall designate by written notice to the other. Notices shall be effective upon receipt.

16. General Provisions.

16.1. Controlling Law. The interpretation and construction of the Easement shall be governed by the laws of the State of Washington.

16.2. Construction. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

16.3. Severability. The invalidity or unenforceability of any term or provision in the Easement shall not affect the validity or enforceability of any other term or provision in it.

16.4. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and License and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged into this instrument. Time is of the essence.

16.5. Joint and Several Obligation. If Grantor includes more than one person or entity, the obligations imposed by this Easement and the License upon Grantor and each of them, shall be joint and several.

16.6. Successors. This Easement and the License shall be binding upon, and inure to the benefit of, the parties to it and their respective heirs, personal representatives, successors and assigns. The term "Grantor" as used herein shall include, unless the context clearly indicates otherwise, the above-named Grantor and family members, invitees, employees, contractors and agents, or his personal representatives, heirs and assigns, and any successors in interest to the Protected Property described herein. For the avoidance of doubt, the terms of this Easement shall only be enforceable against a Grantor who is the owner of the Protected Property (or his personal representative acting for the estate of such Grantor), and no other Grantor shall bear any liability under the terms of this Easement.

16.7. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's entire interest in the Easement or Protected Property, except that liability for acts or omissions occurring before transfer shall survive transfer.

16.8. **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

16.9. **Recordation.** Grantee shall record this instrument in the official records of Kitsap County, Washington and may re-record it at any time as may be required to preserve its rights in this Easement.

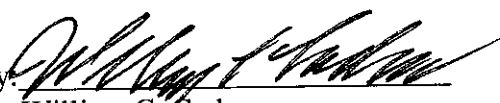
16.10. **Amendment.** This Easement may be amended only in writing signed by all owners of the Protected Property and by Grantee or its successors and assigns. No amendment may 1) adversely affect the qualification of this Easement or the status of Grantee under any applicable laws, including RCW 84.34.200-250 and RCW 64.04.130, as amended, or Section 170(h) of the Internal Revenue Code, as amended, or 2) affect the Easement's perpetual duration. Any amendment shall be recorded in the official records of Kitsap County, Washington.

16.11. **Counterparts.** The Easement may be executed in any number of counterparts for the convenience of the parties, all of which, when taken together and after execution by all parties to it, shall constitute one and the same instrument.

16.12. **Exhibits.** Exhibits A and Exhibit B page 1 - 19, Exhibit B1 - B11, and portions of Exhibit C attached hereto are incorporated herein.

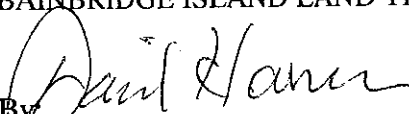
EXECUTED on December 21, 2015.

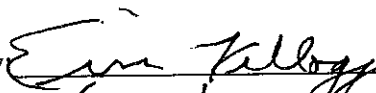
GRANTOR:

By: 
William C. Carlson

GRANTEE:

BAINBRIDGE ISLAND LAND TRUST

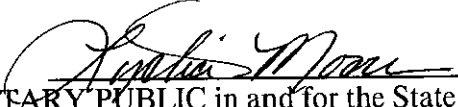
By: 
Its: President

By: 
Its: Secretary

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

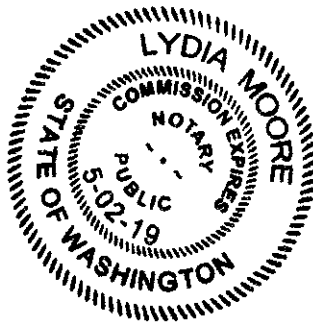
On this 21st day of December, 2015 before me, a Notary Public in and for the State of Washington, personally appeared **William C. Carlson**, personally known to me or proven on the basis of satisfactory evidence to be the persons who executed this instrument, on oath stated it to be their free and voluntary act and deed for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first written above.



NOTARY PUBLIC in and for the State of Washington,
Print Name: Lydia Moore
Residing at Bainbridge Island

My appointment expires May 2, 2019

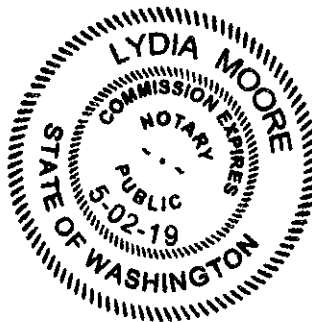


STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this 21st day of December, 2015 before me, a Notary Public in and for the State of Washington, personally appeared _____
David Harrison and Erin Kellogg,
personally known to me (or proven on the basis of satisfactory evidence) to be the persons who executed this instrument, on oath stated they were authorized to execute the instrument, and acknowledged it as the President and the Secretary of the **Bainbridge Island Land Trust**, a Washington nonprofit corporation, to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first written above.

Lydia Moore
NOTARY PUBLIC in and for the State of Washington,
Print Name: Lydia Moore
Residing at Bainbridge Island
My appointment expires May 2, 2019





DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

DIRECTIVE MEMORANDUM

Date: February 9, 2017
To: Planning Commission
From: Heather Wright, Senior Planner
Gary R. Christensen, AICP, Director
Project: Bainbridge Landing
File Number: PLN50520SPR & SUB

As prescribed in BIMC 2.16.040(D)(4)(C), in the case of a major site plan and design review application (reference doc A), the planning commission shall review the application prior to the final decision by the director. **The director shall determine the major issues and specific aspects of the project that the planning commission should review, and shall forward this review directive to the planning commission.** The planning commission shall review the application based on the **director's review directive, the DRB recommendation, and the decision criteria**, consider the application at a **public meeting where public comments will be taken**, and forward its recommendation to the director in accordance with BIMC [2.16.030\(C\)-\(E\)](#).

Project Description:

The applicant is requesting a site plan and design review approval to develop the 4.86-acre site with 140 residential units including 18 townhomes, 7 lofts and a 115-unit apartment building. The project also includes the removal and relocation of an existing historic home to the north of the subject property. In addition, the applicant is proposing a one acre park at the east side of the project site, abutting Ferncliff. The park will be used to acquire a Floor Area Ratio (FAR) Bonus (.).

The applicant is proposing to subdivide the property into 27 lots; 25 single family, one multi-family, and a one-acre park (reference doc O).

The site design incorporates various amenities, including internal, handicapped accessible public walking trails, a courtyard, underground parking, bicycle parking, electric vehicle charging stations, and the aforementioned one-acre park.

The project is designed as Tier 1 under the Housing Design Demonstration Project (HDDP) program, and will be considered as a LEED community. In accordance with the HDDP program, Tier I projects are required

to 1) restrict home size to no greater than 1,600 square feet, 2) receive a minimum of five points in the housing diversity category, 3) receive a minimum of 16 points in innovative site development practices. No affordable housing is required. Leadership in Energy and Environmental Design (LEED) is a third-party green building certification program and nationally accepted benchmark for the design, construction, and operation of high-performance green buildings and neighborhoods (reference doc B).

Major Issues and Other Specific Project Aspects to be Reviewed by the Planning Commission:

1. Housing Design Demonstration Project, HDDP:

The project has been submitted as a Tier I LEED. Tier I projects do not receive a density bonus, are not required to provide affordable housing, must achieve at least 16 points in innovative site development, must construct homes not greater than 1,600 square feet and receive at least 5 points in the Housing Diversity category.

The project meets the purpose and the goals of the HDDP program and exceeds the minimum requirements by providing a variety of housing choices (townhomes, flats, age in place, lofts, 1, 2 & 3 bedroom apartments), encourages development of smaller homes by providing residences ranging in size from 1,414 to 1,600 square feet and provides innovative building design and green building practices by implementing LEED standards into the development (reference doc B).

2. Proposed Access:

The project is proposing two points of access; a two way public road connecting Gilmore to Cave and a one-way public road from Ferncliff to Cave Avenue. The residents of Cave Avenue have requested that there not be any additional traffic on Cave Avenue and that any through roads go to Ferncliff Avenue. They are particularly concerned about the traffic that is currently stacking at the Cave Avenue/Winslow intersection during peak ferry times.

The BIMC requires connections to existing off-site roads that abut the subject property shall be required where practicable, except through critical areas and/or their buffers. Ferncliff, Gilmore and Cave Avenues abut the subject property. Gilmore encroaches on the property, and at the point of entrance from Ferncliff, the applicant is proposing to connect and share the drive. The project also proposes a northern, two-way road that connects Ferncliff to Cave Avenue and a southern, one-way road that also connects from Ferncliff to Cave Avenue.

The city contracted an independent third party traffic consultant (Transportation Solutions, Inc.) to perform a traffic impact analysis on the project (reference doc P). Trip generation rates were calculated for the proposed public park, the detached single family homes and the apartment units. The project was calculated to generate a total of 33 new vehicle trips during the AM peak hour and 39 during the PM peak hour.

The report evaluated the south access road under eastbound and westbound one-way circulation scenarios to identify any safety or operational differences between on-site circulation alternatives. The report concluded that direction of travel on the south access road will have relatively little impact on intersection delay and level of service (LOS).

Additionally, the report provided PM near-term and long-term level of service forecasts. There are no forecasted intersection LOS failures by 2035. New site access intersections are forecasted to operate at LOS B or better through 2035. Project generated trips accessing the site via Cave Avenue will be impacted by westbound queue stacking from the intersection of Winslow Way and SR 305, however no mitigation is recommended due to the low minor approach volume.

In addition to the traffic analysis, the two points of access were reviewed by the city's fire marshal. The fire code requires projects having more than 100 dwelling units be equipped throughout with two separate and approved fire apparatus access roads.

Pursuant to BIMC 18.15.020, **unless** approved by the director, only a single access to public right-of-way is allowed for an individual lot. More than one access may be allowed by the director if the director determines, based on drawings or other information submitted by the applicant, that (a) the proposed site access includes measures that mitigate any identified negative impacts or effects that would result from the additional access point(s); and (b) the additional access point(s) will improve on-site or off-site traffic flow or is necessary for, or will help facilitate, compliance with other requirements of this chapter.

The Director suggests utilizing two access points. The access roads were reviewed and approved by the City's third party traffic engineer. The report provided analysis on traffic, site access and circulation, sight distance evaluation and crash analysis. Negative impacts were not identified from these two access points; and mitigation was not recommended.

The additional access point will improve on-site traffic circulation due to the size of the lot and the change in topography across the site. Further, this deviation meets City's fire marshal requirement that the project provide two separate and approved fire apparatus access roads.

3. **Fire Flow:** To meet the fire flow requirements for this project, the applicant has proposed two options based on conversations with the City's public works department (reference doc K). These options are to: 1) extend an 8" waterline from the Vineyard Lane development under the bridge over the ravine stream across private property to connect to the existing water line in Gowen Place or 2) develop a large water tank on site with a pump and back-up generator.

These two options were not considered during the initial submission of the land use applications. Due to this change, the project was renoticed to inform the public of these two options (reference doc E). The City received public comments regarding these options. The City issued a SEPA condition for option 1, which could require a Special Use Review Permit and replanting of any disturbed areas (reference doc S).

In response to these options, the fire marshal submitted a second comment letter supporting Option 1. Connection to the existing 8" high pressure zone water main will provide adequate fire flow (1500 gpm) for the project. Implementation of this option will improve fire flow in the adjacent community as well. Option 2 is a viable option. The system shall be designed to meet the requirements of NFPA 13 and other related documents.

The applicant is also most interested in pursuing option 1, yet it will require approval from neighbors. The decision will be decided on by the time the applicant begins utility construction on-site; and any necessary land use permits shall be secured.

4. **Floor Area Ratio:** The base FAR is .4, or 84,854.88 square feet and the maximum with bonus is 1.1 is 233,350 square feet.

The definition of floor area excludes portions of parking located underneath a building footprint. While some of the buildings have partial underbuilding parking, with the exception of the apartment building, the applicant included all underbuilding parking in the floor area calculation.

The project is proposing **154,229 square feet of floor area**. Pursuant to 18.12.030(E), up to 60 percent of the maximum residential, commercial or mixed use FAR bonus may be achieved by providing community open space of one acre, or 20 percent of the parcel area, whichever is greater. 20% of 4.87 acres is .974 acres. The applicant is proposing over an acre of open space, the greater of 20%.

The amount of FAR bonus available with this incentive is 89,097 square feet (233,350-84,854.88=148,496 X .60). Of the 154,229 square feet proposed, **84,854 is the base** and **69,375** will be acquired through the **density bonus**.

The requirements for this community open space is that it shall be located in or in the immediate vicinity of locations identified in Figure 4.1 of the Winslow master plan, it must be located on the same parcel that is being developed, and must be on land that would be otherwise buildable. Adequate public access to the community open space must be provided. The city shall consider approving the bonus, taking into consideration the configuration, public use and accessibility of the proposed open space.

The applicant is proposing a 1.01-acre park along Ferncliff Avenue frontage. The site was identified in the Winslow Master Plan as a target site for a 1-acre park, and the adjoining Harbor Square Development has a park immediately south of the site that was also created as a FAR density bonus. This area would be buildable, with the exception of the 20' landscape buffer.

The City is contemplating approving the bonus and has considered the configuration (consolidated along a public road), public use (park is slated to be given to the Parks District for design and maintenance), and accessibility (abuts the neighboring one-acre park at Harbor Square and the proposed paths adjoining and through the park).

The Parks District will not begin their public outreach for the design of the park until 2018. The City has corresponded with the Parks District to find out how they envision the use of the park. The District foresees this as neighborhood, walk-in park that will be characteristically passive. They anticipate the development of a playground structure similar to a comparable neighborhood park recently developed in Lynwood Center (Schel Chelb Park).

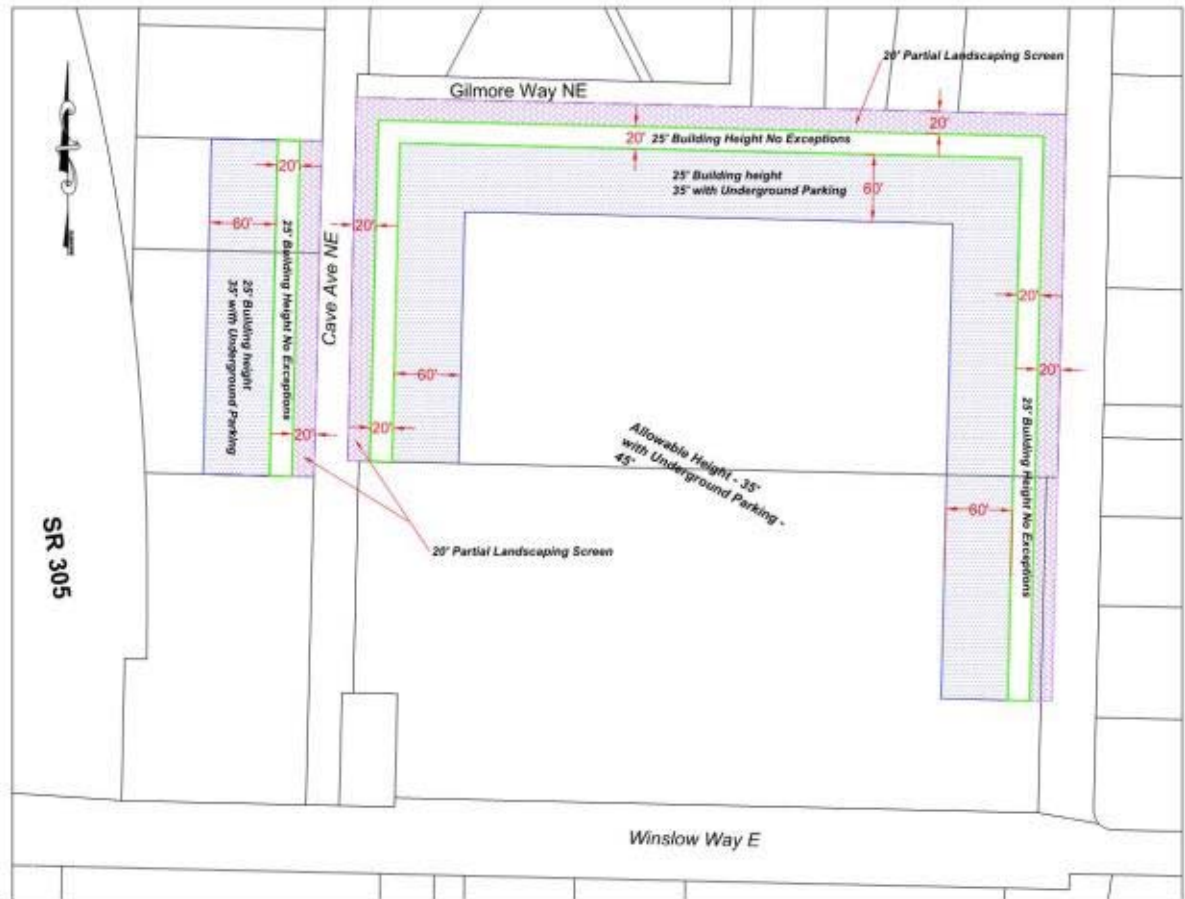
The applicant anticipates beginning construction on the units that require the bonus prior to the Parks district development of the park. The applicant has indicated their intent is to at a minimum grade and seed the park and establish walking paths in lieu of the Parks Districts development. The applicant has indicated that they plan to bond for a complete park, and intend for the amount to cover for a play structure and benches.

5. **Buffer and Building Height Modifications; Transition Standards in the Ferry Terminal Overlay District.** The landscaping and height restrictions illustrated below apply to this transition area. The diagram shows the buffers required prior to the dedication of right-of-way. For Cave Avenue, 10' of the partial landscaping screen is in the 10' of city dedicated right-of-way and 10' is on the subject property. The applicant is meeting the entire partial screen buffer requirements within the 10' on the subject property, while providing a sidewalk within the 10' of dedicated right-of-way.

The western portion of the 20' partial landscaping screen on Gilmore Way is currently developed with Gilmore Way, as the road encroaches on the subject property. The applicant is meeting the partial landscaping screen requirements despite this existing, nonconforming encroachment.

The applicant is proposing to meet the Ferncliff Avenue screen.

The City is considering conditioning the project to require the applicant to replant the entire 20' buffer along Gilmore in the event that Gilmore is realigned on the easement. The city is also considering approving a larger buffer on Ferncliff; allowing the park the entire park to provide the entire buffer requirements rather than limiting it to the 20' frontage and to require planting in the dedicated portion of the Cave Avenue right-of-way, in addition to the 10' on the subject property.



- 6. Trees, Modification of Requirements:** The site has six trees located within the buffer of Ferncliff Avenue (reference doc N). The code requires trees within a buffer to be retained, unless the applicant requests and the director approves a modification.

The Code states that if the significant tree and tree stand retention requirements of this section create an unnecessary hardship, the applicant may request a modification. The director may administratively approve a modification of the significant tree and tree stand requirements of this section if the director finds that the following standards have been met:

- a. The modification is necessary because of special circumstances relating to the location of existing significant trees and tree stands that prevent compliance with this section; and
- b. The special circumstances of the subject property make the strict enforcement of the provisions of this section an unnecessary hardship to the property owner; and
- c. The special circumstances of the subject property are not the result of the actions of the applicant; and

d. The approving of the modification will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and land use district in which the subject property is located; and

e. The modification is consistent with the purpose and intent of this chapter; and

f. The site design incorporates the retention of other natural vegetation in consolidated locations that promotes the natural vegetated character of the site.

Six trees with adequate health which are located within buffers are proposed for removal.

The application provides support for a modification. The applicant explained that the modification is necessary due to special circumstances relating to the location of the existing trees. Four of the trees are located within new public roadways (3 in the NE corner entry drive and 1 in the SW entry drive). Locations for these roads were determined to be optimal to minimize disturbance of other mature trees along Ferncliff and to utilize an existing gravel driveway (Gilmore). Not allowing access in these locations would present an unnecessary hardship to the property owner. The special circumstances - locations for functional and safe ingress/egress as defined in collaboration with City engineers - are not the result of the actions of the applicant. The modification will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and land use district. The modification is consistent with the purpose and intent of the Landscaping chapter- the intent of the partial screen buffers are being met through the retention of other trees and the planting of new trees (subsection e). Last, the site design incorporates the retention of other natural vegetation, particularly in the 1-acre open space being preserved and ultimately given to the Parks Dept. which will preserve more than a dozen mature trees.

Staff recommends that the Director approve the modification and allow these six trees to be removed.

Design Review Board Recommendation:

The Design Review Board (DRB) reviewed the application at three different meetings. The first meeting occurred during the pre-application phase and the remaining two meetings occurred on October 17 and November 21, 2016. The DRB review was two-fold: to review the proposal for consistency with the City's multi-family and commercial/mixed use design guidelines (reference doc F); and to make general site and building design recommendations.

On October 17, 2015, the Design Review Board motioned to approve the plan with the condition that the architect return to the DRB with exterior materials and placements on the building (reference doc G).

On November 21, 2016, the applicant met again with the DRB and brought forth three different material designs including hybrid (wood in multiple places), durable (pre-finished, interlock system and natural (new scheme) sheets and panels, rusted look. The DRB motioned 4-1 that they were in favor of the natural palette color. The applicant has agreed to follow the DRB recommendation and provide warm, natural colors (reference doc H).

Public Comment:

A range of concerns were voiced including traffic, design, environment (air emissions, environmental health due to noise and light and glare), abutting trees and the type of units proposed (request for less rental units). The overwhelming concern was in relation to traffic, and particularly the impact on Cave Avenue (reference doc D, I, Q, R).

The abutting Harbor Square residents have asked for protection of their abutting Heritage tree during construction. They have also requested heavy landscaping between the two sites, with fast growing trees to protect the residents from the lights and glare of the units and vehicles.

Overall, to address concerns voiced, staff will condition the project to provide frontage improvements on Cave and Ferncliff Avenues, to protect the heritage tree on the abutting property, and to adhere to noise, light and air pollution requirements (reference doc S).

The Historic Preservation Commission (HPC) was interested in the historic home on the project site (reference doc J). To address their concerns and to ensure the Cave history is preserved, the City applied SEPA conditions to the project: should the home not be relocated or preserved on-site, the home shall be offered for sale for relocation. To satisfy this condition, the applicant shall provide copies of any attempts to sale prior to receiving approval of a demolition permit for the home. A completed Washington State Historic Property Inventory Field Form shall be recorded with the State Department of Archeology and Historic Preservation prior to the moving or demolition of the historic home on the property. Historic signage shall be included in the park design to commemorate the Cave family.

Major Site Plan and Design Review Decision Criteria to be Reviewed by the Planning Commission:

1. The locations of the buildings and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems are adequate, safe, efficient and in conformance with the nonmotorized transportation plan; **The project was designed to maximize open space with underground parking, and in turn provide safe and efficient pedestrian and bicycle passage through the site with limited vehicle interaction. With the few proposed parking spaces located on-street and below ground, the internal site provides open space comprised of a park, courtyard and landscaping. The site provides pedestrian, bicycle and vehicular circulation that is found to be adequate, safe and efficient. The site will provide two-way vehicular traffic on the proposed north access road, and one-way on the southern access road. Sidewalks are proposed through the development and along Cave and Ferncliff Avenue frontages as well as off-site connecting to Cave Avenue.**
2. The site plan and design is consistent with all applicable design guidelines in BIMC Title 18, unless strict adherence to a guideline has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q; **The proposed residential designs were reviewed against the Commercial and Mixed Use, Mixed Use Town Center and Ferry Terminal design guidelines at three Design Review Board meetings. The project is found to be in compliance with the design guidelines, as recommended by the Design Review Board.**
3. No harmful or unhealthful conditions are likely to result from the proposed site plan; **No harmful or unhealthful conditions are likely to result from the proposed site plan. Infrastructure improvements are provided to ensure that water and sewer and storm systems continue to operate without causing any harm. The project is also conditioned to comply with SEPA requirements to avoid or mitigate any potentially harmful impacts.**

4. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans; **As conditioned, the site plan and design is found to be in conformance with the Comprehensive Plan and other adopted community plans. The project provides a variety of housing within close proximity to downtown and the ferry and provides non-motorized improvements and internal, publicly accessible pathways to encourage residents to utilize non-motorized transportation options for work, recreation and to patronize local businesses. The project also encourages the preservation of historic resources by recording historical documents at the Bainbridge Island Historical Museum and providing signage commemorating the past at the proposed community park. In summary, the project was found to comply with the Land Use, Housing, and Non-motorized Transportation Elements goals and policies including Historic Preservation Goal 2, Housing Element Goals 1 & 3, Policies H1.5, 3.1 and Non-motorized Goals 1 & 2, Policies 1.3, 1.8 & 2.2.**
5. The site plan and design has been prepared consistent with the purpose of the site design review process and open space goals;

Purpose. The purpose of site design review is to establish a comprehensive site plan and design review process that ensures compliance with the adopted plans, policies, and ordinances of the city. The overall goal of this chapter is to minimize land alteration, provide greater site development flexibility and consequently provide more creative and imaginative design than generally is possible under conventional zoning regulations. It is further intended to provide for the review of development proposals with respect to overall site design and to provide a means for guiding development in a logical, safe, attractive, and expedient manner, while also allowing property to be developed in phases. An additional purpose is to promote those specific purposes for each zoning district stated in Chapter 18.06 BIMC. Ferry Terminal Overlay District.

The project complies with the adopted plans, policies and ordinances of the city. The project also meets the purpose of the ferry terminal overlay district; which is to provide an attractive setting for ferry and associated transportation-oriented uses and serve as the entry-point into Winslow. This district is also intended as a new pedestrian- and transit-oriented, mixed use neighborhood that complements the character and vitality of the core and serves the neighborhood and commuters. The proposed single and multi-family dwelling neighborhood is pedestrian and transit oriented due to its proximity to the ferry and the proposed sidewalk improvements through the site and along Cave and Ferncliff Avenues.

Reference Documents:

(note all reference material may be accessed via the City's Website Online Permit Portal-Smartgov)

[Bainbridge Landing Site Plan Review](#)

(The following reference materials can be found under the "submittals" and "notes" sections under this file number: PLN50520SPR)

- A. Project Application 7/14/2016
- B. MISCELLANEOUS (LEED Design Package, HDDP Approval Criteria Scoring) 7/14/2016 & 7/15/2016
- C. 50520 Harbor Square Critical Root Zones 8/12/2016
- D. Public Comment 8/27/2016, 9/8/2016

- E. Revised Notice of Application 12/30/2016
- F. Design Guideline Checklist 7/14/2016
- G. Design Review Board Official Minutes 11/21/2016
- H. Exterior Materials Design Package, 50520 SPR Exterior Material Design Package 11/15/2016
- I. Public Comments 1/10/2017, 1/14/2017, 1/17/2017, 2/7/2017
- J. Historical Narrative 8/17/2016
- K. REVISION 1, 12/21/2016
- L. Site Plan (Drawing Sets, 50520 SPR ARCH FINAL SET 7/14/2016
- M. Landscape plans (50520 Landscape Drawings, 50520 Supplemental Landscape Info) 7/15/2016.
- N. Tree Retention Plan, 50520 Tree Retention Analysis Date 7/15/2016

Bainbridge Landing Subdivision

(The following reference materials can be found under the “submittals” and “notes” sections under this file number: PLN50520SUB)

- O. Project Application 7/14/2016
- P. Traffic Study/Analysis Review, Final TIA from consultant 11/22/2016
- Q. Public Comment attached 1/10/2017
- R. Comment from Tawresey 1/17/2017
- S. SEPA Decision 02/02/2017



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

DIRECTIVE MEMORANDUM

Date: February 27, 2017
To: Planning Commission
From: Josh Machen, AICP, Planning Manager
Gary R. Christensen, ACIP, Director
Project: Madrona School
File Number: PLN18970B CUP and PLN18970B SPR

As prescribed in BIMC 2.16.040(D)(4)(C), in the case of a major site plan and design review application (reference doc A), the planning commission shall review the application prior to the final decision by the director. **The director shall determine the major issues and specific aspects of the project that the planning commission should review, and shall forward this review directive to the planning commission.** The planning commission shall review the application based on the **director's review directive, the DRB recommendation, and the decision criteria**, consider the application at a **public meeting where public comments will be taken**, and forward its recommendation to the director in accordance with BIMC [2.16.030\(C-E\)](#).

Project Description:

Construction of a new K-8 private school to accommodate 200 students and 27 teachers and staff, which includes classrooms, offices, and a gymnasium/auditorium. Site improvements include 39+ parking spaces, play field, stormwater facilities and on-site septic system. An existing residence, barn and two sheds will be demolished (Reference Documents A & B)

Major Issues and Other Specific Project Aspects to be Reviewed by the Planning Commission:

1. **Neighborhood compatibility**-The proposal is for a private school to be developed within a R-1 zoning district, which is primarily single-family residential development. A conditional use permit is required for a private school and associated facilities and may only be allowed if through design or conditions it can be shown that the proposal is harmonious and compatible with the neighborhood character, physical characteristics, and quality of the development in the vicinity of the subject property.
2. **Traffic** - A school has distinctive traffic patterns and impacts. Although the subject property is located on an arterial road, traffic flow and circulation impacts were identified. Initially, a traffic

analysis was conducted and a report was prepared and later an addendum was completed specifically addressing the intersection of Sportsman's Club Road and Highway 305 (Reference Documents E and F). **The City's Development Engineer has reviewed the traffic reports and has found that the school will not have a significant adverse impact on traffic requiring off-site improvements.**

3. **Parking** - Parking is a specific aspect of the project that the Planning Commission needs to review and approve. Any parking over the actual demand must be approved by the Planning Commission. The proposal has provided for 39 parking stalls and an additional 5 flex parking stalls that can be used outside of drop-off and pick-up times. The proposal also suggests using the play field for temporary overflow parking for events. **The proposed development will serve a maximum of 200 students and 27 staff. The required parking is 40 spaces. The proposed parking lot provides 39 dedicated spaces and an addition five load/unload spaces that will be available for long term parking outside of the pick-up/drop-off periods. The parking lot includes two handicapped-accessible parking space. Additionally, to accommodate all-school event parking, such as an open house, the school has identified overflow parking within the playfield and a possible shuttle service program from nearby neighborhood community lots, such as Rolling Bay Presbyterian Church or the Grange.**

Design Review Board Recommendation:

The Design Review Board (DRB) reviewed the application at two different meetings. On December 19, 2017, the DRB meet to review the pre-application phase and the Site Plan and Design Review process. The DRB review was two-fold: to review the proposal for consistency with the City's multi-family and commercial/mixed use design guidelines); and, to make general site and building design recommendations.

1. **Site Design.** Create small parking clusters connected by vegetated landscaping and pedestrian walkways. Parking lots should be located behind or to the side of buildings. Pedestrian walkways should offer connections to adjoining properties. Exterior lighting should not exceed 14 feet in height and should incorporate shields. Trash containers should be shielded from view. **The development provides a buffer more than 25-feet wide from N. Madison Avenue, and the parking lot lies between the buffer and the buildings, which are set back over 185 feet from the right-of-way. Parking facilities are located in a manner that provides appropriate separation between vehicular traffic and the campus. The parking lot is comprised of grouped spaces which are separated by landscape areas.**

Pedestrian walkways provide internal connection between the buildings and between the parking lot and the buildings. The development provides numerous outdoor spaces, including playgrounds, play fields and trails; while most are oriented behind the buildings to serve the student population, one courtyard features prominently in front of the buildings and is the terminus of the pedestrian walkway connection to Arrow Point Drive.

The proposed outdoor lighting must meet the design guidelines, and the project will be conditioned to demonstrate compliance with regulations at time of building permit application. Trash containers are located along the east side of the class room building and are screened from view.

2. **Building Design.** Buildings should utilize elements such as massing, materials, windows, canopies, and pitched or terraced roof forms to create a visually distinct base and cap. Building materials and

patterns should be varied to produce variations in texture. Building elevations shall be vertically and horizontally modulated to avoid massive scale. Facades facing public ways shall incorporate setbacks or articulation, and shall include features such as columns or recessed entries. Blank walls shall not be visible to public spaces. Building designs should respond to nearby buildings by using shared elements, materials or massing. Principal entrances should be visually prominent and incorporate elements such as setbacks, recesses, and porches. Rooftop mechanical equipment should be concealed by and integrated within the roof form. **The architect's goal is to create a campus that exemplifies environmentally sensitive building practices and design. Buildings are oriented to capture natural light and provide views of the outdoors. Building materials include natural wood siding and large windows that let in natural light and views of the natural landscape. While many of the buildings are two-story, they use the natural topography to blend in to the site, and no blank walls are proposed. Covered walkways, porches and canopies afford protection from the elements. Rooftop mechanical equipment is proposed to be screened integrated in to the building form with similar building materials.**

Public Comment:

1. Neighborhood/Zoning Compatibility:

Several public comments were received regarding the scale of the proposed development and the structures are too large and non-compatible with the existing residential neighborhood character. The school does represent a distinct change from the single-family homes within the immediate vicinity. The property upon which the school is proposed is 4.79 acres in total which under current zoning could support up to five single-family residences each with an accessory dwelling unit and associated out buildings. Under the conditional use permit requirements, the allowed lot coverage (the area of the lot allowed to be covered by buildings) is limited to half the amount that would be allowed if single-family homes and accessory structures were proposed on this same site.

Multiple comments suggested that the zoning should not allow a use that is similar to a commercial development and questioned why private schools are allowed in a residential zone. The zoning for the subject property is R-1, Residential one unit per acre zone. However, within the R-1 zone allows schools (public or private) under the provisions of obtaining a conditional use permit. Washington State laws grant local jurisdictions (i.e., city) land use regulatory authority. The elected City Officials of Bainbridge Island have adopted zoning definitions for commercial and educational development and adopted zoning regulations as to where these uses may be allowed, or allowed through a conditional use permit. It is the applicant's responsibility to demonstrate that the proposed use can meet all of the criteria of the conditional use permit.

2. Traffic and vehicular trips:

Several public comments expressed concern regarding the number of vehicular trips proposed to the subject property each day and the impact those trips may have on adjacent roadways and transportation systems. The school facility poses a significant increase in vehicular trips per day when compared to single-family homes. According to the submitted traffic study, the school at full capacity is expected to generate 720 daily trips, 360 in and 360 out. This is precisely why educational facilities that require a conditional use permit must be located on roads classified as residential suburban, collector, or arterial on the Bainbridge Island functional road classification map. N. Madison Avenue NE is listed as an arterial road on the classification map. Two traffic

studies were performed to address the issue of traffic generation and the impact that the proposed development would have on surrounding roadways. Typically, traffic calculations look at the PM peak hour because that is the hour of highest congestion. The proposed development's typical traffic patterns fall outside of this peak hour, so the school is likely to have little to no impacts on the PM peak hour. However, in consideration of public comments received a second traffic study was performed to analyze the morning peak hour and specifically the potential impact on the Sportsman's Club/SR305 intersection. The traffic studies indicate that this intersection will fail in the year 2040 with or without the proposed school. The City has generally accepted that these major intersection improvements that serve major portions of the island are a City and State responsibility and that individual project are not expected to make the improvements when their portion of the impact is very minimal.

3. **Noise from children:**

Only a couple of public comments expressed concern regarding noise emanating from children's play. While many of the surrounding properties are developed with single-family homes, only one is in proximity to the playfield to be impacted by noise from children's play. The closest house is approximately 75 feet away from the property line and as proposed the playfields would be over 100 feet from the residence and will have a new 15-foot landscape buffer and possible fence between the properties.

4. **Visual impact:**

A few public comments received expressed concern that the proposed school would have a negative visual impact on the surrounding residential neighborhood character. As proposed and required by the municipal code, the proposed project is providing a dense buffer of existing trees and shrubs along N. Madison Avenue. The closest parking spaces will be almost 45 feet back from the edge of right-of-way. Existing native tree and shrub buffer also exists along the north, east and half of the south property lines. Where no buffer exists along a portion of the south property line a new 15-foot full screen buffer will be planted as part of this proposed development. These buffers will help ensure the residential nature of area is not visually altered by the proposed private school.

5. **Lighting:**

Concerns were raised that the school may employ high intruding parking lot lighting or lighting for the play fields that would adversely impact surrounding properties. As part of their application the school was required to submit a lighting plan with proposed fixtures. As proposed, only a few low bollard lights are proposed around the parking area and pedestrian paths and there are some entry sconces proposed on the buildings. The proposed fixtures are all shielded and downlight only.

6. **Parking:**

Public comments were received regarding the adequacy of the number of parking spaces being provided, especially for large events involving the whole school. The proposed school is providing 39 parking stalls in addition to five load/unload spaces that would be available for long-term parking outside of pick-up/drop-off times. The number of stalls is consistent with the City's regulations for schools including staff, parents and visitors. The school has recognized for large events alternative parking would be necessary. For these events, the school play field could be accessed and used for overflow parking in addition to shuttle programs from either Rolling Bay Presbyterian Church or from the Grange Hall parking lot.

7. **Signs:**

Concerns were raised that a large lighted sign at the entrance of the school on Madison could detract from the residential neighborhood character. A school sign, consistent with the municipal code and

as specified in a conditional use permit, would be limited in size, and be required to meet lighting requirements, and to assure compatibility with the surrounding neighborhood. Any sign not visible from the public right-of-way or adjacent property is not considered a regulated sign under the City's regulations.

8. No rental clause:

A concern was raised that the school would rent out their space to commercial endeavors during non-school hours causing additional traffic and potential impacts on the surrounding properties. Often schools or other public facilities are rented out to other non-profit clubs or religious groups for use on off hours. No commercial businesses would be allowed to use the school facilities as this would be a violation of the municipal code. Other uses wanting to rent space from the school would have to demonstrate that their intended use would not adversely affect the neighborhood, cause a burden on parking or have any other impact greater than the school use.

Major Site Plan and Design Review Decision Criteria to be Reviewed by the Planning Commission:

1. The locations of the buildings and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems are adequate, safe, efficient and in conformance with the Non-Motorized Transportation Plan. **The City Engineer finds that with conditions, the project will provide adequate circulation systems and is consistent with the Non-Motorized Transportation Plan. (Reference Document G)**
2. The site plan and design is consistent with applicable design guidelines. **The Design Review Board recommends approval of the project as proposed.**
3. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans. **The project provides for relocation of a not-for-profit educational facility which includes an arts education program and fosters appreciation of the natural environment.**
4. The site plan and design has been prepared consistent with the purpose of the site design review process and open space goals;

Purpose. The purpose of site design review is to establish a comprehensive site plan and design review process that ensures compliance with the adopted plans, policies, and ordinances of the city. The overall goal of this chapter is to minimize land alteration, provide greater site development flexibility and consequently provide more creative and imaginative design than generally is possible under conventional zoning regulations. It is further intended to provide for the review of development proposals with respect to overall site design and to provide a means for guiding development in a logical, safe, attractive, and expedient manner, while also allowing property to be developed in phases. An additional purpose is to promote those specific purposes for each zoning district stated in Chapter 18.06 BIMC. R-1 District.

Conditional Use Permit Decision Criteria to be Reviewed by the Planning Commission

1. The conditional use is harmonious and compatible in design, character and appearance with the intended character and quality of development in the vicinity of the subject property and with the physical characteristics of the subject property.
The school is located on a 4.79-acre property that is adjacent to N. Madison Avenue, a secondary

arterial road. The proposed buildings are one and two-story buildings that conform to the natural topography of the land and are designed to complement the natural setting.

2. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property.

The proposed school is providing significant setbacks, landscape screening and fencing to ensure the development will not be materially detrimental to uses or property in the immediate vicinity. The stormwater system has been designed by a professional engineer and requires monitoring to ensure that water leaving the site is not increased due to the development.

3. The conditional use is in accord with the Comprehensive Plan and other applicable adopted community plans, including the Non-Motorized Transportation Plan.

The development is in accord with economic and cultural goals contained in the Comprehensive Plan. The Madrona School provides a diverse Waldorf educational experience that is not available elsewhere on the Island.

4. All necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity of the subject property.

The project will be conditioned to take special care to protect and retain trees and vegetation within buffers. The school has agreed to a carpooling/rideshare program to limit traffic and to staggered start times to ensure that traffic along N. Madison Avenue is not adversely affected during drop-off and pick-up times. The school has also indicated that they plan on providing a shuttle plan for alternative parking for large school events. Off-site parking and shuttle could occur from the Rolling Bay Presbyterian Church or the Grange (Reference Document H)

5. A conditional use may be approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the application shall be denied.

6. Additional Decision Criteria for Institutions in Residential Zones:

- a) All sites must front on roads classified as residential suburban, collector or arterial on the Bainbridge Island functional road classification map. **The property fronts N. Madison Avenue NE classified as an arterial road, and therefore the site meets this requirement.**
- b) If the traffic study shows an impact on the level of service, those impacts have been mitigated as required by the City Engineer. **The City Engineer finds the traffic study shows an acceptable level of service impact with the conditional use and issued a certificate of concurrency.**
- c) If the application is located outside the Winslow Study Area, the project shall provide vegetated perimeter buffers in compliance with BIMC 18.15.010. **The site is outside the Winslow Study Area. As provided in BIMC 18.15.010, buffer averaging is utilized to reduce the buffers to the minimum allowed width of 15 feet, while increasing the buffer in the areas that have existing mature trees and shrubs.**
- d) The proposal meets the Commercial / Mixed Use Design Guidelines. **Compliance with the Commercial / Mixed Use guidelines, is discussed above under the Design Review Board Recommendation section. The Design Review Board unanimously recommends approval of the project.**

- e) The scale of proposed construction including bulk and height and architectural design features is compatible with the immediately surrounding area. **The buildings are single story and incorporate various materials designed to be compatible with the natural setting.**
- f) If the facility will have attendees and employees numbering fewer than 50 or an assembly seating area of less than 50, the Director may waive any or all of the additional decision criteria requirements for institutions in residential zones. **This criterion is not applicable, as there are more than 50 students and staff.**
- g) Lot coverage does not exceed 50 percent of the allowable lot coverage in the zone in which the institution is located. **Maximum lot coverage in the R-1 zoning district is 15 percent; institutions including religious facilities may not exceed 50 percent of the allowable lot coverage (i.e. 7.5 percent). Lot coverage is approximately 16,260 square feet, or 7.4 percent of the lot area, and therefore meets this requirement.**

Reference Documents:

(note all reference material may be accessed via the City's Website Online Permit Portal-Smartgov or by clicking on the Hyper-links below)

Madrona School Site Plan Review

(The following reference documents can be found under the "submittals" and "notes" sections under this file number: [PLN18970B SPR](#))

- A. 18970B SPR MADRONA SCHOOL APP
- B. 18970 CUP set (Drawings)

Madrona School Conditional Use Permit

(The following reference materials can be found under the "submittals" and "notes" sections under this file number: [PLN18970B CUP](#))

- C. 18970B CUP MADRONA SCHOOL APP
- D. 18970 Traffic Impact Analysis
- E. 18970B CUP Traffic and parking mitigation plan
- F. 2017-01-24 Madrona School SR 305 Analysis
- G. 18970 CUP-SPR DE COA
- H. 18970B CUP Traffic and parking mitigation plan