



**Planning Commission
Special Meeting at Earlier Time
Wednesday, October 18, 2017
6:00 – 9:00 PM
Council Chamber
280 Madison Ave N
Bainbridge Island, WA 98110**

AGENDA

PLEASE NOTE EARLIER START TIME

- 6:00 PM CALL TO ORDER
 Call to Order, Agenda Review, Conflict Disclosure
- 6:05 PM PUBLIC COMMENT
 Accept public comment on off agenda items.
- 6:15 PM BLAKELY ELEMENTARY SCHOOL (PLN50767 [CUP/SPR](#))
 Review and Recommendation
 Heather Wright, Planning Manager
- 8:15 PM SHORELINE MASTER PROGRAM GENERAL AMENDMENT
 Christy Carr, Senior City Planner
- 8:55 PM NEW/OLD BUSINESS
- 9:00 PM ADJOURN

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

Public comment 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**



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

Date: October 13, 2017
To: Planning Commission
From: Heather Wright, Current Planning Manager
Gary Christensen, AICP, Director of Planning
Project: Captain John Blakely Elementary
File Number: PLN50767SPR, CUP & HMP

Applicant: Bainbridge Island School District #303

Location: 4704 Blakely Avenue, bordered on the west side by Blakely Avenue NE and Islandwood on the remaining three sides.

Request: The existing Captain John Blakely School is proposed for demolition and replacement. The new school building will be approximately 65,000 square feet. Portions of the existing and proposed school and associated play areas are within a Category I/II wetland habitat buffer. The proposal includes a habitat management plan to offset impacts to the wetland habitat buffer for the proposed school. The school is also seeking a conditional use permit to increase the height from 30' to approximately 35'. An access drive to the school is proposed to be realigned across from NE Baker Hill Road.

The District anticipates construction beginning following building permit approval until fall of 2019. The existing school is proposed to remain in place and maintain operation until the summer of 2019, at which point it will be demolished and the site development completed.

Consolidated Project Review:

In accordance with regulations contained in BIMC 2.16.170, an applicant for a single project proposal requiring more than one of the land use applications identified in BIMC 2.16.010 may be processed under the consolidated project review process. The applicant requests consolidated review of the applications for Site Plan and Design Review, Conditional Use Permit and the Habitat Management Plan.

Environmental Review: The project is subject to State Environmental Policy Act (SEPA) review as provided in Washington Administrative Code (WAC 197-11). Utilizing the optional DNS process provided in WAC

197-11-355, the City issued a combined Notice of Application/SEPA comment period on May 6, 2017 with the comment period ending on June 9, 2017. Revisions to the application warranted a revised notice on July 21, 2017 with the comment period ending on August 4, 2017.

The City anticipates issuing a SEPA decision following resolution on the Habitat Management Plan.

Planning Commission Review:

The Final decision on these consolidated projects is made by the **Hearing Examiner**. In the case of a major site plan and design review application, conditional use permit, and Habitat Management Plan (HMP) the **planning commission** will consider the land use applications at a public meeting. shall review the application prior to the final decision by the director. In making a recommendation, the planning commission shall consider the applicable **decision criteria of this code, the comprehensive plan, all other applicable law, any necessary documents and approvals, and any testimony presented verbally or in writing at the public meeting**. If the applicable criteria are not met, the planning commission shall recommend the proposal be subject to conditions or denied. **A planning commission recommendation is not a final decision and is not subject to appeal**. The **planning commission's written recommendation** and other documents upon which its decision is based shall be immediately **transmitted to the hearing examiner**, as applicable.

Recommendation:

With an approved HMP (see memorandum from Christy Carr dated October 12, 2017), the City will recommend approval of the Site Plan Review and Design and Conditional Use Permit. All conditions are intended to reflect an approved HMP is in place. SEPA conditions may be adjusted to meet recommendations of an approved HMP.

Following the Planning Commission's recommendation on the HMP, the City will proceed to resolve the adequacy of the HMP and intends to consult with the Washington Department of Ecology (DOE) for HMP's relating to wetlands. If the state agency is not available in a timely manner, the District may choose to refer the HMP to a third-party consultant at the expense of the District. After consultation with the DOE or third-party consultant, the director shall make a final decision on the adequacy of the HMP. It is the City's intention to have a determination on the adequacy of the HMP prior to going to the Hearing Examiner. If the HMP is not resolved, the City could deny the project. The proposed Conditions provided below assume that the HMP can be approved.

1. To avoid impacts to vegetation, no construction activity shall occur in landscape buffers or within the critical root zone of significant trees within the forested wetland buffer, landscape buffers, including staging, storage, materials laydown, parking, construction vehicle turnaround, or equipment.
2. Prior to clearing permit or construction permit issuance, fencing shall be erected and posted with signage to protect areas of prohibited disturbance to include a chain link fence around the dripline or critical root zone, whichever is greater. Signs shall be affixed to the fence every 50 feet indicating the protected area. Fencing shall be inspected and remain in place until construction is complete, and removal shall be subject to approval of the Planning Division. No construction activities, including grading and/or vegetation removal, shall occur prior 'area of disturbance' plan approval, and inspection and approval of the fencing installation, by the Planning Division.

3. Prior to commencing any construction activity, the District shall have the wetland buffer temporarily fenced between the areas of construction activity, a maximum of 15 feet from the proposed school. The fence shall be made of durable material and shall be highly visible. The fence shall be inspected as part of the building permit. The temporary fencing shall be removed once the construction activity is complete and replaced with permanent fencing.
4. A split-rail type fence shall be installed along the edge of the wetland buffer mitigation. The fence may contain gates to access the restoration area and shall provide a clear distinction between native vegetation buffer area and any future landscaped area. The rails shall be high enough to allow small mammals and wildlife to pass through. The fence shall be indicated on the building permit application and in place prior to final inspection of the building permit.
5. Prior to issuing a final on a building permit, signs indicating the presence of a protected wetland buffer shall be placed on the fence. Signs shall be made of metal or similar durable material and shall be between 64 and 144 square inches in size.
6. All graded materials removed from the subject property shall be hauled to and deposited at City approved locations (Note: local regulations require that a grade/fill permit is obtained for any grading or filling of 50 cubic yards of material or more if the grading or filling occurs on sites that have not been previously approved for such activities. A SEPA Threshold Determination is required for any fill over 100 cubic yards on sites that have not been previously received a SEPA determination).
7. To meet the requests of the Department of Ecology, all mercury containing lights shall be property disposed of, and any lead or asbestos building materials shall be managed appropriately and disposed at approved disposal locations.
8. All construction activities shall comply with the construction operating hours limitations contained in BIMC Chapter 16.16. Noise produced by this development must comply with the maximum environmental noise levels established by the Washington Administrative Code 173-60 or its successor.
9. Contractor is required to stop work if any historical or archaeological artifacts are uncovered during excavation or construction and immediately notify the Department of Planning and Community Development and the Washington State Office of Archaeology and Historic Preservation.
10. To address the concerns of the Historic Preservation Commission, the school shall install historical photographs within the school prior to the final on the building permit.
11. To mitigate the possible impact on adjacent properties from light and glare, all exterior lighting shall be hooded and shielded so that the bulb is not visible from adjacent properties. All landscape lighting shall be downcast and lighting within surface parking lots shall be no higher than 5 feet above grade. All exterior lighting shall comply with BIMC Chapter 15.34. High field lights are not permissible.

12. To reduce the impacts on the wetland, the applicant shall limit the amount of lighting on the exterior of the school, shall only have motion sensor lights to the rear of the school facing the wetland and record a covenant to limit the use of pesticides.
13. Due to the seismic hazard, an indemnification or hold harmless agreement shall be required prior to the commencement of construction or site alteration. The building permit shall follow the recommendations of their geotechnical engineer to ensure the school is safely constructed to meet all geotechnical requirements of the building code.
14. Prior to final building inspection, the District shall submit a revised wetland mitigation plan including mitigation goals and objectives, performance standards, maintenance and monitoring measures and contingency actions. The mitigation plan shall be in substantial compliance with BIMC 16.20.110 – Mitigation Plan Requirements – and may incorporate previously completed reports for the subject property and use guidance provided in [Wetland Mitigation in Washington State: Part 2 - Developing Mitigation Plans](#) (Version 1, March 2006, Publication #06-06-011b). The mitigation plan shall provide sufficient information, clarity and detail to demonstrate the proposed mitigation actions and maintenance and monitoring measures are adequate to achieve established mitigation goals and objectives. The Department of Planning and Community Development shall approve the revised wetland mitigation plan as part of the building permit review and plantings shall be installed prior to final building permit inspection.
15. A monitoring report shall be submitted annually, for a period of at least two years, up to seven years. A determination on monitoring will be made during building permit review. A restoration maintenance assurance device shall be submitted and accepted prior to the completion of the restoration and shall be held during the monitoring period.
16. In order to comply with the State's Growth Management Act (GMA) for traffic concurrency, a "Mini-Roundabout" as recommended in the traffic impact analysis, shall be required at the intersection of Blakely Avenue NE and NE Bucklin Hill Road.
17. The district shall create a plan with the Fire Department to notify neighbors for updates on construction and potential impacts to the neighborhood.
18. School staff and teachers shall assist with site vehicle and pedestrian traffic circulation during student drop-off and pick-up times. School administrators shall as part of the standard operating procedures at the school regularly remind parents of students to utilize on-site parking and pick-up/drop-off areas (not permissible on Blakely) so as not to impact adjacent neighborhoods.
19. Blakely Avenue NE fronting the property to the west is classified as a secondary arterial suburban roadway per the City of Bainbridge Island Comprehensive Plan. A 6-foot wide paved bike lane and 3-foot gravel shoulder shall be provided along the adjacent full frontage of the property per the Standards detail drawing for a secondary arterial suburban roadway, DWG. 7-020.
20. Additional supporting design information shall be submitted by the applicant with a building permit application to show that the site accesses are designed appropriately and that the median bisecting the north driveway is reasonable to accommodate vehicle paths, turn movements, and clearances.

NON-SEPA CONDITIONS

21. Civil improvement plans ready for construction shall be submitted with an application for a building permit to the City of Bainbridge Island for review and approval to construct all necessary infrastructure serving the school.

22. As-built civil construction plans stamped by a civil engineer shall be provided by the applicant prior to final occupancy.
23. A Developer Extension Agreement shall be executed for offsite construction of roads and utilities to be inspected and accepted by the City prior to final on the school.
24. Issuance of a building permit will be subject to islandwide Transportation Impact Fees (TIFs) pursuant to BIMC 15.30. The fee will be based on the cost of additional trips set at the time of building permit application. The net additional trips proposed by the project is estimated at 53. Credits towards the TIFs will be given only for land, improvements, and/or facility construction for system improvements listed in the TIF rate study.
25. To ensure the Blakeley Elementary School facility remains compatible with the surrounding neighborhood, the school is limited to an occupancy of 600 students and 27 teachers for standard school days (this limitation does not apply to special events or functions).
26. The site currently has 14 Equivalent Residential Units (ERUs) for sewage participation with the City of Bainbridge Island and the Sewer District 7 wastewater treatment plant. The school expansion will require a total of 20 ERUs. The 6 additional ERUs can be made available to the applicant.
27. A Stormwater Pollution Prevention Plan (SWPPP) prepared by a civil engineer licensed in the State of Washington is required prior to construction activities including clearing or grading or civil improvements for all phases of the project that complies with BIMC 15.20.
28. A final stormwater report shall be submitted detailing compliance with all applicable minimum requirements as required by BIMC 15.20, prepared by a civil engineer licensed in the State of Washington.
29. Pollution generating pervious surfaces (PGPSs), such as play and sports fields (including natural or artificial turf) or areas subject to use of pesticides, fertilizer, or loss of soil shall be subject to Minimum Requirement No. 6 - Runoff Treatment. Water quality facilities shall be provided for these project surfaces where there will be a surface discharge in a natural or man-made conveyance from these areas.
30. With the building permit submittal, the applicant shall submit an operation and maintenance plan for the on-going maintenance of the on-site storm drainage system.
31. All on-site stormwater facilities shall remain privately owned and maintained. The owner(s) shall be responsible for maintenance of the storm drainage facilities for this development following construction. Annual inspection and maintenance reports shall be provided to the City. A Declaration of Covenant for stormwater system operation and maintenance will be required to be recorded before final building occupancy.
32. A right-of-way (ROW) construction permit will be required prior to any construction activities within the right-of-way. The ROW permit will be subject to separate conditions and bonding requirements.
33. Application for a building permit shall require binding sewer and water availability at building permit submittal.
34. A separate grade and fill permit shall be submitted for all sitework not associated with a permittable structure.
35. The proposed action(s), phased or concurrent, in their totality would result in more than one (1) acre of earth disturbance on the site and drain to waters of the State. A Construction Stormwater General Permit shall be obtained from the Washington State Department of Ecology and the site

shall be monitored for discharge of pollutants and sediment to the wetlands and stream for the duration of the project. No land clearing or construction permits shall be issued prior to obtaining the State permit.

36. Except for modifications reflecting compliance with these conditions of approval, building plans shall substantially conform to plans submitted on October 11, 2017.
37. Prior to any construction activities, the applicant shall obtain the appropriate permits from the City of Bainbridge Island.
38. Raised curbs shall be used to define driveways from the public right-of-way, landscape areas within the parking lot, the ends of parking aisles, and the vehicular circulation pattern.
39. Internal pathways shall be surfaced with nonskid hard surfaces, meet accessibility requirements and be designed to provide a minimum of five feet of unobstructed width.
40. The project shall meet the requests of the fire marshal to address of the fire code and fire flow.
41. The applicant shall record a notice to title of the presence of the wetland and the mitigation plan prior to the issuance of the building permit.
42. The applicant shall provide landscaping as indicated on the landscaping plans dated October 10, 2017. As indicated and conditioned, the plans shall meet the landscaping screening requirements along the perimeter of the site, parking lot landscaping and tree unit requirements.
43. All landscaping shall be installed, or a performance assurance device shall be submitted and approved, prior to final inspection of the final building within the phase being constructed. The installation of landscaping shall be verified by the Landscape Professional or owner and a landscaping declaration shall be signed.
44. Landscape buffers shall be maintained with a maintenance assurance device for a period of three years. No vegetation within the buffers shall be disturbed without approval of the Department of Planning and Community Development through an approved clearing, grading or civil plan.
45. The District shall provide their contractor a sheet with the trees proposed for retention and removal clearly marked. The following regulations shall be included on that sheet:

Unauthorized removal of trees shall result in at least one-and-one-half times (150 percent) of the number of tree units removed. The trees removed shall be replaced with trees of the same type, evergreen or deciduous. Native shrubs and ground cover shall also be replaced when replacing tree stands due to unauthorized removal. Shrubs shall be one-gallon size planted four feet on center spacing; ground cover shall be one-gallon size planted three feet on center spacing. The shrubs and ground cover shall be planted within the limits of the previous tree stand canopy.

A property owner may request removal of trees required to be retained pursuant to this chapter by applying for a clearing permit with a replanting plan. Trees will be approved for removal only if they meet the hazard tree requirements.

Failure to retain, replace or transplant trees will be enforced as follows; provided, that any

fine shall be no less than three times the value of the trees, as determined by the current standards of the International Society of Arboriculture. The city may issue the following; stop work orders, injunction or abatement or any other appropriate action in courts and/or a civil infraction, subject to enforcement and fines.

46. Parking space and aisle dimensions shall meet the design standards in BIMC 18.15.020.J. Spaces for compact cars shall not exceed 30% of the amount of spaces.
47. A minimum of 13 bicycle parking facilities are required to be provided prior to certificate of occupancy of the school.
48. Minor adjustments to an approved major conditional use permit may be made after review and approval by the director. Minor adjustments are those that entail small changes in dimensions or siting of structures or the location of public amenities, but do not entail changes to the intensity or character of the use.
49. Major adjustments to an approved major conditional use permit require an amended application and shall be processed in the same manner as a new conditional use permit application. Major adjustments are those that change the basic design, intensity, density, and/or use.

Staff Analysis

LAND USE CODE ANALYSIS

I. FINDINGS OF FACT

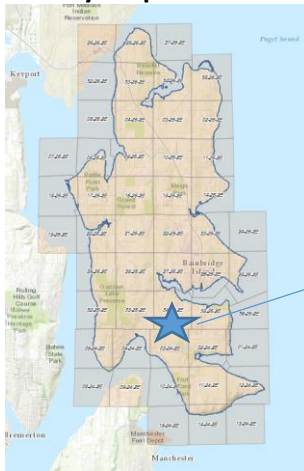
1. Site Characteristics:

Tax Assessor Information:

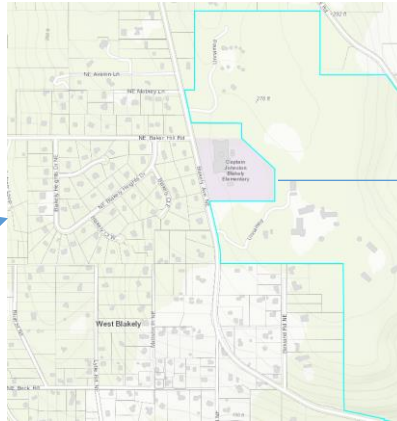
- A. **Tax Lot Numbers:** 032402-2-004-2005
 - B. **Owners of Record:** Bainbridge Island School District
 - C. **Lot Size:** 12.17 acres or 967,742 square feet
 - D. **Land Use:** Educational, Public School
2. **Terrain:** The western half of the Site, occupied by the existing school building, parking areas, and south playfield, slopes gently to the southwest from Elevation 276 feet (North American Vertical Datum 88) down to Elevation 266 feet. The eastern portion of the Site is separated from the western portion of the Site by a 10-foot-tall, west-facing, 25 percent slope (14 degrees). East of this west facing slope and across the eastern portion of the Site, the topography is generally flat.
 3. **Soils:** Soil mapping indicates that is the predominant soil type on the site is Kapowsin gravely ashy loam, 0 to 6% with the exception of the southeast area, which is classified as Kapowsin gravelly ashy loam, 6 to 15% slopes (Soil Survey of Kitsap County Area, Washington; U.S. Department of Agriculture, Soil Conservation Service, 1977).
 4. **Existing Site Development:** The Site is currently developed with the Captain Johnson Blakely Elementary School occupying the western and southern portions of the Site. The one-story, 41,259 square-foot school was constructed in 1963. Playfields occupy the eastern and southern portions of the Site. The existing school facilities will be kept open and occupied during the design and construction of the new elementary school, with anticipated demolition date during the summer of 2019.

Maps:

Vicinity Map



Surrounding Area

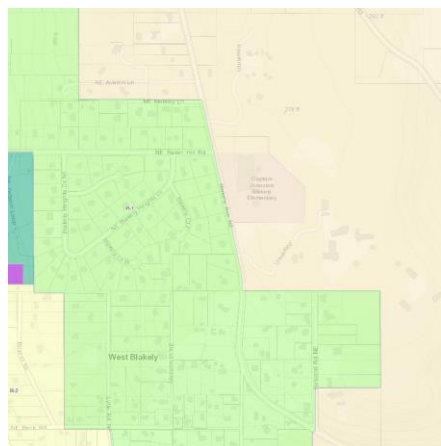


Existing School



5. **Proposed Access:** The proposed development will be accessed from Blakely Avenue NE, with a new access drive proposed directly across from Baker Hill Road.
6. **Public Services and Utilities:** Two abandoned drainfields are located in the southwest corner and southeast corner of the Site beneath grass-covered playfields. The school is currently served by the City of Bainbridge Island (COBI) public sewer. A water main extends through the Site from west to east, passing south of the existing school building; this water line is also present along the northern half of the Site along the east boundary
7. **Zoning/Comprehensive Plan Designation:** The subject property is zoned R-0.4 and OSR-0.4.
8. **Surrounding Zoning/Comprehensive Plan Designation:**
 - A. North: R-0.4, One unit per 2.5 acres
 - B. South: R-0.4, One unit per 2.5 acres
 - C. East: R-0.4, One unit per 2.5 acres
 - D. West: R-1, One unit per 1 acre
9. **Surrounding Uses:**
 - A. North: Islandwood
 - B. South: Islandwood
 - C. East: Islandwood
 - D. West: Blakely Avenue NE and single family residential

Surrounding Zoning Map



II. HISTORY (INTENDED TO REFLECT THE SPR & CUP, HMP HISTORY PROVIDED BELOW UNDER HMP SECTION)

1. A pre-application conference was held on March 14, 2017
2. A public participation meeting was held on March 6, 2017
3. The Design Review Board reviewed the project on March 6, 2017
4. The Historic Preservation Commission discussed the project on March 2, 2017
5. The application was submitted on April 20, 2017
6. The project was noticed on May 26, 2017 with the comment period ending on June 9, 2017
7. The project was renoticed on July 21, 2017 to address changes to the alignment of the driveway and the revised Habitat Management Plan with the comment period ending on August 4, 2017.
8. The project was reviewed by the Design Review Board (DRB) on the following dates; March 6, 2017 and September 11, 2017
9. The project is scheduled before the Planning Commission on October 18, 2017

III. PUBLIC/AGENCY COMMENT

1. Public Participation/Comment.

A pre-application conference and a public participation meeting were held between the City and the community in March 2017. Questions ranged from technology in the classroom, to outdoor play during construction and construction impacts to the neighborhood.

During that meeting, the district said they will create a plan with the Fire Department and will notify neighbors for updates on construction and potential impacts to the neighborhood. This has been added as a condition of approval (Condition 16).

Public comments were also received during the public commenting period. The following section provides a compilation of comments and staff's review of some of the concerns expressed.

Comment: Public comments were received with concerns about the potential impacts to the wetland and the buffer. There were comments that the proposed mitigation is insufficient. More detailed description of the City review and analysis on the impacts to the wetland are included in the HMP section.

A Agency Comment.

A. Fire Marshal: The applicant began coordinating early with the Fire District to meet fire code and access requirements. The fire access road has been revised since submittal to minimize impacts to the wetland buffer while still meeting the fire access requirements. On February 24, 2017, the fire marshal submitted the following comments (reference doc K): the project shall comply with all applicable provisions of the adopted Fire Code and; 2. Fire flow is required for this project and shall be not less than 1500 gpm and shall be demonstrated to the satisfaction of the Fire Marshal. 3. Current fire flow shall be maintained to the existing school until demolition; 4. Proposed location of FDC is acceptable at this time. Final location to be approved by the Fire Marshal; 5. Proposed fire apparatus access roads and hydrant locations appear acceptable at this time; 6. A three-foot clearance shall be maintained around all fire department appliances and a clear access shall be maintained. **The project is conditioned to meet the fire code and fire flow requirements at building permit (Condition 40).**

B. Department of Ecology: The Department of Ecology sent a comment letter during the SEPA comment period specific to the potential dangerous wastes that are often generated when older buildings are demolished. Ecology made specific suggestions related to the mercury containing fluorescent lamps, asbestos and lead. Specifically, the "Mercury-Containing Lights - Proper Disposal" law, Chapter 70.275 RCW, requires that all persons, residents, government, commercial,

industrial, and retail facilities and office buildings must now recycle their end-of-life mercury containing lights. Prior to demolition the structure must be evaluated for asbestos. Buildings intended for demolition need to be evaluated and possibly tested for lead concentrations to determine if they exceed dangerous waste thresholds. If the structure or its lead-bearing components designate as hazardous waste, all related debris must be managed appropriately and cannot be disposed of as municipal trash (Condition 7).

C. Kitsap County Health District:

The Health District submitted a 'no comment' letter of May 15, 2017.

D. Historic Preservation Commission:

The Historic Preservation Commission (HPC) discussed the proposed demolition of the school building at their regularly scheduled meeting on March 2, 2017. The School District relayed to the Commission that the building was originally given an average 20 to 30-year life span and the average maximum capacity for school buildings is 50 years. It was also expressed that the school has a maximum capacity of 350 students, is overcrowded and utilizing portable buildings for the overflow. The Commission suggested mitigation of photographs of the original building in the library (**Condition 10**).

F. Development Engineer: The City's development engineer completed a preliminary review of the project on October 13, 2017. The Engineer recommended approval with conditions to address facility extension, traffic, roads, utilities, stormwater and necessary permits (Conditions 16, 18 - 30 - 35)

STORMWATER: The applicant submitted a preliminary drainage report dated April 19, 2017. Flow control for the proposed development consists of three below grade detention vaults and one detention pond. One will be located southeast of the site within the courtyard area to collect a portion of the proposed roof. The second vault and detention pond will be a part of a two-train system located south of the site within and adjacent to the bus loop area and will collect the majority of the proposed improvements. The third vault will be located at the northwest of the site to within the parent drop-off loop and collect a large portion of the parent drop-off area. These facilities will be referred to as the "Courtyard Detention Vault, the "South Detention Vault and Pond", and the "Northwest Detention Vault" throughout this report. The South and Northwest detention facilities will have preceding bioretention, providing water quality treatment as well as function as on-site stormwater management Best Management Practices (BMPs). There are two portions of the proposed site that naturally drain away from the detention facilities. There is approximately 5,685 SF of proposed surface that will sheet flow to the northeast wetlands within the Eagledale watershed. Another portion of the proposed site, totaling 3,715 SF of proposed surfacing will be dispersed to the adjacent forested areas to the south of the site. New plus replaced impervious surfaces in these basins will be mitigated by permeable grass pavers and sheet flow dispersion BMPs.

TRAFFIC REPORT: The eastbound dedicated left-turn lane of the Blakely Avenue NE at NE Bucklin Hill Road intersection has been determined to operate at a failing Level of Service (LOS) D under existing conditions at the time of project completion in 2019 during the AM peak-hour period. The additional trips generated at the school site will increase delays on the eastbound left-turn lane, thus further exacerbating traffic delays. The traffic impact analysis report recommended three alternatives as mitigation for the lack of roadway concurrency and a worsening of level of service. The first alternative includes a 'Do Nothing' option that would fail to address the lack of

traffic roadway concurrency and is therefore not considered. The second alternative includes an 'All-Way Stop Sign Control' that is not supported by the City as it is likely to have unanticipated impacts on the roadway network system, and it would reduce the level of service of connectivity along the only arterial roadway serving the south portion of the island. As mitigation in order to comply with the State's Growth Management Act (GMA) for traffic concurrency, the third alternative for a 'Mini-Roundabout', as recommended in the traffic impact analysis, shall be required at the intersection of Blakely Avenue NE and NE Bucklin Hill Road.

2. Design Review Board.

The Design Review Board (DRB) reviewed the application at a meeting during the pre-application phase the application phase. The DRB review was two-fold: to review the proposal for consistency with the City's commercial/mixed use design guidelines; and to make general site and building design recommendations.

The original review and discussion between the DRB and the Board occurred on March 6, 2107 and centered primarily on the proposed entrance/exit driveway for the school. The DRB strongly suggested that the Board realign the driveway to directly opposite of the Baker Hill Road intersection. The Board was concerned that this would impact utilities, result in additional clearing of trees and stormwater requirements. Following the meeting, the Board redesigned the access drive that was later reviewed by the Board.

The second meeting was held on September 11, 2017. The DRB approved the re-design with the following conditions: add a footpath from the southwest corner of the site to access the east side of the bus parking area and to further develop the landscaping plan in the main entry "spine" of the campus.

IV. COMPREHENSIVE PLAN GOALS AND POLICIES

Capital Facilities:

Policy CF 1.2 Coordinate with other capital facilities service providers to keep each entity current, maximize cost savings, and schedule and upgrade facilities efficiently. In general, it is the policy of the City to transfer parklands to the Park District whenever desirable and practical. **The School District and the City met early in the review process to understand the opportunities and constraints and process including timeline to create a shared understanding.**

Economic Element:

Policy EC 4.4 Promote Bainbridge Island as a family-friendly community with high quality schools, recreational opportunities and a safe, clean environment. **The School District is interested in replacing a high quality school while providing recreational opportunities on an existing, disturbed site that has a Class I/II wetland buffer and a fault hazard.**

Land Use Element:

Goal: Develop *context-sensitive* regulations for residential development in areas designated R-2, R-1 or R-0.4, in order to limit clearing, soil disturbance, promote *low impact development* and reconcile development and conservation. **The District has made changes to their original plan to reduce the amount of clearing and lessen the impacts on the portions of the high quality buffer by reducing and relocating the proposed fire access and reducing the amount of trees proposed for removal. The impacts on the habitat buffer are being reviewed to determine consistency with the city's critical area requirements.**

Policy LU 18.1 It is the policy of the City to cooperate and coordinate with all other governmental entities which serve the people of Bainbridge Island. **The School District and the City have coordinated schedules to review the project and be sensitive to milestones and timelines.**

Environmental Element:

Policy EN 1.2

Taking into account the present and future need to reduce the potential for personal injury, loss of life, or property damage due to flooding, erosion, landslides, seismic events, *climate change* or soil subsidence, properties adjoining or adjacent to *critical areas* must be developed in observance of the following principles in descending order:

- Avoid the impact if possible.
- Minimize or limit the degree or magnitude of the action and its implementation by using appropriate technology to avoid or reduce impacts.
- Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action.
- Rectify by repair, rehabilitation or restoration of the affected environment.
- Compensate for unavoidable impacts by replacing, enhancing or providing substitute resources or environments.

Policy EN 9.1

- Consider the *best available science* in mapping these high-risk areas and in regulating and permitting *land use* activities in areas that have a heightened risk from earthquakes such as liquefaction areas and fault rupture zones, tsunami or other geological hazards.
- **Policy EN 1.7** To protect the island's ecosystems, discourage the use of *neonicotinoid* pesticides.

The city has reviewed the application for consistency with the policies of the environmental element in regards to the wetland buffer and fault hazard areas on-site. The City has found that the proposed project does not meet the environmental element policies for the proposed mitigation to the wetland buffer. The City has found that based on the geotechnical engineer analysis provided by the District, the location of the school as conditioned meet the policy for reducing earthquake risk to the school building.

V. LAND USE CODE ANALYSIS

1. BIMC 16.20 Critical Areas, Seismic Hazard – Fault Hazard Area

The Site is located in a seismically active area and is within the Seattle Fault zone, a shallow crustal tectonic structure that is considered active (meaning it has the potential to cause earthquakes in the future). The recurrence interval of earthquakes on this fault zone is believed to be on the order of a thousand years or more. The Site also lies within the zone of strong shaking from subduction zone earthquakes. The recurrence interval of these earthquakes is thought to be on the order of about 500 years. The most recent subduction zone earthquake occurred in 1700. Deep intraslab earthquakes also occur in the region every decade or two, including the 2001 Nisqually earthquake. These earthquakes are generally less severe than the shallow crustal and subduction zone earthquakes, but have the potential to cause damage to older structures built before modern seismic codes were enacted, and those in liquefaction sensitive areas

BIMC 16.20.150, Geologically Hazardous Areas Fault Hazard Area, a seismic hazard area: Seismic hazard areas” means areas subject to severe risk of damage as a result of seismic induced ground shaking, or surface faulting. While ground shaking is the principal risk because the entire island will shake significantly, severe damage will occur where slope failure, liquefaction, and settlement

are induced by the shaking and surface rupture is created by fault movement. The following areas are considered seismic hazard areas:

Fault Hazard Areas. Areas of known surface rupture or significant surface deformation as a result of an active fault movement, including 50 feet on either side. **The Municipal Code requires a 50-foot setback from known active faults. While the preliminary investigation by Aspect did not identify an active fault on the Site, the inherent uncertainty and limitations associated with past site grading, vegetative cover, and isolated explorations indicated it would be prudent to site the proposed school building as far north as practical. At a minimum, they recommend siting the proposed school building a distance of 50 feet north of the southern site boundary. The proposed placement of the school meets this minimum distance requirement.**

Fault Hazard. The applicant shall provide a geologic/geotechnical analysis containing information specified by the city engineer that documents the presence or absence of any surface deformation on the site in areas mapped by the city. If deformation is located, the applicant shall provide a geotechnical analysis containing information specified by the city engineer, which concludes that the development proposal as mitigated meets the standards of this section. **In the opinion of Aspect, design of the new structures in accordance with the current version of the International Building Code (IBC) will mitigate seismic hazards to acceptable risk levels (Condition 13).**

WETLAND BUFFER: The adjoining Islandwood property, east, northeast of the site has a large wetland area with the eastern boundary of the Blakely School site containing portions of a 300-foot Category I/II Wetland buffer.

Currently, the existing school and play areas are located within the 300' buffer including approximately 20,145 square feet of building and hardscape areas. Construction proposed within the buffer includes: a new waterline connection within an existing waterline easement that will be trenched and connected to the proposed school building, a fire lane and portions of the proposed school for a total of approximately 34,200 square feet.

The applicant applied for a Habitat Management Plan in order to construct within the Category I/ii wetland habitat buffer (200 foot buffer).

HISTORY OF HMP ITERATIONS (DATES):

1. The original HMP was submitted on 7/1/2017.
2. The City drafted comments on the plan on 7/16/2017.
3. Following a meeting with the City, the District provided a revised HMP on 7/19/2017.
4. The HMP was routed to the Environmental Technical Advisory Committee (ETAC), the Washington Department of Fish and Wildlife (WDFW) and the Suquamish Tribe.
5. The City recommended a revised amount of mitigation on 9/22/2017.
6. The District submitted a revised plan on 9/25/2017.
7. The City routed the revised plan to ETAC, WDFW and the Tribe.
8. The City received comments from ETAC members (10/6/2017 & 10/9/17) and WDFW (10/11/2017).
9. A final plan was submitted by the District to the City on 10/11/2017.
10. The City made a determination that the plan did not satisfactorily demonstrate that the habitat functions and values will be improved by implementation of the proposal on 10/12/2017.

DESCRIPTION OF HMP VERSIONS:

The **first revised plan** (dated 7/19/2017) following an initial review by Staff and conversations with the District's wetland biologist proposed the following mitigation: 3,595 square feet of native northwest forest canopy, 8,200 square feet of meadow plantings and 32,270 square feet of no mow fescue and 20,096 square feet of proposed conservation area along the northern boundary.

Following the procedures in the Code, the City **routed** this application for review to the Environmental Technical Advisory Committee (ETAC), the Washington Department of Fish and Wildlife (WDFW) and the Suquamish Tribe. Additionally, the City received comments from our Senior Planner, a former wetland biologist. Collectively, the comments expressed concerns that the proposal was inadequate. The City shared the comments and expressed their concerns with the District. The City suggested an amount of mitigation (9/22/2017) that would satisfy the requirements of the HMP that included approximately 35,000 square feet of northwest canopy.

Following that meeting, the District submitted a **revised plan** (dated 9/25/2017) that was composed of the following: 14,055 square feet of native forest mitigation plantings, 30,010 square feet of no mow fescue/drought tolerant lawn and 20,096 square feet of proposed conservation area along the northern boundary.

Again, the City routed the revised plan to ETAC, WDFW and the Tribe. Some members of ETAC performed a site visit. Additionally, the plan was reviewed by our Senior Planner. Again, the plan was found to be inadequate.

A **final plan** was submitted by the District on 10/11/2017 that was composed of the following: 14,794 square feet of native forest mitigation plantings, 54,875 square feet of no mow fescue/drought tolerant lawn and 40,081 square feet of proposed conservation area along the northern boundary.

For reference, the HMP regulations are included in full below.

BIMC 16.20.060 Habitat management plan. SHARE

A. General. A habitat management plan shall comply with the requirements of this section, and shall clearly demonstrate that greater protection of the functions and values of critical areas can be achieved through the HMP than could be achieved through providing the prescribed habitat buffers. The director shall prepare performance standards and monitoring guidelines for habitat management plans, including a program for city oversight of such plans. Once the standards and guidelines are in place, an applicant may propose to implement an HMP as a means to protect habitat buffers associated with wetlands and/or fish and wildlife conservation areas.

B. Intent. HMPs are primarily intended as a means to restore or improve buffers that have been degraded by past activity, and should preserve, and not reduce, existing high quality habitat buffers. While not primarily intended as a means to reduce buffers, the HMP may propose a reduction of the habitat buffer width where it is shown that the HMP will comply with the other requirements of this section. An HMP shall not reduce the prescribed water quality buffer width as listed in BIMC [16.20.130](#) and [16.20.160](#) under any circumstance. **According to the report provided by Raedke, the portion of the buffer that is currently used as lawn and play area has greatly reduced functions of the habitat functions and valued. The act of mowing traps plant species in a state of immaturity never giving the species an opportunity to**

function at its most efficient and mature state. The play area generates noise pollution that may impact species utilizing the area. The Districts proposal includes additional forested area comparable to the amount of new buildings/hardscape (14,794 square feet), additional conservation area of native forest (40,081 square feet) and no mow fescue (40,238) for a total preservation/restoration/improvement area of 95,113 square feet respectively.

C. Effect of Buffers. An HMP shall provide habitat functions and values that are greater than would be provided by the prescribed habitat buffers. When habitat buffers are a component of an HMP, they shall be at least the minimum size necessary to accomplish the objectives of the HMP. The HMP may propose, but the city shall not require, a habitat buffer containing a greater area than is required by the prescribed habitat buffer. **“Buffer” means an area adjoining to and a part of a critical area that is required for the continued maintenance, functioning, and/or structural stability of that critical area, or an area adjacent to a stream or wetland that (a) surrounds and protects the functions and values of the stream or wetland from adverse impacts, (b) is an integral part of a stream or wetland ecosystem, and (c) provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland edge, habitat for wildlife, and protection from harmful intrusion, to protect the public from losses suffered when the functions and values of the wetland or stream are degraded. The prescriptive habitat buffer is 148,362 square feet.**

D. Impact Mitigation – General. The HMP shall encompass an area large enough to provide mitigation for buffer reduction below the standard required buffers, and shall identify how the development impacts resulting from the proposed project will be mitigated. The developer of the plan shall use the best available science in all facets of the analyses. The Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, and/or bald eagle protection rules outlined in WAC [232-12-292](#), as now or hereafter amended, may serve as guidance for this report. For habitat management plans addressing wetland buffers, Method for Assessing Wetland Functions, Ecology Publication No. 99-116 shall be used for guidance in determining function equivalency. The report indicates the school will provide the following mitigation measures:

- 1) Enhancement of degraded on-site portions of the Wetland 18 buffer through installation of native trees, shrubs, low cover, no-mow, and low-mow areas;
- 2) Removal of Himalayan blackberry from the on-site wetland buffer located on the site property where areas are to be planted;
- 3) Implementation of stormwater management on a site that does not currently have any stormwater management;
- 4) Construction of the fire lane with a combination of grass and concrete to promote infiltration of runoff within the wetland basin;
- 5) Installation of trails limited to 5-feet wide within the buffer will be oriented to avoid tree removal and be constructed of pervious materials (i.e. mulch);
- 6) Native understory vegetation would be retained to the greatest extent feasible during construction;
- 7) Invasive species would be removed in all locations of buffer disturbances;
- 8) The new proposed trails and learning areas would be for educational purposes within the buffer and restricted to those conditions

E. HMP Review. All habitat management plans shall be submitted to the Washington State Department of Fish and Wildlife habitat biologist and to the Suquamish Tribe for review and comment. Within that same time frame, the city’s environmental technical advisory committee shall be asked to review the HMP and provide comments.

F. Map. The habitat management plan shall contain a map prepared at an easily readable scale, showing:

1. The location of the proposed development site;
2. Property boundaries;
3. The relationship of the site to surrounding topographic, water features, and cultural features;
4. Proposed building locations and arrangements;
5. A legend which includes a complete legal description, acreage of the parcel, scale, north arrow, and date of map revision.

G. Report. The habitat management plan shall also contain a report which contains:

1. A description of the nature and intensity of the proposed development; **The proposed development in the wetland buffer is 26,257 square feet of school building and hardscape (24,323 building and 1,934 square feet of hardscape) within the 160,376 square foot prescriptive wetland buffer (habitat and wetland) and 5,579 square feet of grass paving for the fire lane. The proposed school is in the habitat buffer and the HMP proposes to mitigate within both the water quality and habitat buffer.**

2. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection. If the habitat management plan is addressing wetland habitat, the analysis shall compare an assessment of wildlife habitat suitability of the wetland applying standard buffers with an assessment of habitat suitability as proposed using Method for Assessing Wetland Functions, Washington State Department of Ecology (if available for the specific hydrogeomorphic classification);

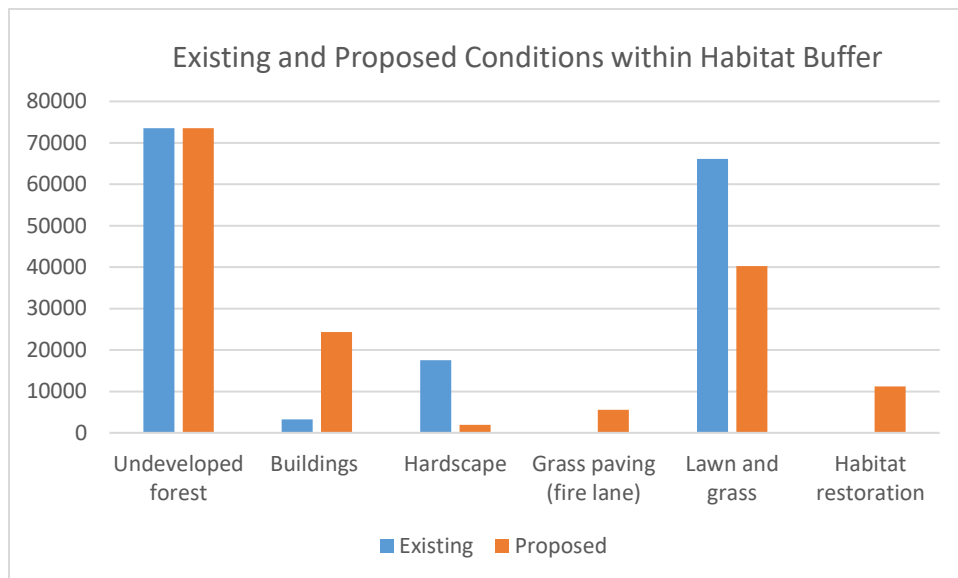
3. A plan which identifies how the applicant proposes to mitigate any adverse impacts to wildlife habitats created by the proposed development. For wetland or other habitats protected by this chapter, the application shall show, using the appropriate function assessment methodology, that habitat functions and values are greater after the development than would occur had the prescribed buffers been provided (see mitigation plan requirements, BIMC [16.20.110](#));

4. All review comments received from a habitat biologist from the Washington State Department of Fish and Wildlife (WDFW) and the Suquamish Tribe. If the HMP recommends mitigation involving federally listed threatened or endangered species, migratory waterfowl or wetlands, the U.S. Fish and Wildlife Service shall receive a copy of the draft HMP;

5. For properties subject to the provisions of the city's shoreline master program, Chapter [16.12](#) BIMC, a site-specific analysis of the project's impact on shoreline fish and wildlife habitat, as currently required by the SMMP, utilizing the provisions for environmentally sensitive areas as provided in Exhibit A in BIMC [16.20.260](#); **The property is not subject to the shoreline master program.**

6. The HMP shall specifically address, as appropriate, the following:

a. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area with native or equivalent vegetation;



b. The use of alternative on-site wastewater systems in order to minimize site clearing;

c. Infiltration of stormwater where soils permit; **All stormwater is proposed to be managed and redirected from impervious surfaces to approved stormwater management facilities located outside of and west of the standard critical area buffers.**

d. Retention of existing native or equivalent vegetation on other portions of the site in order to offset habitat loss from buffer reduction; **The plan proposes additional forested area comparable to the amount of new buildings/hardscape (new forest: 14,794 square feet, new buildings/hardscape: 5,511), additional conservation area of native forest (40,081 square feet) and no mow fescue (30,010) for a total preservation/restoration/improvement area of 84,885 square feet.**

e. The need for fencing and signage along the buffer edge. **The applicant proposes and the city recommends fencing along the perimeter of the buffer area.**

H. Mitigation Measures. Possible mitigation measures to be included in the report, or required by the director, could include, but are not limited to:

1. Establishment of buffer zones;
 2. Preservation of critically important plants and trees;
 3. Limitation of access to habitat areas;
 4. Seasonal restriction of construction activities;
 5. Establishing phased development requirements; and
 6. Monitoring plan for a period necessary to establish that performance standards have been met.
- Generally this will be for a period of seven to 10 years. Radeke Associates, Inc. provided a proposed Monitoring program. **The purpose of the monitoring program are: (1) to document physical and biological characteristics of the enhanced wetland buffers, and (2) to ensure that the goals and objectives comply with permit specifications (Josselyn et al. 1990). The monitoring process would consist of three distinct phases: (1) construction monitoring; (2) compliance monitoring; and (3) long-term monitoring. Monitoring reports would be submitted to the City of Bainbridge Island as soon as possible after the monitoring has been completed, with a target date of December 31 of each monitoring year.**

Table 1:

I. HMP Adequacy. The HMP shall demonstrate to the satisfaction of the director that the habitat functions and values are improved by implementation of the HMP. If there is a disagreement between the director and the applicant as to the adequacy of the HMP, the issue of plan adequacy shall be resolved by consulting with the Washington Department of Fish and Wildlife for HMPs relating to streams or the Washington Department of Ecology for HMPs relating to wetlands. If the state agencies are not available in a timely manner, the applicant may choose to have the city refer the HMPs to a third party consultant at the expense of the applicant. After consultation with such state departments or third party consultant, the director shall make a final decision on the adequacy of the HMP. **The City will proceed to resolve the adequacy of the HMP by consulting with the Washington Department of Ecology for HMP's relating to wetlands. If the state agencies are not available in a timely manner, the applicant may choose to refer the HMP to a third-party consultant at the expense of the District. After consultation with the state department or third-party consultant, the director shall make a final decision on the adequacy of the HMP. It is the City's intention to have a determination on the adequacy of the HMP prior to going to the Hearing Examiner. If the HMP is not resolved, the City could recommend denial of the project.**

J. Timing. An HMP must be developed and approved either prior to preliminary plat approval or issuance of the building permit, as applicable, and must be implemented before the city grants either final plat approval or an occupancy permit, as applicable. **The City intends to resolve the adequacy of the HMP prior to going to the Hearing Examiner. Without an approved HMP, the City would recommend denial of the project.**

K. Performance Surety. The director may require that the applicant provide a performance surety to ensure conformance with mitigation requirements of the habitat management plan pursuant to BIMC [16.20.180](#). (Ord. 2005-03 § 2, 2005) **A mitigation plan is required to address impacts to the wetland and associated buffer. A monitoring report shall be submitted annually, for a period of at least two years. A restoration maintenance assurance device shall be submitted an accepted prior to the completion of the restoration and shall be held during the seven year monitoring period pursuant to BIMC 16.20.180 (performance and maintenance surety). The proposed mitigation plan shall meet these requirements, including the maintenance assurity, prior to the issuance of a building permit for the school (Condition 15).**

Development Standards. The Code provides examples of measures that might be provided in to minimize impacts of certain activities.

To meet some of these recommended mitigation measures, the project is conditioned to: limit the amount of lighting to the rear of the school to limit the amount of light intrusion into the wetland; install fencing to establish the buffer and limit intrusion into the wetland; and record a covenant to limit the use of pesticides (Condition 12).

Fencing and Signs Wetland buffers shall be temporarily fenced or otherwise suitably marked, as required by the director, between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per city approval. **The project is conditioned to provide temporary fencing prior to commencing construction and to maintain the fencing until the work is complete and the site is fully stabilized (Condition 1-3).**

The director may require that permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The director

may approve an alternate method of wetland and buffer identification, if it provides adequate protection to the wetland and buffer (Conditions 4 & 5).

BIMC 16.20.180 Performance and Maintenance Surety

The director shall decide when a performance surety is required. A performance surety shall not be required when the actual cost of performance is less than \$1,000. **The City is requesting the mitigation plan be revised at building permit submittal, and for it to include maintenance and monitoring. A performance surety shall be required, however, to ensure the planting occurs, the plantings shall be installed or an assurance device secured prior to the issuance of a final on the school (Condition 14).**

The District shall submit an annual report monitoring any mitigated to ensure the plants survivability for a period of seven years after the plant installation. Any plants found to not survive shall be replanted (Condition 14 & 15).

BIMC 16.20.190 Notice of title

The owner of any property with field-verified presence of critical area or buffer on which a development proposal is submitted shall file for record with the Kitsap County auditor a notice approved by the director in a form substantially as set forth in subsection B of this section. Such notice shall provide notice in the public record of the presence of a critical area and buffer, the application of this chapter to the property, and that limitations on actions in or affecting such areas may exist. **The District shall submit a recorded notice to title prior to the issuance of the building permit (Condition 41).**

3. BIMC Title 18 Zoning

A. BIMC 18.06.020, Purpose of individual residential districts:

The purpose of the R-0.4 zone is to provide low-density housing in an environment with special Island character consistent with other land uses, such as agriculture and forestry, and the preservation of natural systems and open space. The low density of housing does not require the full range of urban services and facilities. **While the proposal is not residential, schools are a conditional use in this zoning district and is the subject of this application.**

B. BIMC 18.09.02 Use TABLE

Educational Facilities are a conditional use in the R-0.4 zoning district.

C. BIMC 18.09.030 Use-specific standards.

Applications to locate uses categorized as educational facilities, governmental facilities, religious facilities, health care facilities, cultural facilities, or clubs in Table 18.09.020 in residential zones shall be processed as major conditional use permits pursuant to BIMC. **Major conditional use criteria and analysis is provided below.**

D. BIMC 18.12.020-3, Standard Lot Dimensional Standards for Residential Zone Districts

- a. **Maximum Lot Coverage:** The maximum lot coverage by educational buildings is 15% (BIMC 2.16.110). The existing site is 12.17 acres or 530,125 square feet. The allowable lot coverage is 79,159 square feet. The proposed lot coverage is 53,566 square feet (a reduction of 2,874 square feet from the original proposal) or approximately 10.1%.
- b. **Minimum Setbacks.** 25' front yard (Baker Hill Road), 15 for each side yard and 25' for the rear yard. **The proposed school building meets and exceeds the standard zoning minimum setbacks.**

- c. **Maximum Building Height.** The base building height in this district is 30'. **A 5' bonus for nonresidential uses is permitted with a conditional use permit. The school district is proposing to have portions of the building just shy of 35 feet. This additional height is subject to a conditional use permit.**

2. **BIMC 18.15 Development Standards and Guidelines**

A. **BIMC 18.15.010: Landscaping and Screening**

a. **Landscape Requirements by Zone District**

Projects subject to the conditional use permit process may be required to exceed the requirements of this chapter.

Nonresidential uses in residential districts require compliance with the following: significant tree & tree stand retention, perimeter landscape, roadside buffer (only adjacent to Hwy 305), parking lot landscaping, total site tree unit requirements, planting requirements and irrigation & maintenance requirements.

b. **Total retention, protection and replacement**

Retention: Trees and tree stands located in the perimeter areas required to be landscaped pursuant to subsections D and E of this section shall be retained and protected as described in subsection C.4 of this section, unless an applicant can demonstrate during the land use permit review process that the existing trees and vegetation will be compromised after the development is complete, and would likely become hazardous as described in subsection C.1.c of this section. If the applicant can demonstrate that hazard, then new trees and vegetation may be planted pursuant to the planting standards of subsection D.4 of this section. Perimeter landscape widths may be averaged to save significant trees, but shall not be reduced to less than the allowed minimum perimeter dimension.

c. Exceptions. Significant trees and tree stands may be removed if it is determined by a consulting arborist who is certified by the American Society of Consulting Arborists, or a TRACE certified professional as established by the PNW Chapter of the International Society of Arboriculture, and whose services are paid for by the applicant, that the vegetation is:

- i. A safety hazard due to potential root, trunk, or primary limb failure, or due to exposure of mature trees that have grown in a closed, forested situation; or
- ii. Damaged, diseased, or standing dead trees.

The original site plan had trees proposed for removal from the southern boundary due to the fire lane. However, after meeting with the fire marshal, the District modified their plan to 'tuck in' the fire lane and protect the trees within the buffer.

Replacement: Unauthorized removal of trees shall result in at least one-and-one-half times (150 percent) of the number of tree units removed. The trees removed shall be replaced with trees of the same type, evergreen or deciduous. Native shrubs and ground cover shall also be replaced when replacing tree stands due to unauthorized removal. Shrubs shall be one-gallon size planted four feet on center spacing; ground cover shall be one-gallon size planted three feet on center spacing. The shrubs and ground cover shall be planted within the limits of the previous tree stand canopy. **This shall be noted on the sheet for the contractor that identifies all trees proposed for retention (Condition 45).**

Removal: A property owner may request removal of trees required to be retained pursuant to this chapter by applying for a clearing permit with a replanting plan. Trees will be approved for removal only if they meet the hazard tree requirements. **This shall be noted on the sheet for the contractor that identifies all trees proposed for retention (Condition 45).**

Enforcement and Penalties: Failure to retain, replace or transplant trees will be enforced as follows; provided, that any fine shall be no less than three times the value of the trees, as determined by the current standards of the International Society of Arboriculture. The city may issue the following; stop work orders, injunction or abatement or any other appropriate action in courts and/or a civil infraction, subject to enforcement and fines. **This shall be noted on the sheet for the contractor that identifies all trees proposed for retention (Condition 45).**

Protection during construction and development: The Code provides regulations intended to provide the best protection for existing vegetation, trees and tree stands, including protection for trees on adjacent properties, and to preserve the ecological function of the landscaping area by protecting existing soil. **The applicant provided a tree protection detail to include 10' high chain link fence around the dripline or the critical root zone. The project is conditioned to meet these methods and will be reviewed for compliance during the pre-clearing phase (Condition 2).**

Perimeter Buffering and Screening.

Nonresidential uses in areas outside Winslow require a 25' full screen when abutting residential development. **The surrounding properties are zoned residential and a full 25' buffer applies along the perimeter of the site. Supplemental plantings are required and proposed along Blakely Avenue, which also satisfy the street frontage landscaping requirement (below).**

Street Frontage Landscaping.

Nonresidential uses within residential zone districts require a 25' partial and 15' minimum screen when abutting right of way. A footnote states that all roadside buffers must be planted if not already existing. **The proposal includes supplemental planting plan for shrubs and trees along Blakely Avenue to meet the 25' full screen (perimeter) requirement.**

Parking Lot Landscaping.

Parking lot landscaping standards are specific to the nonresidential uses and the proximity of the buildings and the parking lot to the public rights of way.

Parking lots adjacent to public rights of way require the following: i. One tree for every four parking stalls; and Minimum 30 percent evergreen trees; and Deciduous trees minimum two-inch caliper, evergreen trees minimum six feet high at the time of planting; and Evergreen shrubs minimum 18-inch height at the time of planting spaced no more than three feet on center, to provide a continuous hedge achieving a maximum height of three feet at maturity located adjacent to the rights-of-way (this may be achieved with the perimeter landscape); and Evergreen ground cover planted and spaced to achieve total coverage within two years; and A landscaped area at the end of parking aisles. Parking lot landscaping is proposed on either side of the parking areas to provide a continuous canopy and shade along the eastern edge of the parking lot. **The western**

edge, which is in close proximity to the perimeter landscape buffer is conditioned to be enhanced to provide trees and shrubs that meet this requirement.

Tree units.

Tree units can be met by either having the development parcel have at least 40 tree units per acre following the proposed development or redevelopment OR the development parcel will contain at least the same number of tree units after the proposed development or redevelopment as it had before that development or redevelopment.

The District is proposing to have at least the same number of tree units after the proposed redevelopment as it had before. They propose to remove 58 trees on site. The tree unit value of these trees is 199.8. The District intends to replace these trees to meet the requirements. The final landscape plan is conditioned to meet this requirement (Condition 43).

Performance Assurance.

Performance assurance is required to assure the city that the landscaping required by this section is properly installed, will become established and adequately maintained. The required landscaping shall be installed prior to the issuance of a temporary certificate of occupancy for the project. A Washington landscape architect, Washington certified nursery professional or Washington certified landscaper shall submit a landscaping declaration to the department to verify installation in accordance with the approved plans. **The project is conditioned to meet this requirement (Condition 44).**

Maintenance Assurance.

The property owner shall replace any unhealthy or dead plant materials in conformance with the approved planting plan. A maintenance assurance device shall be required for a period of three years after acceptance by the city of the new planting or transplanting of vegetation to ensure proper installation, establishment, and maintenance. **The project is conditioned to meet this requirement (Condition 45).**

B. BIMC 18.15.020 Parking and Loading

General Requirements.

- a. **Number of Spaces Required.** The Code requires the following amount of spaces: 1 space per 50 students and 1 space per employee. **The new campus is forecasted to serve 450 students by 2019 and has the capacity to serve 600 students in the long-term. At a requirement of 1 space for 50 students, the school would need 12 parking spaces to meet the parking demand for 600 students. If at maximum capacity the student-to-teacher ratio will equal the Washington State's average student-to-teacher ratio of 18:1, then with 600 students the elementary school is anticipated with could anticipate 36 teachers for a total parking requirement at maximum capacity at 48 spaces. The current site plan shows 67 marked vehicle spaces in the primary lot including 48 angled parking spaces for staff and teacher parking and 19 parallel spaces for student pick-up and drop off. The amount of spaces proposed exceed the minimum requirements for schools.**

Above-ground parking lots exceeding the number of spaces required by this section are not allowed unless approved by the planning commission. The District is requesting additional spaces to accommodate the potential peak demands and to provide parallel parking for safe drop off and pick up of students.

Location of Spaces. Parking outside of the Mixed Use Town Center and High School Road I and II zoning districts is encouraged to be located behind, under or to the side of buildings. **The existing school has parking currently located in front of the school, abutting Blakely Avenue NE. Due to the phasing of construction and in attempt to decrease the amount of hardscape, the District is proposing to continue to provide parking in the front of the school.**

- b. **Design Standards.** Space depth shall be measured exclusive of access drives, aisles and other physical obstructions. Small car spaces may total no more than 30 percent of the required number. **The proposed spaces meet the width and depth requirements for the type of spaces proposed (Condition 46).**

C. BIMC 18.15.030 Mobility and Access

The north driveway will be relocated to become the east leg of Baker Hill Road. The new east leg is proposed with a right-turn lane for vehicles exiting the site to the north and a shared through-left turn lane. The existing utility pole will be incorporated into the design of the east leg-driveway and the pole will bisect the right and shared through-left turn lanes.

The north driveway will provide access to the major parking lot which will be oriented for one-way counterclockwise traffic circulation. The lot includes 48 angled parking spaces and a student drop-off and pick-up area. There are 19, 20-foot long, parallel parking spaces that make up the major student drop-off and pick-up area.

The existing south driveway will be retained, and its service area will be reconfigured for school buses and for some staff parking (five spaces). The bus area will include drop-off and pick-up and bus parking.

- a. **Circulation and Walkways.** The Municipal Code addresses safety, efficiency and the buffering of parking lots through landscaping. It also provides standards for pedestrian and internal walkways. **The project is conditioned to provide the internal walkways with nonskid hard surfaces, to meet accessibility requirements and to provide a minimum of five feet of unobstructed width (Condition 39).**

- b. **Bicycle Facilities.** Bicycle facilities are required to provide securing locking of both the frame and wheels of a bicycle. One bicycle space shall be provided for every five parking space. **Covered bicycle parking is proposed near the entrance of the school. A minimum of 13 bicycle parking spaces are required (Condition 47).**

D. BIMC 18.15.040 Lighting.

- a. **General Standards.** All outdoor lighting fixtures installed on private property shall comply with this chapter. The Municipal Code provides for general standards for outdoor lighting to prevent light trespass and pollution. **The District provided a lighting plan that will be reviewed with the building permit submittal for compliance with the lighting guidelines (Condition 11).**

E. BIMC 18.18.030 Specific Design Regulations and Guidelines

Nonresidential development in the R-0.4 zones shall comply with those regulations contained in “Commercial/Mixed Use”. The project was reviewed for consistency with those guidelines at three Design Review Board meetings. The design guidelines are specific to site and building design. Attached are the applicants’ response to each guideline and the minutes from each Design Review Board meeting.

1. **BIMC 2.16.040 Site Plans and Design Review**

Decision Criteria.

- i. The site plan and design is in conformance with the Bainbridge Island Municipal Code, unless a standard has been modified as a Housing Design Demonstration Project pursuant to BIMC 2.16.020. **As conditioned, the proposal complies with all applicable provisions of the Code, with the exception of height, which is subject to conditional use approval.**
- ii. The location of the buildings and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems are adequate, safe and efficient. **The site provides pedestrian, bicycle and vehicular circulation that is found to be adequate, safe and efficient. The site proposes to separate the bicycle parking from the student/teacher parking with sidewalks connecting to the main entrance. Additional pathways were added to provide trail connection from the south end of the site as well as the north end of the site. A bicycle path along the eastern side of Blakely Avenue will be constructed as part of this proposal. The proposed drive for student/teach parking was realigned to be directly across from Baker Hill Road to further efficient, safe access to and from the site.**
- iii. The proposal will be served by adequate public facilities including roads, transit, water, fire protection, sewage disposal facilities and storm drainage facilities. **As conditioned, the existing and proposed infrastructure is adequate for the traffic impacts, fire protection, water, sewage disposal and storm drainage needs of the project as discussed under the land use code analysis of this report. As conditioned, the development has received approval from the Bainbridge Island Fire District and the Development Engineer.**
- iv. The site plan and design is consistent with the design guidelines contained in BIMC 18.18.030.B unless strict adherence to a guideline has been modified as a Housing Design Demonstration Project pursuant to BIMC 18.38. **The proposed school building was reviewed against the Commercial and Mixed Use design guidelines at two Design Review Board meetings. All suggestions made by the DRB were implemented by the Board. The project is found to be in compliance with the design guidelines, as recommended and conditioned by the Design Review Board.**
- v. No harmful or unhealthful conditions are likely to result from the proposed site plan. **The department of Ecology sent a letter with suggested mitigation for the demolition of the school in regards to mercury containing fluorescent lamps, asbestos and lead. The project is conditioned to dispose properly of those items to reduce potential impacts to the environment. Infrastructure improvements are provided to ensure that water and sewer and storm systems continue to operate without causing any harm. Mitigation is required for the impacts of the school on the habitat buffer by requiring the remaining portion of the water quality buffer to be planted with native forest, and areas of equivalent impacts is mitigated.**

- vi. 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.**
- vii. Property which contains a critical area as defined in BIMC 16.20 conforms to all requirements of that chapter. **The subject property contains geologically hazardous and wetland buffer critical areas.** The geologically hazardous fault zone requires a 50' buffer. In addition to providing this buffer, suggestions are made and the project is conditioned to meet

2. BIMC 2.16.110 Major conditional use permit.

- i. 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 12-acre property that is adjacent to Blakely Avenue, a secondary arterial road. The site has served the Island population since its original construction in 1963. The intent is for the school to provide a new school with no interruption of service during construction. The proposed buildings are one and two-story buildings that conform to the natural topography of the land. The total building coverage is 10.1%, just .1% above that what is allowed for residential development. The building design is residential in nature as the architecture breaks the buildings up into smaller units and the buildings are set into the sloping topography giving the appearance of single story buildings from several elevations. The development will remove trees for the drive directly across from Baker Hill Road to improve safety. Where no trees exist or the trees do not provide a full screen within the buffers, additional trees and shrubs are proposed to be planted.

- ii. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities.

The City Engineer finds that the access and pedestrian ways are coordinated with Blakely Avenue and the abutting Baker Hill Road. Improvements recommended by our city engineer include a mini-roundabout at the intersection of Blakely Avenue and NE Bucklin Hill Road. Additionally, a 6-foot wide paved bike lane and 3-foot gravel shoulder shall be provided along the adjacent full frontage of the property. With this mitigation, the City's Development Engineer finds that the existing roads will become adequate to accommodate anticipated traffic. The project will also be adequately served by public water, fire protection, sewer and storm drainage facilities.

Prior to building permit issuance the applicant is required to obtain approval of their sewer and obtain a binding water availability letter from KPUD (Condition). The Fire Marshal finds that as conditioned, the development provides adequate fire protection facilities (Condition 17).

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

If the HMP is found to be adequate, then the proposed school will provide mitigation for the school impacts in addition to providing setbacks and landscape screening 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. All outdoor lighting will be down lite and will not intrude on to neighboring properties. No high field lights are permissible (Condition 11).

- iv. 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 Blakely School provides an educational experience at an existing site that serves the south end of the Island.

- v. The conditional use complies with all other provisions of the Bainbridge Island Municipal Code.

The project complies with all applicable provisions of the municipal code as discussed in this report.

- vi. 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 is conditioned to take special care to protect retained trees and vegetation within buffers. No parking or drop-off/pick-up is allowed on Blakely Avenue (Condition 18)

- vii. Noise levels shall be in compliance with BIMC [16.16.020](#) and [16.16.040.A](#).

All development within the City is subject to noise limitations in BIMC 16.16.

- vii. The City Engineer has determined that the conditional use meets the following decision criteria: The conditional use conforms to regulations concerning drainage in Chapters [15.20](#) and [15.21](#) BIMC; The conditional use will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; If the conditional use will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the conditional use, and the applicable service(s) can be made available at the site; The conditional use conforms to the "City of Bainbridge Island Engineering Design and Development Standards Manual," unless the City Engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title [18](#).

The City Engineer finds that, as conditioned, the project conforms to surface and stormwater requirements, will not cause undue burden on the drainage basin, and will not unreasonably interfere with the use and enjoyment of properties downstream. The stormwater management plan follows BIMC 15.20 and utilizes on-site dispersion, infiltration, and detention. Post-development off-site flows mimic pre-developed conditions. Ongoing monitoring and maintenance is required once the stormwater facilities are place (BIMC 15.20 / 15.21).

The traffic impact analysis demonstrates that the project passes the concurrency test, and the City Engineer issued a Certificate of Concurrency. Access to the public streets are located to have minimal impacts and meet safety requirements. Water and septic systems provide adequately for the site and as conditioned, the project conforms to the City Design and Construction Standards and Specifications manual. As conditioned, the City Engineer recommends project approval.

- viii. 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.

The project is conditioned to ensure compliance with all applicable regulations and address environmental impact.

Additional Decision Criteria for Institutions in Residential Zones. Applications to locate any of those uses categorized as educational facilities, governmental facilities, religious facilities, health care facilities, cultural facilities, or clubs in Table 18.09.020 in residential zones shall be processed as major conditional use permits and shall be required to meet the following criteria, in addition to those in subsection D of this section:

- i. All sites must front on roads classified as residential suburban, collector, or arterial on the Bainbridge Island functional road classification map. **Blakely Avenue NE is a north-south road classified as a secondary arterial. Blakely Ave has one travel lane in each direction. Near the school the posted speed limit is 30 mph. "School Ahead" signs are posted at near the edge of the school property facing northbound and southbound traffic. For about 150 feet on either side of school property, the shoulder sections on each side of the road are paved and marked with bicycle lane symbols. A "Share the Road" sign is posted near the south edge of the school property facing NB traffic. The rest of the road within the study area has shoulders that are mostly gravel. There is no curb, gutter, sidewalk, or shared use path on either side of the road in the immediate vicinity.**

Baker Hill Road is an east-west road classified as a secondary arterial. Baker Hill Road has one travel lane in each direction. Near the school the posted speed limit is 30 mph.

- ii. If the traffic study shows an impact on the level of service, those impacts have been mitigated as required by the city engineer. **The school is found to impact the level of service and mitigation is suggested to mitigate those impacts at the intersection of Bucklin Hill Road and Blakely Avenue.**

- iii. If the application is located outside of Winslow study area, the project shall provide vegetated perimeter buffers in compliance with BIMC 18.15.010. **A 25' perimeter buffer is proposed around the entire project site, with the north end proposed as a conservation easement and the eastern edge as a wetland water/habitat buffer.**
- iv. The proposal meets the requirements of the commercial/mixed use design guidelines in BIMC 18.18.030.C. **The project was reviewed against the commercial/mixed use design guidelines by the Design Review Board at two different meetings. All recommendations of the Board are implemented in the final design.**
- v. The scale of proposed construction including bulk and height and architectural design features is compatible with the immediately surrounding area. **The building is split into a number of wings and separated by a central spine to break up the scale of the building. The building is also designed where neighboring buildings are not visible. The necessitation for the height conditional use permit is largely dependent on the calculation of grade, with the highest elevations of the building at the places of the highest grade.**
- vi. 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 the above requirements in this subsection E, but may not waive those required elsewhere in the BIMC. **This condition does not apply as the school has a current enrollment of approximately 450 and is anticipated to have at its peak 600 students.**
- vii. Lot coverage does not exceed 50 percent of the allowable lot coverage in the zone in which the institution is located, except that public schools and governmental facilities, as defined in BIMC Title 18, that are located in the R-0.4 zoning district shall be allowed 150 percent of the lot coverage established in the R-0.4 zoning district, and such public schools and governmental facilities located in other zoning districts shall be allowed 100 percent of the lot coverage established in the underlying zoning district in which the facility is located, unless, regardless of which zoning district such a facility is located, conditions are required to limit the lot coverage to mitigate impacts of the use. **This provision allows the lot coverage for the school to be 15%; however the proposed lot coverage is 10.1% or .1% above the base for the R-0.4 zoning district.**

CONCLUSIONS

With an approved HMP and appropriate mitigation, the proposed development may be consistent with the Comprehensive Plan and the applicable standards of BIMC Chapter 18.09, *Zoning*; BIMC Chapter 2.16.040, *Site Plan Review*; and BIMC 2.16.110, *Major Conditional Use Permit*.

Reference Documents:

(note all reference material may be accessed via the City's Website Online Permit Portal-Smartgov)
[Blakely School CUP](#) (All reference materials can be found under the "submittals" and "notes" sections under this file number: PLN50767CUP)



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: October 12, 2017
To: Heather Wright
Current Planning Manager
From: Christy Carr, AICP
Senior Planner
Subject: PLN50767 HMP Review

This memo provides comments on the Habitat Management Plan (HMP) submitted by Bainbridge Island School District (applicant) for the Blakely Elementary School (subject property). This memo provides an update to my June 16, 2017 memo to address revisions to the HMP provided by the applicant.

In accordance with the development standards in BIMC 16.20.160.D.2, an applicant shall provide either the prescribed habitat buffer or an approved habitat management plan, pursuant to BIMC 16.20.060, that clearly provides greater habitat functions and values in perpetuity than the prescribed habitat buffers.

A Category I/II wetland is located off-site to the northeast of the subject property. Due to the wetland characteristics and impact of proposed land use (high), the off-site wetland has a 100-foot water quality buffer and a 200-foot habitat buffer, for a total of 300 feet (BIMC 16.20.160.D). The applicant is proposing to maintain the entirety of the 100-foot water quality buffer while reducing the habitat buffer; therefore, a HMP is required. The applicant submitted a *Critical Areas and Habitat Management Report* (HMP) dated June 1, 2017 (updated July 19, 2017; revised drawings dated September 25 and October 11, 2017).

According to the HMP submitted by the applicant, approximately 160,376 square feet of prescriptive buffer exists on the site. This is the area of the prescribed 300-foot buffer before any proposed reduction. Of this total, 12,015 square feet is water quality buffer and the remaining 148,361 square feet is habitat buffer.

The original HMP provided that existing uses within the habitat buffer include undeveloped forest (64,945 square feet), buildings and hardscape (20,145 square feet) and lawn (63,416 square feet). Subsequent drawings submitted by the applicant provide that the existing buffer conditions include undeveloped forest (73,508 square feet), buildings and hardscape (20,746 square feet) and lawn (66,122 square feet). The applicant has not provided a rationale for why these figures have changed, and it is difficult for staff to review the HMP given this discrepancy.

The June 1, 2017 HMP presented only 8,815 square feet of “buffer loss,” which is an area of undeveloped forest. Development within this area included removal of over 20 mature trees to accommodate the fire lane, outdoor learning space, and a portion of the school building. The HMP did not address the remaining 139,691 square feet of habitat buffer on the site and proposed only 9,820 square feet of compensatory mitigation through enhancement of both the water quality and habitat buffer. The June 1, 2017 HMP did not clearly demonstrate that greater protection of the functions and values of critical areas can be achieved through the HMP than could be achieved through providing the prescribed habitat buffer as required by BIMC 16.20.060.A. The applicant has not submitted an updated HMP report that demonstrates greater protection of the functions and values of critical areas will be achieved by the current proposal. The current proposal was generated by an architect. The input and opinion of the project biologist were not provided and are unknown.

The latest iteration of drawings provided by the applicant show proposed uses within the habitat buffer including undeveloped forest (73,508 square feet), buildings and hardscape (26,257 square feet), lawn and grass paving (45,817 square feet) and habitat restoration planting (11,199 square feet).

The “prescribed habitat buffer” in this case is the entire 200-foot habitat buffer, or 148,362 square feet (total buffer, 160,376 minus water quality buffer, 12,014). HMPs cannot be used to reduce the water quality buffer. While the applicant does not propose to reduce the water quality buffer, it does include it in the overall buffer square footage. It should be noted that approximately 3,595 square feet of the proposed habitat restoration planting is located within the water quality buffer, not the habitat buffer. As such, the total proposed restoration planting within the prescribed habitat buffer is 11,199, not 14,794. It should also be noted that the proposal includes 40,081 square feet of existing undeveloped forest to be protected in perpetuity outside of and contiguous with the prescribed habitat buffer.

The central question in determining the adequacy of the HMP is whether or not there is greater protection of the functions and values of critical areas by the proposal or the prescribed habitat buffer. The “prescribed habitat buffer” means the entire project is constructed completely outside the 200-foot habitat buffer. Staff finds the answer to this question is no based on an analysis of the current proposal within the context of the HMP requirements in BIMC 16.20.060, below.

BIMC 16.20.060.A -- General. A habitat management plan shall comply with the requirements of this section, and shall clearly demonstrate that greater protection of the functions and values of critical areas can be achieved through the HMP than could be achieved through providing the prescribed habitat buffers.

Much discussion took place between City staff and the applicant regarding the condition of the existing habitat buffer. There is agreement that the existing buffer is degraded (i.e., low functioning), and staff notes that “HMPs are primarily intended as a means to restore or improve buffers that have been degraded by past activity” (BIMC 16.20.060.B, see below). The extent to which it is degraded (i.e., low functioning), and the extent to which this matters, is not agreed upon. The applicant spent considerable time demonstrating the difference between what is in the habitat buffer now and what they are proposing to locate in the habitat buffer. This is the wrong comparison. What the HMP needs to demonstrate is the difference between the prescribed habitat buffer and the habitat buffer they are proposing after the completion of the proposed development. It must then demonstrate a greater protection of the functions and values of critical areas through the HMP than through providing the prescribed habitat buffer. The HMP fails to do so.

BIMC 16.20.060.B -- Intent. HMPs are primarily intended as a means to restore or improve buffers that have been degraded by past activity, and should preserve, and not reduce, existing high quality habitat buffers. While not primarily intended as a means to reduce buffers, the HMP may propose a reduction of the habitat buffer width where it is shown that the HMP will comply with the other

requirements of this section. An HMP shall not reduce the prescribed water quality buffer width as listed in BIMC 16.20.130 and 16.20.160 under any circumstance.

Approximately half of the existing habitat buffer has been degraded by past activity, including buildings, hardscape, play areas and lawn. The other half of the existing habitat is mature forest and will be preserved. It appears, however, that a number of mature trees located within the existing habitat buffer will be impacted by construction due to the close proximity of project components (e.g.; playfield, fire lane). The HMP is not proposing a reduction of the habitat buffer width, it is proposing a reduction in the overall area of prescriptive habitat buffer. The applicant is not proposing to reduce the prescribed water quality buffer.

The prescriptive habitat buffer is 148,362 square feet. The area of habitat buffer proposed by the applicant is 84,707 square feet, comprised of the existing undeveloped forest (73,508 square feet) and proposed habitat restoration area (11,199 square feet). The proposed buffer area is 57 percent of the prescriptive buffer area. The question is: Does the proposed 84,707 square feet provide habitat functions and values that are greater than would be provided by the prescribed habitat buffer? Note, the 73,508 square feet of existing undeveloped forest is included in both the proposed buffer and prescriptive buffer; that is, it would remain in place if the project were constructed entirely outside of the prescriptive buffer. Therefore, the only additional area of habitat buffer is the 11,199 square feet of habitat restoration area. The code provides that an HMP may propose a reduction of the habitat buffer width where it is shown that the HMP will comply with the other requirements of the section. Staff finds that the HMP does not comply with the other requirements of the section, as detailed below.

BIMC 16.20.060.C -- Effect of Buffers. An HMP shall provide habitat functions and values that are greater than would be provided by the prescribed habitat buffers. When habitat buffers are a component of an HMP, they shall be at least the minimum size necessary to accomplish the objectives of the HMP. The HMP may propose, but the city shall not require, a habitat buffer containing a greater area than is required by the prescribed habitat buffer.

The Washington Department of Ecology (Ecology) defines buffers as vegetated areas adjacent to aquatic resources that can, through various physical, chemical, and/or biological processes, reduce impacts to these resources from adjacent land uses. Buffers also provide some of the terrestrial habitats necessary for wetland-dependent species that require both aquatic and terrestrial habitats.

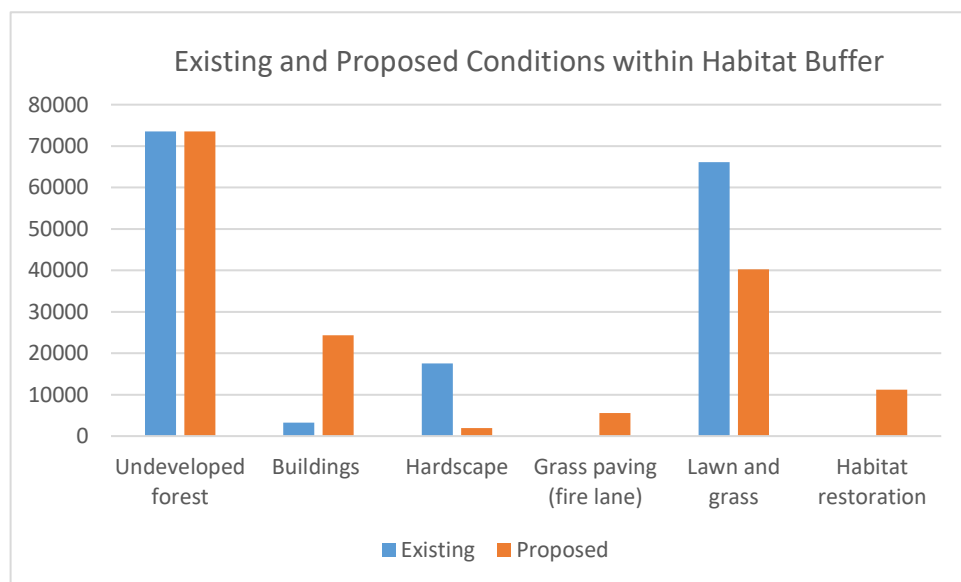
The proposed adjacent land use is an elementary school, which the City characterizes as a high impact land use. The relative measure (high, medium, low) of the intensity of land use is used to determine the appropriate buffer width. The effect – or function – of the prescriptive habitat buffer is to minimize specific environmental impacts of the project including impacts on wildlife from noise, light, human disturbance (presence/movement) and introduction of invasive species. Ecology's technical guidance on establishing buffer width assumes the buffer is vegetated with native plant communities that are appropriate for the ecoregion and provides that if the vegetation in the buffer is disturbed (grazed, mowed, etc.), proponents planning changes to land use that will increase impacts to wetlands need to rehabilitate the buffer with native plant communities that are appropriate for the ecoregion, or with a plant community that provides similar functions.

As proposed, the applicant is planning changes that will increase impacts to the off-site wetland. Providing the prescribed habitat buffer would mean that the entire project would be built outside the buffer. If the whole width (200 feet) of the habitat buffer was provided, it would provide a greater distance between the school and its associated impacts (impacts on wildlife from noise, light, human disturbance and introduction of invasive species) and the wetland itself. In total, the applicant is proposing 26,257 square feet of buildings and hardscape and 5,579 square feet of grass paving (fire lane) within the habitat buffer. The existing habitat buffer contains 3,232 square feet of building (1,423 square feet building, 1,809 square feet portable). It is anticipated that these buildings would be

removed if the prescribed habitat buffer were provided. The existing habitat buffer also contains approximately 17,514 square feet of hardscape, comprised of play area and other miscellaneous hard surfaces. It is unknown whether these hardscape areas would be removed if the prescribed habitat buffer were provided. To summarize:

- If the prescriptive buffer were provided, zero square feet of buildings would be located within the habitat buffer and 17,514 square feet of remnant hardscape may remain.
- If the proposal were approved, 24,323 square feet of buildings, 1,934 square feet of hardscape and 5,579 square feet of grass paving would be located within the habitat buffer.

The proposal also includes 11,199 square feet of new habitat restoration planting and 40,238 square feet of lawn, both native “ecolawn” and maintained playfield lawn, within the habitat buffer and an additional area of preserved existing forested area outside the habitat buffer (40,081 square feet). Existing and proposed conditions within the habitat buffer are shown below for a side-by-side comparison:



The “new habitat restoration planting” is described on the October 11, 2017 drawing as “45% of area: herbaceous perennials, 75% of area: native drought tolerant shrubs.” In addition, an area of 40,238 square feet is proposed as lawn, both native “ecolawn” and maintained playfield lawn. This does not follow Ecology’s guidance that the buffer should be replanted with native plant communities that are appropriate for the ecoregion, or with a plant community that provides similar functions. The new habitat restoration planting does not provide similar functions – minimizing the direct (human presence/movement) and indirect (noise/light/introduction of invasive species) impacts of the adjacent school – as the existing forested habitat buffer. This is supported by recent research that confirms that although preferences for the type of vegetation in a buffer are very species specific, as a general rule, most researchers have recommended that buffers be maintained or restored to a forested condition if only for the screening function they provide – not perennials, shrubs and lawn.

BIMC 16.20.060.D -- Impact Mitigation – General. The HMP shall encompass an area large enough to provide mitigation for buffer reduction below the standard required buffers, and shall identify how the development impacts resulting from the proposed project will be mitigated. The developer of the plan shall use the best available science in all facets of the analyses. The Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, and/or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended, may serve as guidance for this report. For habitat management plans addressing wetland buffers, Method for

Assessing Wetland Functions, Ecology Publication No. 99-116 shall be used for guidance in determining function equivalency.

The HMP does not utilize a functional methodology to demonstrate that the proposed “new habitat restoration area” and/or proposed preserved forested area is an area large enough to provide mitigation for development impacts resulting from the proposed project. The functional assessment methodology used in the HMP documents existing functions of the wetland but does not tie it directly to the functions of the buffer. No analysis or rationale is provided as to whether a mitigation area of approximately 8 percent of the habitat buffer is large enough. Further, not all of the proposed mitigation measures provided in the HMP adequately identify how the development impacts resulting from the proposed project will be mitigated:

(1) Improving screening of the wetland from noise and light intrusion from the school and associated outdoor activities. Comment: The project will likely result in an increase in noise and light intrusion due to the siting of the school building closer to the wetland. The proposed “new habitat restoration planting” and “ecolawn” will not provide adequate screening.

(2) Increasing area within the buffer that provides forage and nesting for wildlife. Comment: The proposed “new habitat restoration planting” and “ecolawn” will likely increase forage and nesting opportunities.

(3) Increasing large woody debris recruitment to wetland to improve water quality. Comment: The HMP is not intended to improve water quality.

(4) Protecting large coniferous trees that are suitable for cavity nesting birds and mammals. Comment: Protecting existing trees does not improve habitat functions and values nor mitigate impacts of the proposed project.

(5) Maintaining groundwater discharge to Wetland 18. Comment: Maintaining groundwater discharge does not improve habitat functions and values.

BIMC 16.20.060.E -- HMP Review. All habitat management plans shall be submitted to the Washington State Department of Fish and Wildlife habitat biologist and to the Suquamish Tribe for review and comment. Within that same time frame, the city's environmental technical advisory committee shall be asked to review the HMP and provide comments.

The WDFW habitat biologist provided comments on the June 1 and October 11, 2017 HMP which were provided to the applicant. The City's ETAC reviewed the June 1 and July 19, 2017 HMPs and conducted a site visit, after which they provided comments on October 6, 2017. The committee did not find the HMP to be adequate.

BIMC 16.20.060.F -- Map. The habitat management plan shall contain a map prepared at an easily readable scale.

The applicant provided an adequate map.

BIMC 16.20.060.G. – Report. The HMP shall also contain a report which contains:

1. A description of the nature and intensity of the proposed development; Comment: The nature of the proposed development is described but the intensity is not addressed.
2. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection. If the habitat management plan is addressing wetland habitat, the analysis shall compare an assessment of wildlife habitat suitability of the wetland applying

standard buffers with an assessment of habitat suitability as proposed using Method for Assessing Wetland Functions, Washington State Department of Ecology (if available for the specific hydrogeomorphic classification); Comment: Two functional assessment methodologies to document existing wetland functions are provided; however, no comparative assessment of wildlife habitat suitability of the wetland applying standard buffers with an assessment of habitat suitability as proposed using a functional methodology is provided.

3. A plan which identifies how the applicant proposes to mitigate any adverse impacts to wildlife habitats created by the proposed development. For wetland or other habitats protected by this chapter, the application shall show, using the appropriate function assessment methodology, that habitat functions and values are greater after the development than would occur had the prescribed buffers been provided (see mitigation plan requirements, BIMC 16.20.110); Comment: No function assessment methodology addressing habitat functions and values or impact mitigation is provided.
4. All review comments received from a habitat biologist from the Washington State Department of Fish and Wildlife (WDFW) and the Suquamish Tribe. If the HMP recommends mitigation involving federally listed threatened or endangered species, migratory waterfowl or wetlands, the U.S. Fish and Wildlife Service shall receive a copy of the draft HMP; Comment: Comments received from WDFW and the Tribe are not included in the HMP.
5. For properties subject to the provisions of the city's shoreline master program, Chapter 16.12 BIMC, a site-specific analysis of the project's impact on shoreline fish and wildlife habitat, as currently required by the SMMP, utilizing the provisions for environmentally sensitive areas as provided in Exhibit A in BIMC 16.20.260; Comment: Not applicable.
6. The HMP shall specifically address, as appropriate, the following:
 - a. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area with native or equivalent vegetation; Comment: A portion (11,199 square feet or 8 percent) of the existing degraded buffer is proposed for replanting.
 - b. The use of alternative on-site wastewater systems in order to minimize site clearing;
 - c. Infiltration of stormwater where soils permit; Comment: Addressed.
 - d. Retention of existing native or equivalent vegetation on other portions of the site in order to offset habitat loss from buffer reduction; Comment: A 40,081 square foot forested area outside the habitat buffer will be preserved. While this will improve the overall ecological function of the site, it is not in a location where it will mitigate impacts of the proposal.
 - e. The need for fencing and signage along the buffer edge. Comment: Addressed.

BIMC 16.20.060.H -- Mitigation Measures. Possible mitigation measures to be included in the report, or required by the director, could include, but are not limited to:

1. Establishment of buffer zones; Not addressed.
2. Preservation of critically important plants and trees; Not addressed.
3. Limitation of access to habitat areas; Addressed with low impact fencing.
4. Seasonal restriction of construction activities; Not addressed.
5. Establishing phased development requirements; Not addressed.
6. Monitoring plan for a period necessary to establish that performance standards have been met. Generally this will be for a period of seven to 10 years. HMP report includes monitoring plan.

BIMC 16.20.060.I – HMP Adequacy. The HMP shall demonstrate to the satisfaction of the director that the habitat functions and values are improved by implementation of the HMP.

The HMP does not satisfactorily demonstrate that the habitat functions and values will be improved by implementation of the HMP.

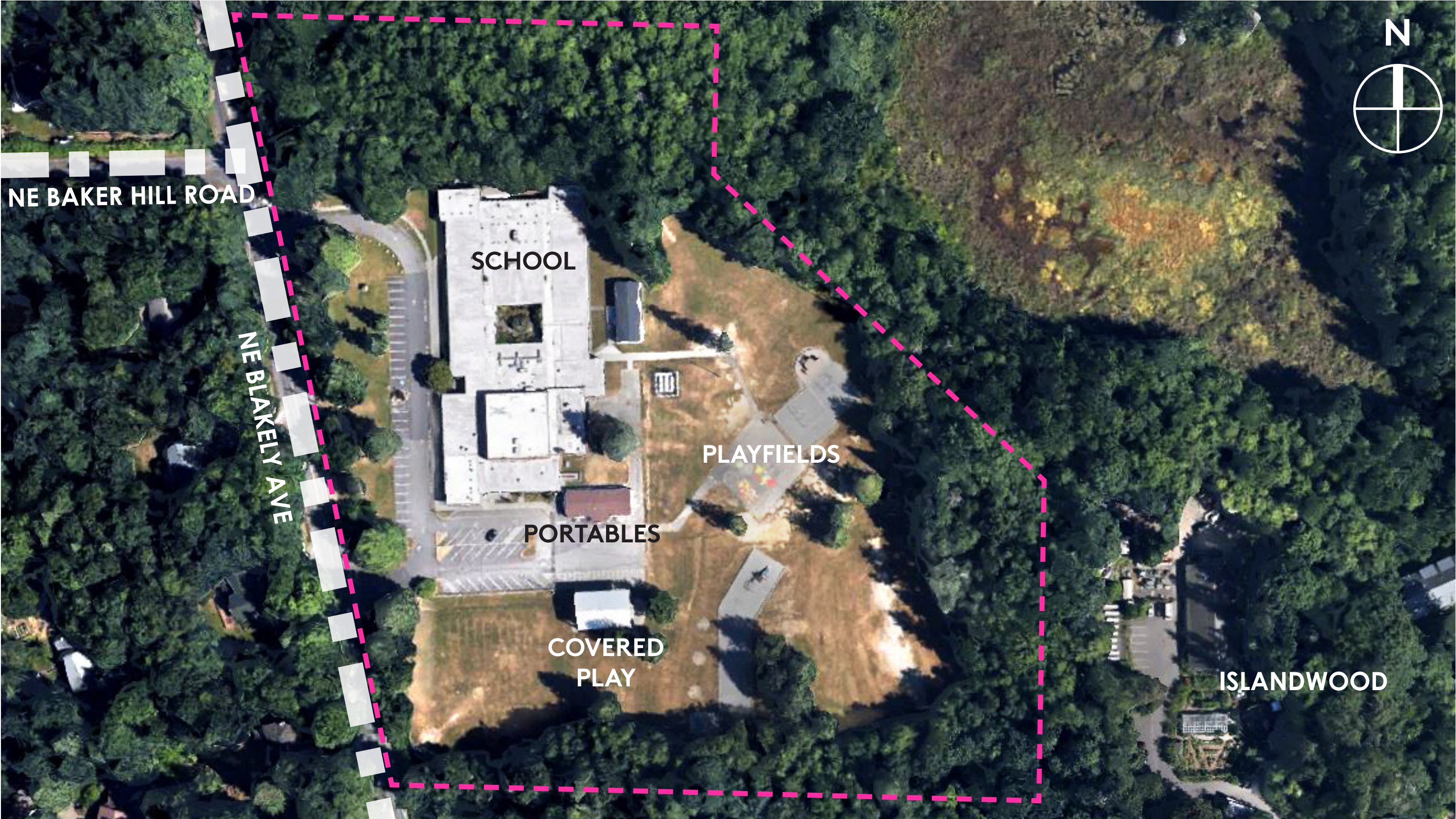
BIMC 16.20.060.J. -- Timing. An HMP must be developed and approved either prior to preliminary plat approval or issuance of the building permit, as applicable, and must be implemented before the city grants either final plat approval or an occupancy permit, as applicable.

The city will not issue a building permit without first approving the HMP.

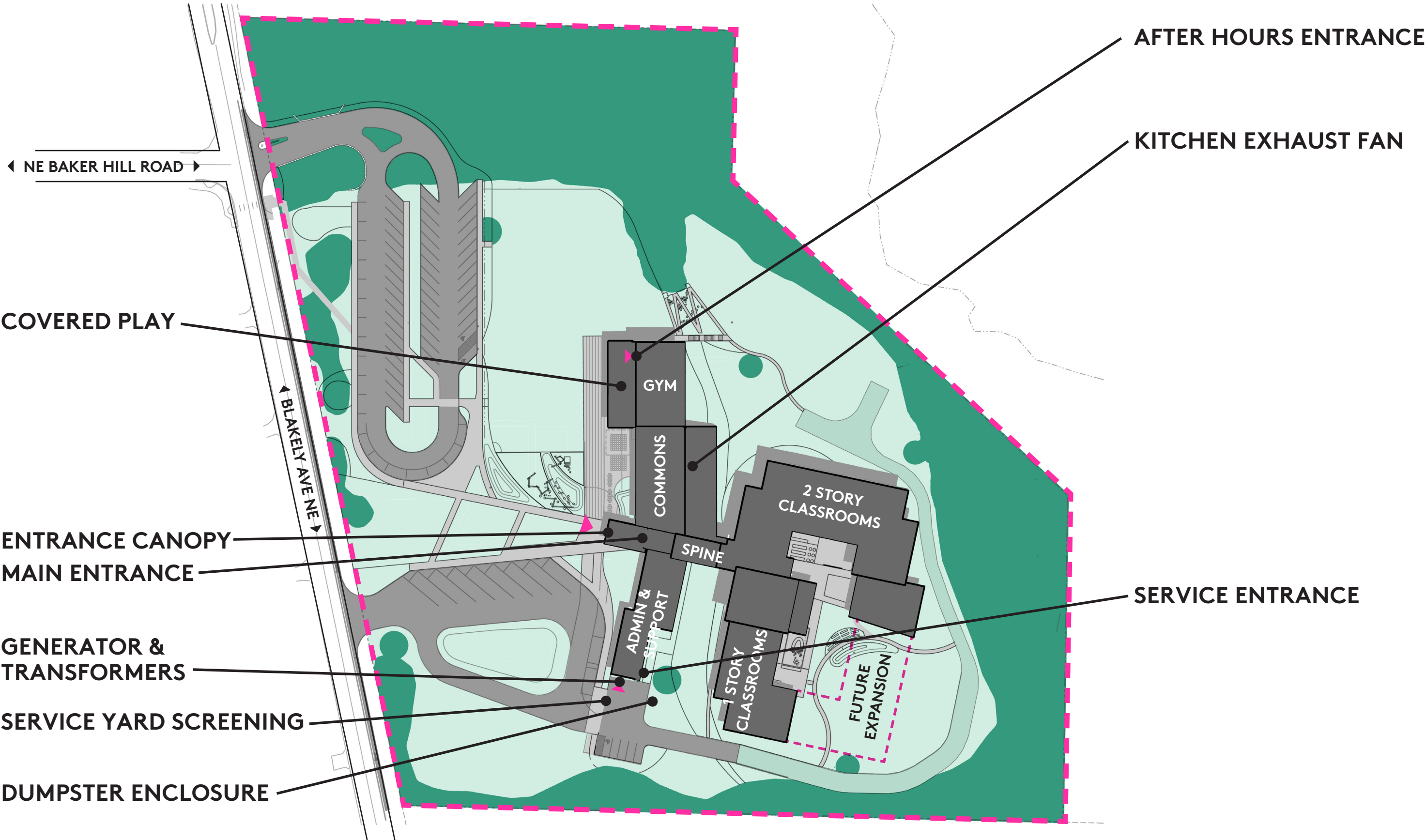
BIMC 16.20.060.K – Performance surety. The director may require that the applicant provide a performance surety to ensure conformance with mitigation requirements of the habitat management plan.

A performance surety should be required as a condition of approval prior to building permit issuance. Monitoring should be required for seven (7) years.

EXISTING SITE



PROPOSED PROJECT ELEMENTS



SITE ELEMENTS



STREET FRONTAGE - BLAKELY AVE

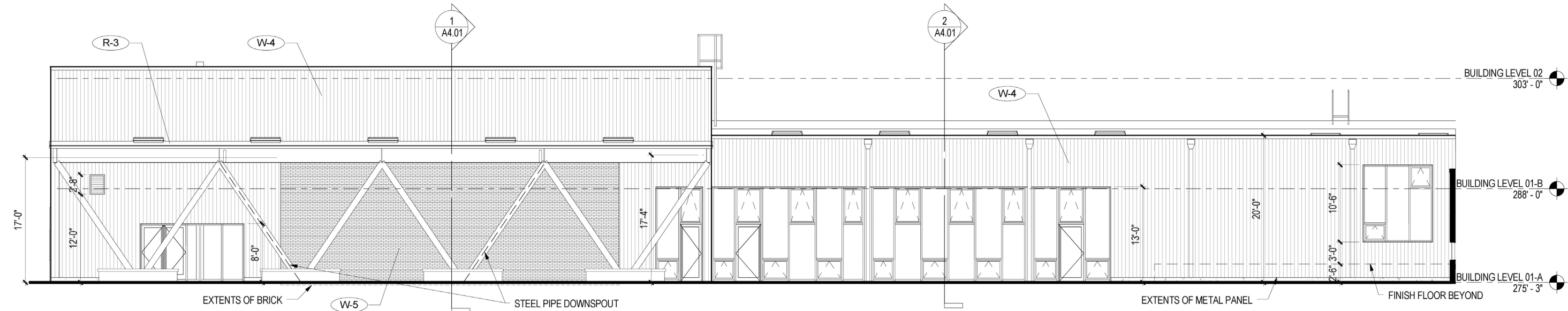
~330' TO NEW SCHOOL



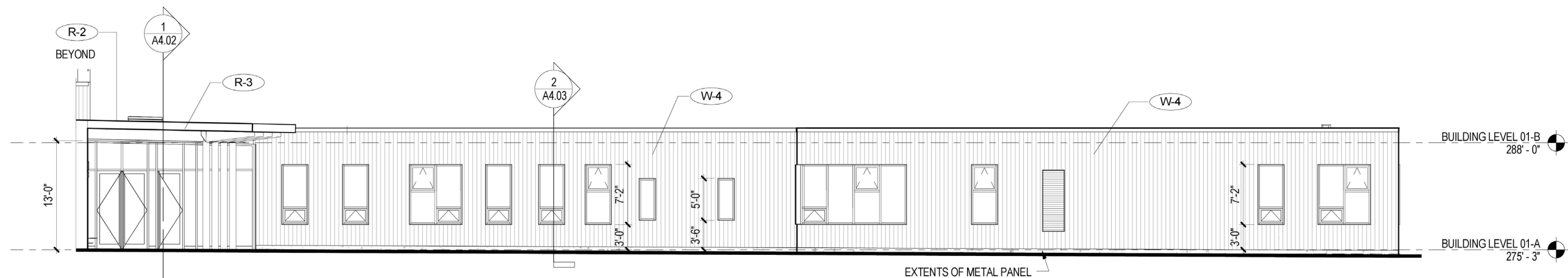
CASCADING OVERHANGS



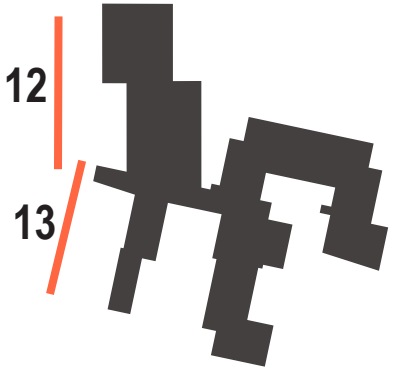
PRELIMINARY ELEVATIONS



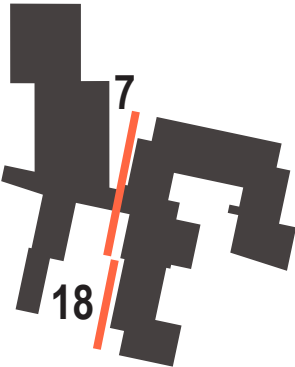
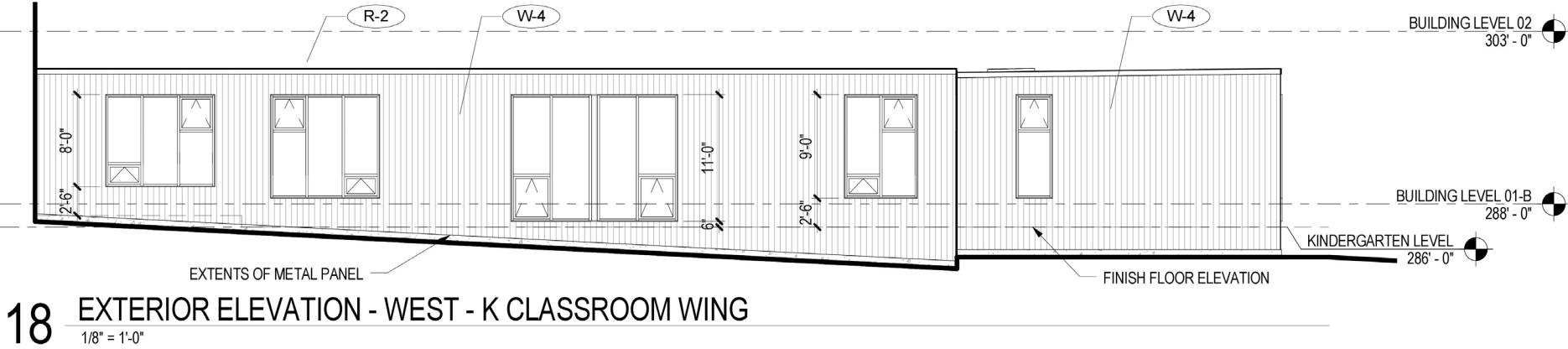
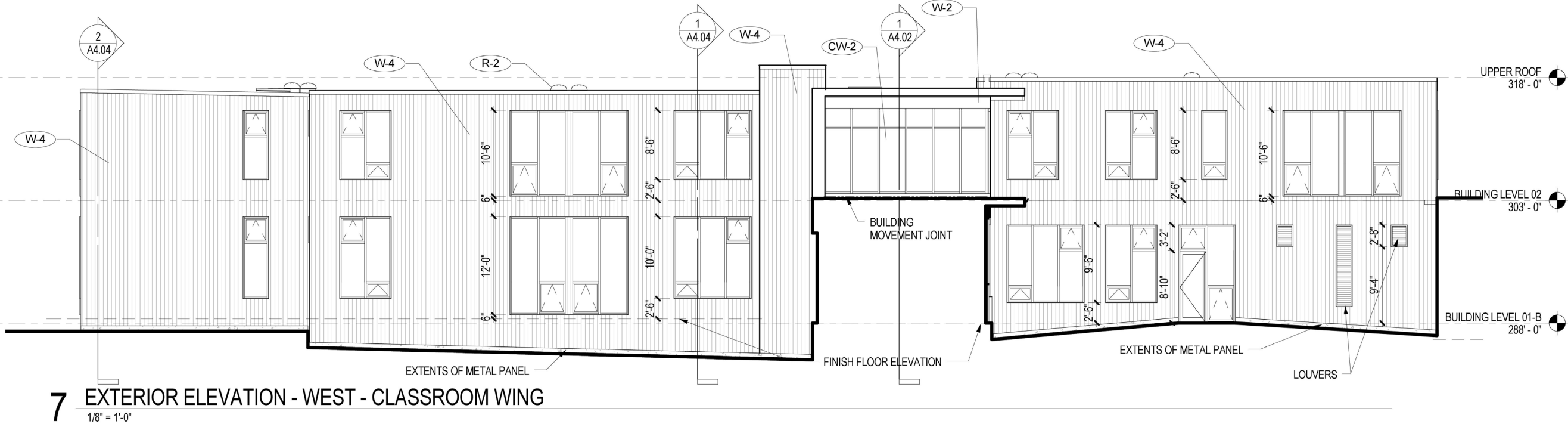
12 EXTERIOR ELEVATION - WEST - GYM / COMMONS
1/8" = 1'-0"



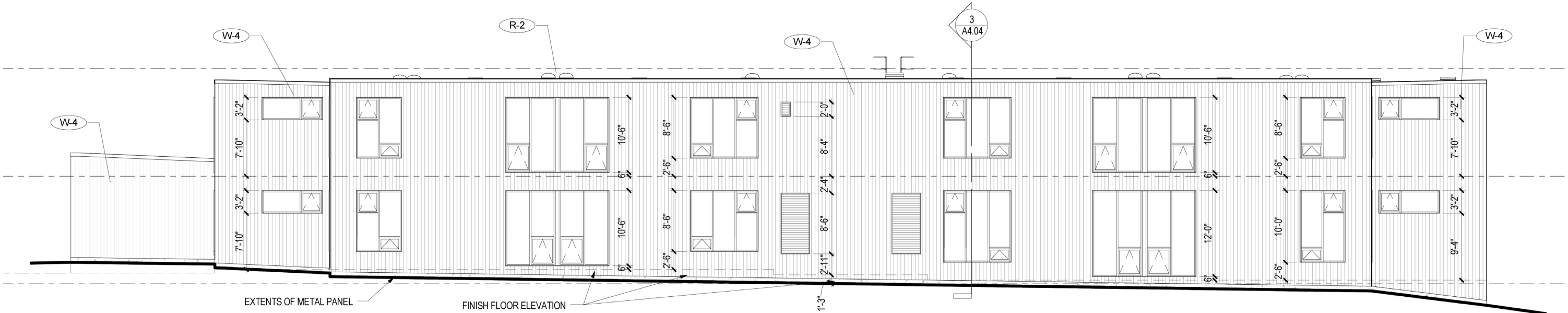
13 EXTERIOR ELEVATION - WEST - ENTRY / ADMIN
1/8" = 1'-0"



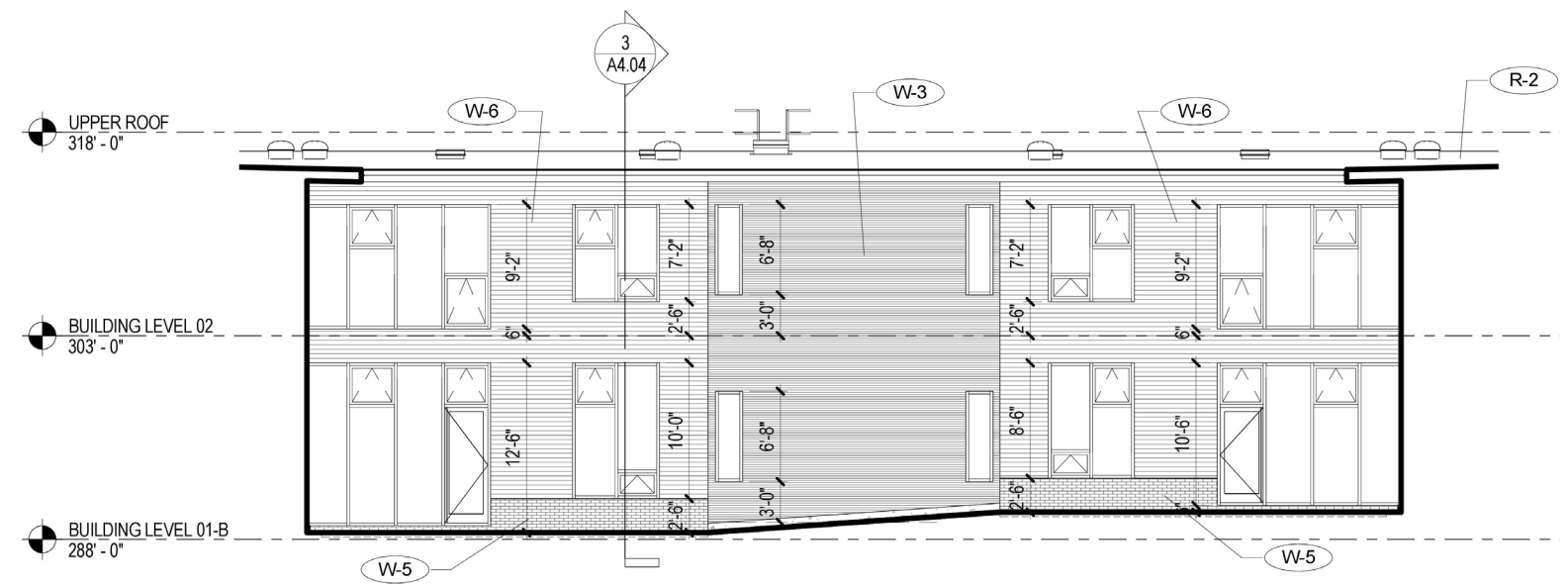
PRELIMINARY ELEVATIONS



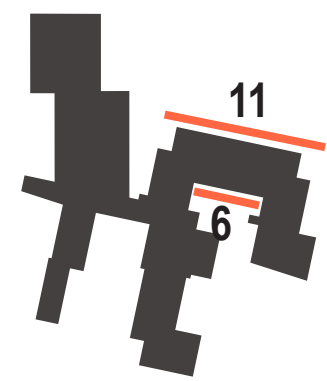
PRELIMINARY ELEVATIONS



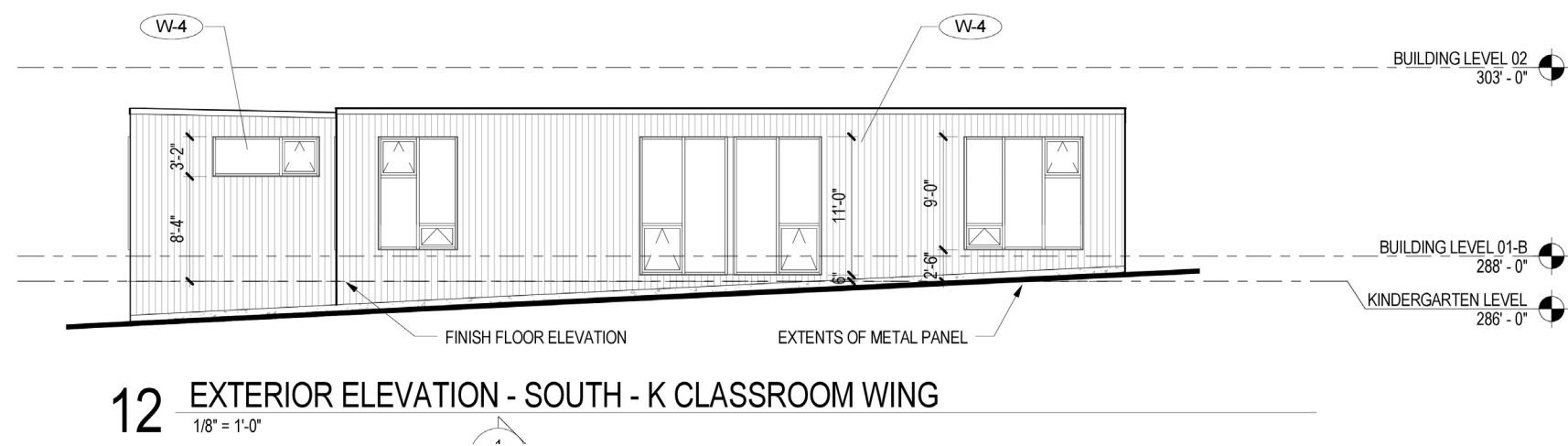
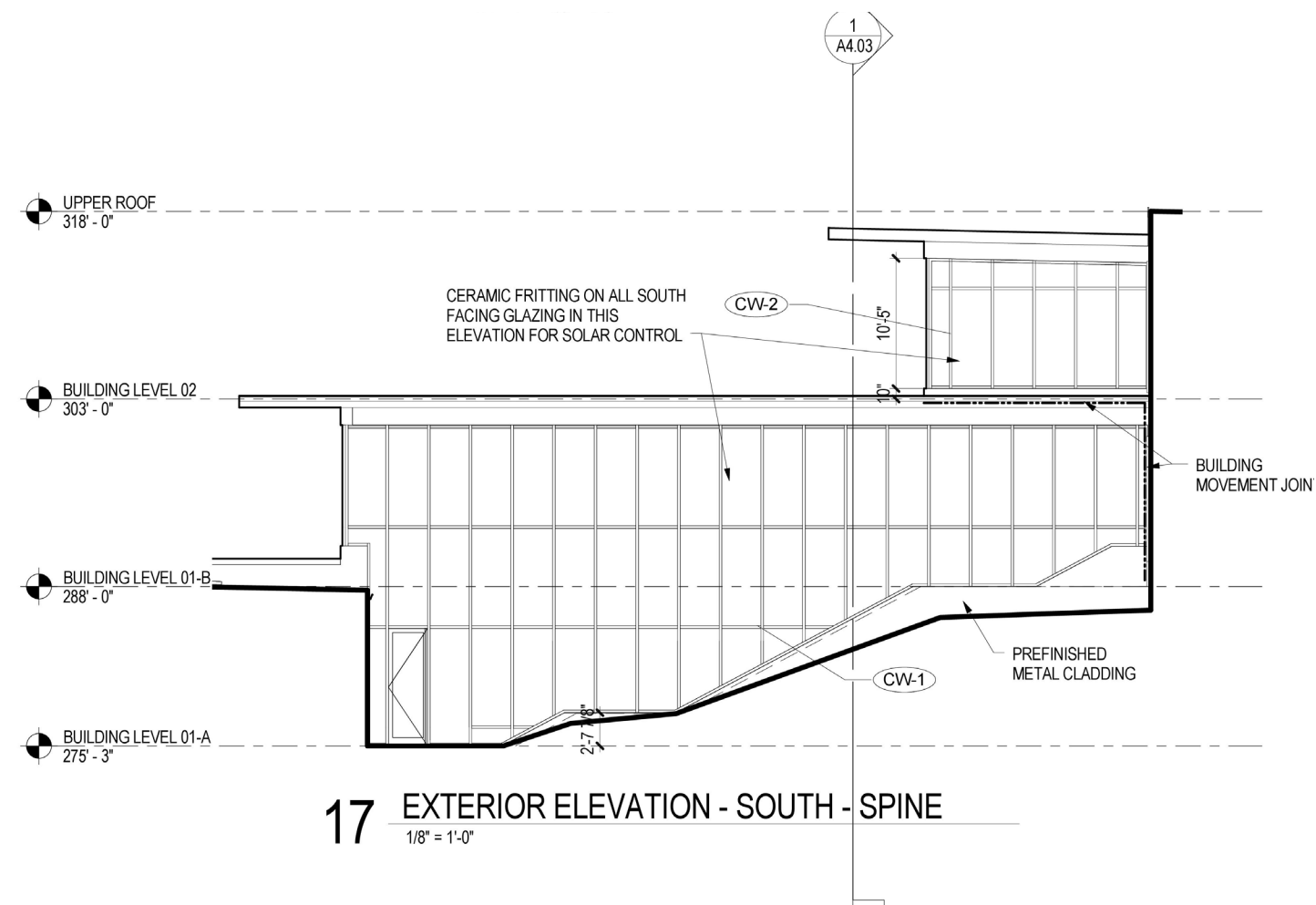
11 EXTERIOR ELEVATION - NORTH - CLASSROOM WING
1/8" = 1'-0"



6 MAIN COURTYARD ELEVATION - SOUTH - CLASSROOM WING
1/8" = 1'-0"



PRELIMINARY ELEVATIONS



EXISTING & PROPOSED HARDSCAPE OVERLAY
9/25/2017

FIGURE 5
BAINBRIDGE ISLAND SCHOOL DISTRICT
BLAKELY ELEMENTARY SCHOOL
BAINBRIDGE ISLAND, WA
CRITICAL AREAS REPORT
EXISTING CONDITIONS



LEGEND

- PROJECT BOUNDARY
- EXISTING CONTOURS
- EXISTING WETLAND
- 100' WATER QUALITY BUFFER
- 300' WETLAND BUFFER
- DRAINAGE DIVIDE
- DIRECTION OF SURFACE WATER DRAINAGE
- SP-# SAMPLE PLOT LOCATIONS (APPROX.)
- EXISTING TREES

EXISTING USES WITHIN THE WATER QUALITY BUFFER ON PROPERTY

- FORESTED (EXISTING NATURAL GROWTH AREA) 8,420 SF
- LAWN 3,595 SF
- THE ENTIRETY OF THE WATER QUALITY BUFFER IS WITHIN THE WETLAND DRAINAGE AREA.

EXISTING USES WITHIN THE WETLAND BUFFER ON PROPERTY

- FORESTED (EXISTING NATURAL GROWTH AREA) 64,120 SF
27,975 SF OF 64,120 SF WITHIN WETLAND DRAINAGE AREA
- BUILDINGS & HARDSCAPE 20,145 SF
8,370 OF 20,145 SF WITHIN WETLAND DRAINAGE AREA
- LAWN & PLAY AREAS 64,095 SF
23,850 SF OF 64,095 SF WITHIN WETLAND DRAINAGE AREA

PROPOSED NEW HARDSCAPE OVERLAY [14,055 ADDITIONAL SQUARE FEET]

EXISTING NATIVE FOREST

Associates, Inc.
2111 N. Northgate Way, Ste 219
Seattle, WA 98133

RAI PROJECT: 2017-014	
DATE: 7/18/2017	
DRAWN BY:AC	PM:WH
BASE INFORMATION:	
Mithun/Pier 56 1201 Alaskan Way #200 Seattle, WA 98101	LPD Engineering 1932 First Avenue, Suite 201 Seattle, WA 98101

9/25/2017 3:55:59 PM

NE BAKER
HILL ROAD

BLAKELY AVENUE NE

PROPOSED
CONSERVATION AREA

LAWN WITH
DRAINAGE SYSTEM

CANOPY ROOF ABOVE

LAWN, NO
DRAINAGE SYSTEM

CANOPY ROOF ABOVE

GRASS PAVE FIRE LANE

NATIVE "ECO
LAWN"

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Seattle, WA 98101 | 206.623.3344

SAN FRANCISCO | 680 Market Street, #300
San Francisco, CA 94104 | 415.956.0688

mithun.com

PROJECT

Blakely Elementary School

LOCATION

4704 Blakely Avenue
Bainbridge Island, WA 98110

PREPARED FOR

Bainbridge Island School District

NO

DATE

DESIGN

REVISION

DESIGN PARTNER

RF

PROJECT MANAGER

SO, MF

PROJECT LANDSCAPE ARCHITECT

CR

PROJECT TEAM MEMBERS

SK, ME

OWNER

BS

TITLE

PLANTING & SOILS PLAN

PROJECT NO.

1622400

DATE

09/11/17

SHEET NUMBER

L1.06

DESIGN DEVELOPMENT

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ORIGINAL SHEET SIZE 36" x 48"

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NE BAKER
HILL ROAD

BLAKELY AVENUE NE

PROPOSED
CONSERVATION AREA

PROPOSED COMPROMISE HMP 9/25/2017

- PROPOSED NATIVE FOREST MITIGATION PLANTINGS
- EXISTING NATIVE FOREST
- LANDSCAPE BUFFER
- PROPERTY LINE
- NO MOW FESCUE/DROUGHT TOLERANT LAWN

14,055 sf

30,010 sf

LEGEND

- NATIVE NORTHWEST FOREST CANOPY - HIGH
- NATIVE NORTHWEST FOREST CANOPY - LOW
- PLANTED AREA - LOW MAINTENANCE MEADOW MIX
100% OF AREA: PERENNIAL GRASSES, 36" O.C.
PLANTING SOIL DEPTH 6" - 85% SANDY LOAM, 15% COMPOST
SUBGRADE PREP: 3" COMPOST TILLED INTO SUBGRADE
IRRIGATION: TEMPORARY STREAM ROTORS FOR ESTABLISHMENT ONLY
- PLANTED AREA - HABITAT RESTORATION - PLANTING
45% OF AREA: HERBACEOUS PERENNIALS, MIN 24" O.C.
75% OF AREA: NATIVE, DROUGHT TOLERANT SHRUBS, 48" O.C.
SUBGRADE PREP: 3" COMPOST SPADED INTO SURFACE SOIL
IRRIGATION: PLACE QUICK COUPLERS ALONG SCHOOL SIDE PERIMETER AT 200 FEET ON CENTER FOR TEMPORARY WATERING DURING ESTABLISHMENT
- PLANTED AREA - NATIVE NORTHWEST FOREST UNDERSTORY
25% OF AREA: HERBACEOUS PERENNIALS, MIN 36" O.C.
100% OF AREA: NATIVE, DROUGHT TOLERANT SHRUBS, 36" O.C.
SUBGRADE PREP: 3" COMPOST TILLED INTO SUBGRADE
PLANTING SOIL DEPTH 18" - 70% SANDY LOAM, 30% COMPOST
IRRIGATION: DRIP
- PLANTED AREA - BIORETENTION
100% OF AREA: HERBACEOUS PERENNIALS, 24" O.C.
SUBGRADE PREP: 3" COMPOST TILLED INTO SUBGRADE
PLANTING SOIL DEPTH 24" (BOTTOM) 12" (SIDE), 50% SANDY LOAM, 50% COMPOST
IRRIGATION: DRIP
- NATIVE "ECO LAWN"
PLANTED AREA - NATIVE "ECO LAWN" OR SIMILAR HYDROSEEDED
SUBGRADE PREP: 3" COMPOST TILLED INTO SUBGRADE
PLANTING SOIL DEPTH : 4"
NO IRRIGATION
- PLANTED AREA - LAWN
SUBGRADE PREP: 3"
COMPOST TILLED INTO SUBGRADE
PLANTING SOIL DEPTH 6"
IRRIGATION - 4" POP UP ROTATORS
- PLANTED AREA - RAISED VEGETABLE GARDEN BED
PLANTING SOIL DEPTH 18", 25% SANDY LOAM, 75% COMPOST
- EXISTING VEGETATION ENHANCEMENTS
1. THIN, LIMB, PRUNE, OR REPLACE TREES PER ARBORIST RECOMMENDATIONS
2. REMOVE INVASIVE PLANTS
3. REVEGETATE, SEE HABITAT RESTORATION PLANTING
- MULCH
- LIMIT OF WORK
- CRITICAL ROOT ZONE
- VSPZ VEGETATION & SOIL PROTECTION ZONE
- NOTES:
1. ALL EXISTING FOREST PERIMETER REPAIRS SHALL FOLLOW HABITAT RESTORATION PLANTING PLAN UNLESS OTHERWISE NOTED
2. ALL LIMIT OF WORK PERIMETER REPAIRS SHALL FOLLOW ADJACENT PLANTING REGIME
3. VEGETATION & SOIL PROTECTION ZONES ARE LOCATED OUTSIDE THE LIMIT OF WORK. ALL SOILS AND PLANTS IN THESE AREAS SHALL NOT BE DISTURBED DURING CONSTRUCTION
- FIRE LANE WITH NATIVE "ECO LAWN",
SEE CIVIL FOR LAYOUT

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San Francisco, CA 94104 | 415.656.0688
mithun.com

PROJECT
**Blakely Elementary
School**
LOCATION
**4704 Blakely Avenue
Bainbridge Island, WA
98110**

PREPARED FOR
**Bainbridge Island School
District**

NO DATE PROJECT

DESIGN PARTNER
RF
PROJECT MANAGER
SO, MF
PROJECT LANDSCAPE ARCHITECT
CR
PROJECT TEAM MEMBERS
SK, ME
CHECK
BS

TITLE
PLANTING & SOILS PLAN

PROJECT NO.
1622400
DATE
09/11/17

SHEET NUMBER
L1.06
DESIGN DEVELOPMENT
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ORIGINAL SHEET SIZE 36" x 48"

1 PLANTING & SOILS PLAN
1" = 30'-0"

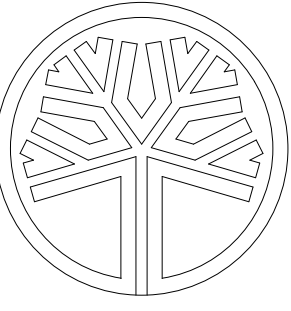
NOT FOR CONSTRUCTION

LOCATION
4704 Blakely Avenue
Bainbridge Island, WA
98110

PREPARED FOR
**Bainbridge Island School
District**

NO.	DATE	REVISION
-----	------	----------

DESIGN PARTNER
RF
PROJECT MANAGER
MF
PROJECT LANDSCAPE ARCHITECT
CR
PROJECT TEAM MEMBERS
SK, ME
CHECK
BS
LANDSCAPE ARCHITECT SEAL



STATE OF
WASHINGTON
REGISTERED
LANDSCAPE ARCHITECT
Debra Guenther
DEBRA GUENTHER
CERTIFICATE NO. 1022

THIS DOCUMENT HAS BEEN PREPARED
FOR PERMIT APPLICATION AND IS SUBJECT
TO REVIEW AND MODIFICATION BY
GOVERNMENTAL AGENCIES

PROJECT NO.
1622400
DATE
10/10/17

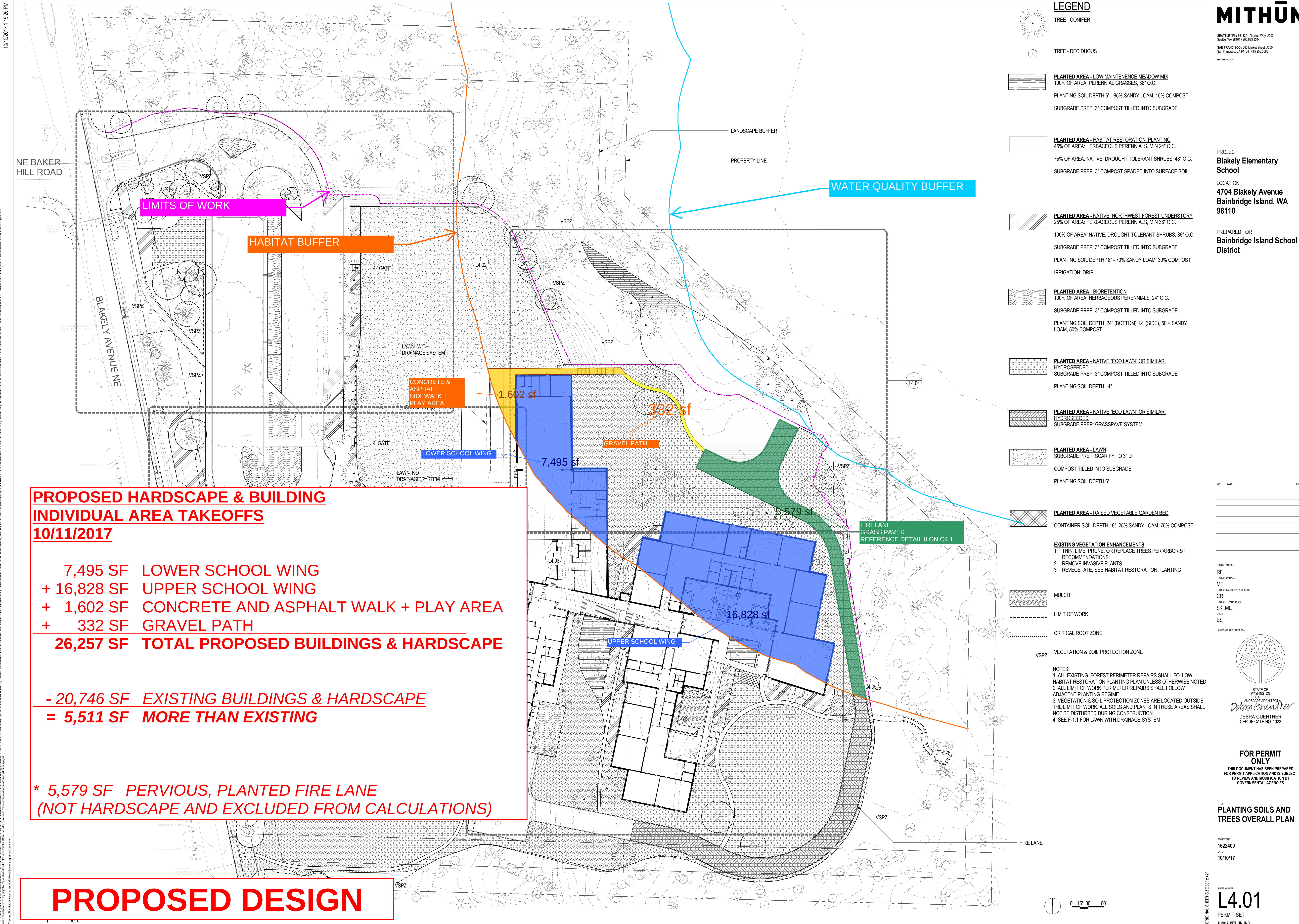
SHEET NUMBER
L4.01
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PROPOSED HARDSCAPE & BUILDING INDIVIDUAL AREA TAKEOFFS

10/11/2017

7,495 SF LOWER SCHOOL WING
+ 16,828 SF UPPER SCHOOL WING
+ 1,602 SF CONCRETE AND ASPHALT WALK + PLAY AREA
+ 332 SF GRAVEL PATH
26,257 SF TOTAL PROPOSED BUILDINGS & HARDSCAPE

- 20,746 SF EXISTING BUILDINGS & HARDSCAPE
= 5,511 SF MORE THAN EXISTING

*** 5,579 SF PERVIOUS, PLANTED FIRE LANE
(NOT HARDSCAPE AND EXCLUDED FROM CALCULATIONS)**

PROPOSED DESIGN

LEGEND

TREE - CONIFER

TREE - DECIDUOUS

PLANTED AREA - LOW MAINTENANCE MEADOW MIX

100% OF AREA: PERENNIAL GRASSES, 36" O.C.

PLANTING SOIL DEPTH 6" - 85% SANDY LOAM, 15% COMPOST

SUBGRADE PREP: 3" COMPOST TILLED INTO SUBGRADE

PLANTED AREA - HABITAT RESTORATION PLANTING

45% OF AREA: HERBACEOUS PERENNIALS, MIN 24" O.C.

75% OF AREA: NATIVE, DROUGHT TOLERANT SHRUBS, 48" O.C.

SUBGRADE PREP: 3" COMPOST SPADED INTO SURFACE SOIL

PLANTED AREA - NATIVE NORTHWEST FOREST UNDERSTORY

25% OF AREA: HERBACEOUS PERENNIALS, MIN 36" O.C.

100% OF AREA: NATIVE, DROUGHT TOLERANT SHRUBS, 36" O.C.

SUBGRADE PREP: 3" COMPOST TILLED INTO SUBGRADE

PLANTING SOIL DEPTH 18" - 70% SANDY LOAM, 30% COMPOST

IRRIGATION: DRIP

PLANTED AREA - BIORETENTION

100% OF AREA: HERBACEOUS PERENNIALS, 24" O.C.

SUBGRADE PREP: 3" COMPOST TILLED INTO SUBGRADE

PLANTING SOIL DEPTH 24" (BOTTOM) 12" (SIDE), 50% SANDY

LOAM, 50% COMPOST

PLANTED AREA - NATIVE "ECO LAWN" OR SIMILAR, HYDROSEED

SUBGRADE PREP: 3" COMPOST TILLED INTO SUBGRADE

PLANTING SOIL DEPTH: 4"

PLANTED AREA - NATIVE "ECO LAWN" OR SIMILAR, HYDROSEED

SUBGRADE PREP: GRASSPAVE SYSTEM

PLANTED AREA - LAWN

SUBGRADE PREP: SCARIFY TO 3" D

COMPOST TILLED INTO SUBGRADE

PLANTING SOIL DEPTH 6"

PLANTED AREA - RAISED VEGETABLE GARDEN BED

CONTAINER SOIL DEPTH 18", 25% SANDY LOAM, 75% COMPOST

EXISTING VEGETATION ENHANCEMENTS

1. THIN, LIMB, PRUNE, OR REPLACE TREES PER ARBORIST RECOMMENDATIONS
2. REMOVE INVASIVE PLANTS
3. REVEGETATE, SEE HABITAT RESTORATION PLANTING

MULCH

LIMIT OF WORK

CRITICAL ROOT ZONE

VSPZ VEGETATION & SOIL PROTECTION ZONE

NOTES:

1. ALL EXISTING FOREST PERIMETER REPAIRS SHALL FOLLOW HABITAT RESTORATION PLANTING PLAN UNLESS OTHERWISE NOTED
2. ALL LIMIT OF WORK PERIMETER REPAIRS SHALL FOLLOW ADJACENT PLANTING REGIME
3. VEGETATION & SOIL PROTECTION ZONES ARE LOCATED OUTSIDE THE LIMIT OF WORK. ALL SOILS AND PLANTS IN THESE AREAS SHALL NOT BE DISTURBED DURING CONSTRUCTION
4. SEE F-1.1 FOR LAWN WITH DRAINAGE SYSTEM

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Seattle, WA 98101 | 206.823.3344

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PROJECT

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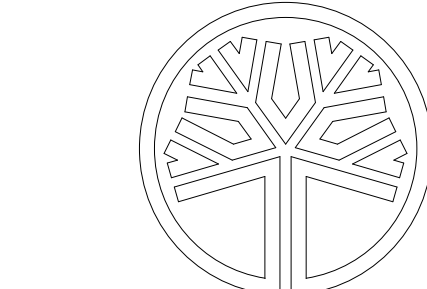
RF PROJECT MANAGER

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CR PROJECT TEAM MEMBERS

SK, ME CHECK

BS LANDSCAPE ARCHITECT SEAL



STATE OF WASHINGTON
REGISTERED
LANDSCAPE ARCHITECT
Debra Guenther
DEBRA GUENTHER
CERTIFICATE NO. 1022

**FOR PERMIT
ONLY**

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FOR PERMIT APPLICATION AND IS SUBJECT
TO REVIEW AND MODIFICATION BY
GOVERNMENTAL AGENCIES

**PLANTING SOILS AND
TREES OVERALL PLAN**

PROJECT NO.

1622400

DATE

10/10/17

SHEET NUMBER

L4.01

PERMIT SET

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DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: October 12, 2017
To: Planning Commission
From: Christy Carr, AICP
Senior Planner
Subject: Shoreline Master Program Amendment

Staff will continue to review proposed revisions focusing on integration of the **critical areas ordinance (CAO)** and associated **vegetation management** provisions. Please review the following sections of the **existing** shoreline master program (SMP):

- Section 4.1.2
- Section 4.1.3
- Section 4.1.5 and Appendix B-9

The existing SMP is available online at: <http://www.bainbridgewa.gov/DocumentCenter/View/3741>.

Also review the current draft of the CAO: <https://wa-bainbridgeisland.civicplus.com/DocumentCenter/View/9078>.

The attached document is intended as **a starting point for discussion about proposed revisions**. It may be most helpful to review this document side-by-side with corresponding sections of the existing SMP to understand proposed reorganization and revisions.

Please come to the meeting prepared to discuss:

- If/how critical areas should be regulated differently within the shoreline jurisdiction
- If/how trees and vegetation should be managed differently within the shoreline (different than within critical areas)

Revisions to other sections of the SMP are not proposed at this time. This phase of work is primarily intended to integrate the recently updated CAO and address implementation issues with associated vegetation management provisions. Other substantive topics will be addressed in a future amendment.

Staff will highlight major changes and policy decision points and a proposed schedule and public participation plan at the October 12, 2017 Planning Commission meeting.

4.1.2 Environmental Impacts

4.1.2.1 Applicability

All shoreline development and activity shall be located, designed, constructed, and managed in a manner that avoids, minimizes and/or mitigates adverse impacts to the shoreline environment. The preferred mitigation sequence (avoid, minimize, rectify, reduce, or compensate for the environmental impact) shall follow that listed in WAC 173-26-201(2)(e). See definition of “Mitigation” listed in this Master Program, in Section 8.0, Definitions.

In approving shoreline development, the City shall ensure that shoreline development, use, and/or activities will result in no net loss of ecological functions and ecosystem-wide processes necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time consistent with constitutional and statutory limitations on the regulation of private property. To this end, the City may require modifications to the site plan and/or adjustments to proposed project dimensions, intensity of use, and screening, as deemed appropriate. If impacts cannot be avoided through design modifications, the City shall require compensatory mitigation commensurate with the project’s adverse impacts.

4.1.2.2 Goal

Minimize impacts of shoreline development, uses and activities on the environment during all phases of development (e.g. design, construction, and management).

4.1.2.3 Policies

1. Ensure all shoreline uses, activities and developments are designed and located in a manner that prevents or mitigates adverse impacts to shoreline ecological functions and ecosystem-wide processes, including the use of the mitigation sequence (avoid, minimize, rectify, reduce, compensate); and make available flexible alternatives to accommodate preferred shoreline uses.
2. Ensure, through appropriate monitoring and enforcement measures that all required conditions are met, and improvements are installed and properly maintained.
3. Promote shoreline uses and activities within critical areas which do not cause significant adverse impacts to ecological functions and ecosystem-wide processes, such as public access on publicly owned lands.
4. In assessing the potential for new uses, activities and developments to cause adverse impacts, take into account all of the following:
 - a. Effects on ecological functions and ecosystem-wide processes, including temporal loss of functions; and
 - b. Effects that occur on-site and effects that may occur off-site; and
 - c. Direct and indirect effects and long-term effects of the project; and
 - d. Effects of the project and the incremental or cumulative effects resulting from the project added to other past, present, and reasonably foreseeable future actions; and

- e. Compensatory mitigation actions that offset adverse impacts of the development action and/or use.
- 5. To provide for comprehensive management strategies for shoreline areas, integrate planning and regulatory measures, such as those within the comprehensive plan, regional watershed plans, or state and federal regulations.

4.1.2.4 Regulations-Impact Analysis and No Net Loss Standard

1. All shoreline development, use and activities, including preferred uses, and uses that are exempt from a shoreline substantial permit, shall be located, designed, constructed, and maintained in a manner that protects ecological functions and ecosystem-wide processes. All proposed shoreline development, uses and activities shall:
 - a. Utilize the required mitigation sequence of Section 4.1.2.6, Regulations – Mitigation; and
 - b. Utilize effective erosion and scour control methods during project construction and operation; and
 - c. Minimize adverse impacts to critical salt water habitat, fish and wildlife conservation areas, and/or other ecological functions and ecosystem-wide processes, such as those provided by shoreline vegetation; and
 - d. Minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel transport movement, erosion, and accretion; and
 - e. Avoid hazards to public health and safety; and
 - f. Minimize the need for shoreline stabilization measures and flood protection in the future; and may require a geotechnical analysis to ensure that the proposed activity meets this regulation (See Section 6.2, Shoreline Stabilization); and
 - g. Result in no net loss of ecological functions and processes necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time.
2. In reviewing and approving shoreline development, use or activity, regardless of whether a permit is required the following shall apply:
 - a. The Administrator shall condition the shoreline development, use, and/or activities such that it will:
 - i. Meet provisions in subsection 1 above; and
 - ii. Employ measures to mitigate adverse impacts on shoreline functions and, processes, if necessary; and
 - iii. Modify the site plan and/or adjust the project dimensions, intensity of use, or screening as deemed appropriate to address impacts. If impacts cannot be avoided through design modification, the Administrator shall require compensatory mitigation, pursuant to regulations in Sections 4.1.2.5, Regulations – Revegetation Standards, and 4.1.2.6, Regulations – Mitigation; and

- b. If a proposed shoreline development, use or activity is determined by the Administrator to result in significant short-term, long-term, or cumulative adverse environmental impacts lacking appropriate compensatory mitigation, it shall be sufficient reason for the Administrator to deny a permit.
3. To assure that development activities contribute to meeting the no net loss provisions pursuant to subsection 1 and 2 above, an applicant is required to submit a site-specific analysis of potential impacts and a mitigation plan that includes compensatory mitigation measures when determined necessary as a result of the analysis. The site-specific analysis shall be prepared in accordance with Section 4.1.2.9, Submittal Requirements – Site-Specific Impact Analysis and Mitigation Plan.
4. To mitigate anticipated impacts and meet the no net loss standards in subsection 1 and 2 above, an applicant for a single family residential development or accessory structures may choose to use the Standard Residential Mitigation Manual in Appendix D in lieu of a site-specific impact analysis and mitigation plan. If an applicant uses the Single Family Residential Mitigation Manual, compensatory mitigation requirements provided in the manual shall be included in the project submittal.

4.1.2.5 Regulations – Mitigation

1. Mitigation Sequence: Mitigation shall include the following actions in order of priority (a-e), and (f) is required for all mitigation activities:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
2. When compensatory mitigation is necessary to offset impacts, mitigation measures in the immediate vicinity of the impact shall be the preferred mitigation option. Property owners may be required to perform the balance of compensatory mitigation off-site if the property cannot support required mitigation or when off-site mitigation can be demonstrated to the satisfaction of the Administrator to be more beneficial to shoreline ecological functions and processes. For example, off-site mitigation may be the better choice if large, cohesive areas are available off-site while only small fragmented areas are available on-site for mitigation.

3. Mitigation actions shall not have a significant adverse impact on other preferred shoreline uses promoted by the policies of the Shoreline Management Act.
4. When compensatory mitigation measures are required, all of the following shall apply:
 - a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources; and
 - b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time; and
 - c. Unless the Single-family Residential Mitigation Manual is being used for single-family residential development and accessory structures pursuant to Section 4.1.2.4(4), the mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan and other background studies prepared in support of this Program; and
 - d. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values, pursuant to Section 4.1.2.7, Surety Regulations.
5. To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, the City may give mitigation credit to any beneficial restoration action that occurred within 10 years of the proposed development/redevelopment activity provided that:
 - a. The applicant/property owner declares the intent of the restoration or enhancement project as mitigation credit at the time of the restoration permit application; and
 - b. The City can confirm via site inspection, photographs, or other evidence that the restoration actions have improved shoreline conditions.
6. Where feasible, replacement compensatory mitigation should be required prior to impact and, if applicable, prior to final inspection and approval of building occupancy; and to ensure no net loss, the mitigation shall replace the functions as quickly as possible following the impact.

4.1.2.6 Regulations – Surety

1. The applicant/property owner shall provide assurance to the satisfaction of the Administrator, that the restoration area (including off-site mitigation) will be maintained in perpetuity. The assurance can be in the form of notice on title, conservation easement, or similar mechanism as approved by the City Attorney.
2. Except for projects undertaken by public entities, performance and/or maintenance bonds or other security shall be required by the City to assure that work is completed, monitored, and maintained. The bond/surety shall be refunded to the depositor upon completion of the mitigation activity and any required monitoring.

4.1.2.7 Regulations – Monitoring and Maintenance

1. When mitigation is required, a periodic monitoring program shall be included as a component of the required mitigation plan. To ensure the success of the required mitigation, monitoring shall occur for a minimum duration of five years from the date of the completed development. The monitoring plan may also require that periodic maintenance measures be included as recommended by a qualified professional. The duration of monitoring may be extended if the project performance standards set forth in the approved mitigation plan fail to be accomplished, or, due to project complexity, the approved mitigation plan requires a longer period of monitoring.
2. Monitoring programs may be forwarded for review and comment to state and/or federal resource agencies and affected tribes with jurisdiction.
3. Monitoring programs shall meet the requirements established in Monitoring Requirements, Appendix B, B-6(C)(2)(e).
4. All new and replacement shoreline stabilization projects shall complete and submit a minimum five-year monitoring and maintenance program that addresses the shoreline stabilization mitigation measures, and shall at a minimum include:
 - a. An annual site visit by a qualified professional for each of the five (5) years to assess the effectiveness of the mitigation; and
 - b. A progress report submitted to the Administrator annually, which includes any monitoring or maintenance recommendations of the qualified professional.

4.1.3 Vegetation Management

4.1.3.1 Applicability

The Vegetation Management provisions apply to all shoreline development, and regulated uses and activities, including those that do not require a shoreline permit. Similar to other master program provisions, vegetation standards do not apply retroactively to existing uses and structures unless changes or alterations are proposed. Standards for vegetation management are established using current scientific and technical information pursuant to WAC 173-26-221(5)(b) and 173-26-201(2)(a), and are based on the use category, shoreline characterization and the designation.

4.1.3.2 Goal

Protect and restore shoreline vegetation to maintain and enhance ecological functions and processes, shoreline views and vistas, human safety, and personal property.

4.1.3.3 Policies

1. Maintain existing shoreline vegetation to protect ecological functions and/or processes from adverse impacts of uses, activities and developments within the shoreline jurisdiction.
2. Emphasize the use of native vegetation species to maintain the ecological functions and/or processes and mitigate the direct, indirect, and/or cumulative impacts of shoreline development, uses and activities.

3. Provide flexible dimensional standards for buffers and setbacks that are based on performance standards designed to protect ecological functions and ecosystem-wide processes, including considering alternatives to planting native vegetation species if it can be demonstrated that the equivalent ecological functions can be provided.
4. Use monitoring programs to ensure the protection of shoreline ecological functions and ecosystem-wide processes, particularly when non-native vegetation species are used as an alternative to native vegetation.
5. Encourage the restoration or enhancement of shoreline vegetation through incentive programs.
6. Establish buffers immediately upland of OHWM for each shoreline designation, recognizing the pattern of development, shoreline ecological functions and ecosystem-wide processes, and using current science and technical information, as described in WAC 173-26-201(2)(a). In establishing buffers, consideration should be given to the land use patterns to minimize the number of existing structures that would not conform to buffer dimensional standards.
7. At the time of a proposal, allow site-specific dimensional standards for vegetation management areas for shoreline development, use or activity. Dimensional standards must protect shoreline ecological functions and ecosystem-wide processes.
8. Implement a public education program emphasizing the importance of shoreline vegetation management.
9. Allow selective vegetation clearing for views for new development and to maintain views from existing residences when slope stability and ecological functions and ecosystem-wide processes are not compromised. Trimming and pruning are generally preferred over removal of native shoreline vegetation.
10. Develop specific regulations for Point Monroe, based on vegetation and management practices appropriate for dune communities, sand spits, barrier beaches, barrier estuaries or barrier lagoons.

4.1.3.4 Regulations – Establishment of Shoreline Buffer and Site Specific Shoreline Vegetation Area

1. Existing buffers and setbacks that have been established through previously approved subdivisions and indicated on the face of an approved plat shall be recognized and adhered to.
2. Two alternative methods may be used to meet the goals and policies of the Vegetation Management Section, as provided below, except the Point Monroe District shall meet the special provisions provided in subsection 2:
 - a. Alternative 1: A Shoreline Buffer shall be maintained immediately landward of the OHWM and managed according to provisions of this Program and shall meet the location and design standards of Section 4.1.3.8, Regulations – Shoreline Buffer – Location and Design Standard.
 - b. Alternative 2: As an alternative to the Shoreline Buffer dimensions provided in subsection a, above, an applicant may propose specific dimensional standards for a Site-

Specific Vegetation Management Area that meets the Vegetation Management goals, policies and applicable regulations as determined through a Habitat Management Plan prescribed in Appendix B, Section B-4, provided that the plan demonstrates the following:

- A. The proposed development is for a residential use.
 - B. The site-specific proposal assures there is no net loss of the property's specific shoreline ecological functions and associated ecosystem-wide processes pursuant to Section 4.1.2, Impact Analysis and No Net Loss; and
 - C. The site-specific proposal uses the scientific and technical information* compiled to support the Shoreline Buffer standards of Section 4.1.3.5(3)(b), and/or other appropriate technical information which, as determined by a qualified professional, demonstrates how the proposal protects ecological functions and processes and how it meets the goals and policies of this Section.
- ii. The Habitat Management Plan shall be reviewed by the Administrator in accordance with provisions in Appendix B. The Administrator may approve, approve with conditions, or deny the request. The Administrator shall have the Habitat Management Plan reviewed by an independent third party, the cost of which will be borne by the applicant.
 - iii. If the Site-specific Vegetation Management Area is approved, prior to permit issuance, the applicant shall record with the County Auditor a notice on title, or other similar document subject to the approval of the Administrator.

*Footnote: Scientific and technical information supporting the Shoreline Buffer standards is provided in the following documents available at the City of Bainbridge Island's Department of Planning and Community Development: *Documentation of Marine Shoreline Buffer Recommendation Discussions*, Memorandum, 2011, Herrera Environmental; *Addendum to Summary of Science*, 2011, Herrera Environmental; *Bainbridge Island Current and Historic Coastal Geomorphic/Feeder Bluff Mapping*, 2010, Coastal Geologic Services, Inc.; *Best Available Science*, 2003, Battelle; *Bainbridge Island Nearshore Habitat Characterization and Assessment*, 2004 Battelle.

3. **Special Provisions for Point Monroe District.** Shoreline Buffers or Site-specific Vegetation management Areas are not required for properties located in the Point Monroe District; the following specific vegetation provisions shall apply:
- a. All properties in the Point Monroe District shall retain existing native vegetation and shall be subject to a Point Monroe vegetation management area (PVMA).
 - b. The PVMA shall include areas that are:
 - i. Within thirty (30) feet of the OHWM and within the required side yard and the salt marsh fringe; and

- ii. Outside any designated development area as approved pursuant to Section 5.9.6(2).
- c. The PVMA shall be managed and maintained in vegetation communities appropriate to dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh.
- d. Developed properties shall retain existing native vegetation (including dune grass and salt marsh plant communities) in those areas that are not developed with legally established impervious surfaces.
- e. Any new development or alterations and expansion of existing development shall assess impacts to existing vegetation and meet the no net loss standard pursuant to Section 4.1.2, Environmental Impacts.

4.1.3.5 Regulations – Shoreline Buffer – Location and Design Standard

1. The total depth of the Shoreline Buffer is based on the shoreline designation and the physical and most predominant geomorphic characteristics of the property. The depth of the Shoreline Buffer will be determined by the Administrator according to criteria below.
 - a. Property-specific physical and geomorphic characteristics of the particular lot will determine the maximum width (Category A) or minimum width (Category B) of the Shoreline Buffer, as follows:
 - i. Shoreline Buffer Category A: The property contains or abuts a spit/barrier/backshore, or marsh, or lagoon; or
 The property contains or abuts a low bank and the existing native tree and shrub vegetation cover is at least 65% of the area of Shoreline Buffer Zone 1.
 - ii. Shoreline Buffer Category B: The property is shallow (200 feet in depth or less, as measured landward), or located on a high bluff, or does not meet any of the characteristics of Category A.
 - b. Shoreline Buffer standard depth in Table 4-3
 - c. As determined by the Administrator, buffers do not extend beyond an existing public paved street or an area which is determined by the Administrator to be functionally isolated from the shoreline or critical area. In these limited instances the no net loss of shoreline ecological function and processes still apply to properties within the shoreline jurisdiction.
2. The total area of the Shoreline Buffer shall be the equivalent of the length of the property along the shoreline, multiplied by the required buffer depth as prescribed for the specific shoreline designation in which the property is located. See Figure 4-1.
3. The Shoreline Buffer consists of two zones. The depth of each of the two zones within the Shoreline Buffer is determined as follows:
 - a. Zone 1 shall extend from the ordinary high water mark (OHWM) a minimum of 30 feet, or to the limit of existing native vegetation whichever is greater. The native vegetation limit is determined through a site-specific analysis of existing

conditions, and in no case shall Zone 1 be greater than the depth of the Shoreline Buffer.

- b. Zone 2 shall be established immediately landward of the Zone 1 and extend no further than the depth of the Shoreline Buffer.

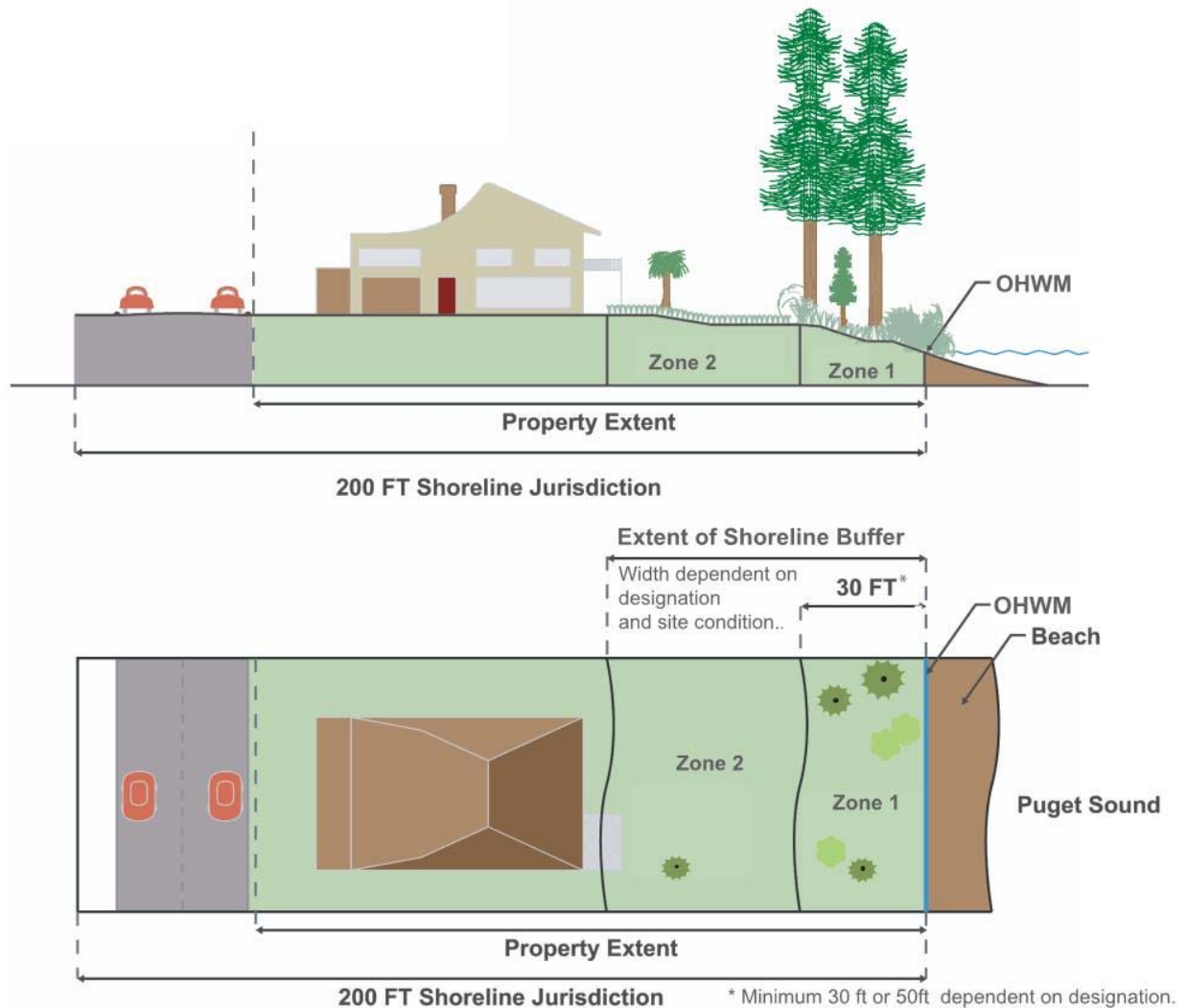


Figure 4-1 Dual Shoreline Buffer

4.1.3.6 Regulations – Shoreline Buffer Reductions

1. When the prescriptive buffer depth provided in Table 4-3 is reduced or dimensions altered through provisions of this Program, the applicant shall record a notice on title, or other similar document with the County Auditor prior to permit issuance, subject to the approval of the Administrator.

2. Any shoreline buffer reduction must be approved by the Administrator prior to any development, use or activity and must demonstrate compliance with the no net loss standard pursuant to Section 4.1.2.4 either through a site-specific impact analysis or use of the Single Family Residence Shoreline Mitigation Manual.
3. The total area of Zone 2 of the Shoreline Buffer may be reduced to accommodate shoreline views in accordance with Section 4.1.3.14 for a new single family primary residential structure or addition to a primary residential structure provided that:
 - a. There is an existing primary structure located within 100 feet of the property line of the subject property;
 - b. Where there is no existing primary structure, up to one-third (1/3) of the area of Zone 2 may be comprised of an approved primary structure. The remaining two-thirds (2/3) of Zone 2 must be established and/or maintained in native vegetation;
 - c. If less than one-third (1/3) of the area of Zone 2 is reduced to accommodate views, the Administrator may reduce the required area of native vegetation to less than two-thirds (2/3);
 - d. Significant trees shall not removed to allow for the buffer reduction.
4. If the prescriptive buffer depth for a single-family residential property pursuant to Table 4-3 is reduced in accordance with this section or a shoreline variance, the following shall occur in Zone 1:
 - a. Retain existing native vegetation; and
 - b. Plant the entire area with native vegetation. Obtain 65% vegetation canopy coverage within 10 years.
5. Zone 1 and Zone 2 of the Shoreline Buffer may be reduced in overall size to allow for the minor development permitted in Section 4.1.3.10 through Section 4.1.3.13.
6. The area of Zone 2 shall not be reduced over one-third (1/3) of its total area without a shoreline variance.

4.1.3.7 Regulations – General Standards

1. Development within the shoreline jurisdiction shall be located and designed to protect existing native vegetation from disturbance and mitigate impacts to existing vegetation to the fullest extent possible.
2. Vegetation alteration or removal is not allowed within the shoreline jurisdiction without prior review and approval by the Administrator, unless allowed under Section 4.1.3.4.
3. Vegetation replanting is required for all development, uses or activities within the 200-foot shoreline jurisdiction, whether a permit is required or not, that either:
 - a. Alters existing native vegetation; or
 - b. Alters any vegetation in a required Shoreline Buffer or Site-Specific Vegetation Management Area.

6. Significant tree removal shall only be permitted to allow for locating a single-family residence and normal appurtenances. The Administrator may require alterations of a site plan in order to retain significant trees. This may include adjustments to the location of building footprints, the location of driveways and access ways, or the location of walkways, easements or utilities.
7. The Shoreline Buffer or Site-specific Vegetation Management Area shall be maintained in a predominantly natural, undisturbed and vegetated condition. Unless specifically allowed by this program, the following standards shall apply:
 - a. All existing native groundcover, shrubs and significant trees located within the Shoreline Buffer or Site-specific Vegetation Management Area shall be retained;
 - b. All activities shall be performed in compliance with the applicable standards contained in the Vegetation Management Section, unless the applicant demonstrates that alternate measures or procedures are equal or superior in accomplishing the purpose and intent of the Vegetation Management Section, including no net loss of ecological functions and ecosystem-wide processes.
 - c. The use of pesticides are prohibited unless specifically allowed in Section 4.1.6, Water Quality and Stormwater Management.
8. New vegetation planted in the Shoreline Buffer or Site-specific Vegetation Management Area, unless otherwise provided for in zone-specific requirements Section 4.1.3.6 (6), shall be:
 - a. Native species using a native plant-community approach of multi-storied, diverse plant species that are native to the Central Puget Lowland marine riparian zone.
 - b. Other plant species may be approved that are similar to the associated native species in diversity, type, density, wildlife habitat value, water quality characteristics, and slope stabilizing qualities, excluding noxious/invasive species provided that, as submitted by a qualified professional, it is demonstrated to the satisfaction of the Administrator that the selected ornamental plants can serve the same ecological function as native plant species.

4.1.2.8 Regulations – Vegetation Management

1. The following activities do not require city review or pre-approval.
 - a. Normal and routine yard and garden activities including, but not limited to, cutting and mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden plants and crops, incidental vegetable gardening, pruning and planting of noninvasive ornamental vegetation, intended to maintain the general condition and extent of such areas; provided, that such activities are limited to legally existing yard and garden areas, do not further expand into shoreline buffers, do not include earthwork greater than fifty cubic yards, and do not diminish water quality or quantity. Normal and routine activities cannot result in a change to the location, size at the ground level or configuration of existing yard

- and garden areas. Normal and routine activities do not include tree and vegetation activities pursuant to BIMC 16.20.090.B that require a clearing permit and city pre-approval.
- b. Tree and vegetation activities not requiring review or approval pursuant to BIMC 16.20.090.A.
 - c. Class I, II III and non-conversion Class IV forest practices regulated pursuant to Chapter 76.09 RCW. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use.
2. The following activities may be allowed with an approved clearing permit.
- a. Tree and vegetation activities requiring review and pre-approval pursuant to BIMC 16.20.090.B in accordance with the submittal requirements and review procedures in BIMC 16.20.090.F.
 - b. Non-native vegetation alteration or removal outside the shoreline buffer or site-specific vegetation management area pursuant to applicable standards in BIMC 16.18, provided no significant tree are removed and any area of bare ground is planted with native species within the first appropriate growing season or otherwise protected by acceptable temporary erosion and sedimentation control strategies.
 - c. Underground utilities and potable water wells may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Area, provided that disturbance is minimized and the disturbed area is revegetated after installation.
 - d. Vegetation Removal Related to Public Facility Maintenance. Tree or vegetation removal within the Shoreline Buffer or Site-specific Vegetation Management Area that is associated with maintenance of existing public facilities (including: roads, paths, bicycle ways, trails, bridges, sewer infrastructure facilities, storm drainage facilities, fire hydrants, water meters, pumping stations, street furniture, potable water facilities, and other similar public infrastructure), may be approved by the Administrator if no significant trees are removed and the maintenance meets the goals and policies of Section 4.1.3, Vegetation Management.
 - e. Removal of vegetative obstructions required for sight distance and visual clearance at street intersections provided in the Public Works Design and Construction Standards and Specifications.
3. View Maintenance – Single-family Residential Only.
- Shoreline residential use and development shall use all feasible techniques to maximize retention of existing native shoreline vegetation within the Shoreline Buffer and the Site-specific Vegetation Management Area.
- a. Limited removal of existing trees or vegetation located on the same property as a single-family residence may be allowed for maintenance of a pre-existing view from the primary structure, or to establish a view for a new primary structure provided the following are met:

- i. The applicant demonstrates to the satisfaction of the Administrator that the vegetation removal is the minimum necessary to re-establish or establish a view of the water similar to that enjoyed by other residences in the area and that pruning methods are not sufficient to provide an adequate view of the water similar to that enjoyed by other residences in the area; and
- ii. Existing significant native trees are not removed within the Shoreline Jurisdiction, unless exempt; and
- iii. In no instance, including accounting for other approved alterations as provided in Section 4.1.3, shall vegetation removal exceed twenty (20) percent of the required Shoreline Buffer area or Site-specific Vegetation Management Area or reduce the vegetation canopy coverage to less than 65% in the Shoreline Buffer or Vegetation Management Area.
 - A. Vegetation removal occurring adjacent to the shoreline shall also be limited to fifteen (15) linear feet of the water frontage; and
- iv. The applicant shall obtain an approved Bluff Management Plan pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area. The cost and preparation of the plan is the responsibility of the applicant; and
- v. All vegetation removal complies with other applicable requirements of this Program (such as clearing and grading, forest practices, and protection standards for fish and wildlife habitat), including the no net loss and/or revegetation standards in Section 4.1.2.
- b. The Administrator may deny a request or condition approval for vegetation alteration proposals for view maintenance if it is determined that the action will result in an adverse effect to any of the following:
 - i. Slope stability;
 - ii. Habitat value;
 - iii. Health of surrounding vegetation;
 - iv. Risk of wind damage to surrounding vegetation;
 - v. Nearby surface or ground water; or
 - vi. Water quality of a nearby water body.

4.1.2.8 Regulations – Revegetation Standards

1. For revegetation in the Shoreline Buffer or Site-specific Vegetation Management Areas, all new plantings shall meet the provisions in Section 4.1.3.5(5), except for the Point Monroe District which shall meet special provisions in subsection 6.
2. Vegetation replanting is required for invasive species removal in accordance with Section 4.1.3.4.3.a.
3. When vegetation replanting is required, the following information shall be submitted for approval prior to vegetation disturbance as part of a project proposal or clearing permit:

- a. Residential, Industrial and Commercial Development.
 - i. Vegetation disturbance of 200 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
 - ii. Vegetation disturbance greater than 200 square feet requires a planting plan completed by a qualified professional. Alternatively, the applicant may use the Single Family Residence Shoreline Mitigation Manual.
 - b. Public Park and City Maintained Areas.
 - i. Vegetation disturbance of 2,500 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
 - ii. Vegetation disturbance greater than 2,500 square feet requires a planting plan completed by a qualified professional.
4. When revegetation is required for new upland development, uses, or activities the mitigation plan shall include new plantings that are protective of views from the primary structure of the subject property and in proportion to the identified impact.
5. Revegetation shall be located in the following sequence, except for the Point Monroe District which shall meet special provisions in subsection 6,
 - a. Within Zone 1, plant vegetation to obtain a minimum of 65% native vegetation canopy coverage;
 - b. In Zone 2, plant to increase canopy coverage, in a manner that promotes contiguous native vegetation or in areas nearest the shoreline;
 - c. In the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor that connects to the shoreline;
 - d. Outside of the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor to the shoreline;
 - e. Outside of the Shoreline Buffer; or
 - f. At an off-site location approved by the Administrator.
6. When revegetation is required for shoreline stabilization projects due to site disturbance, the required planting plan shall also include the following, unless an alternative planting plan is approved by the Administrator:
 - a. Replant 75% of the shoreline area located along the upland edge of the shoreline stabilization structure to a minimum depth of ten (10) feet, unless demonstrated to be infeasible to the Administrator;
 - i. The depth may be reduced to five (5) feet to allow for landscape design variation, provided that the total square footage of the area planted equals the required 75% of the shoreline;
 - b. Planting plans shall meet provisions in Section 4.1.3.5(5), and shade bearing plants shall be provided at suitable-fish spawning sites; and

- c. Include plantings equivalent to one tree per ever 20 linear feet of shoreline and one shrub per ever five linear feet, which may be planted with due consideration of views from the primary structure of the subject property.
- 7. Special Mitigation Provisions for Point Monroe District. When revegetation is required for new development, uses, or activities in the Point Monroe District, the mitigation plan shall include new vegetation communities appropriate for dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh that shall be installed within the spit-specific vegetation management area (SVMA) as defined in Section 4.1.3.5(9), thirty (30) foot setback between the OHWM and the primary structure, or where area is available on the site.

4.1.3.9 Vegetation Alterations Standards – Residential Development

The following activities associated with residential development may be allowed within a Shoreline Buffer or Site-specific Vegetation Management Area only with an approved shoreline exemption, if required, or an approved clearing permit.

- 1. One (1) hand installed pervious trail to the shoreline not more than four (4) feet in width, which may include hand installed steps, provided:
 - a. No significant trees shall be removed;
 - b. The trail may be wider when required for handicapped or public access; and
 - c. Vegetation removal or pruning is limited to two (2) feet on either side of the trail.
- 2. Non-habitable structures appurtenant to a single-family use, such as a boat house, deck/patio and/or stairway may be allowed consistent with the following standards, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic – Category A designation.
 - a. For Site-specific Vegetation Management Areas, the total square footage of all buildings or structures must not exceed 300 square feet in area.
 - b. For Shoreline Buffer areas, the total square footage of all buildings or structures must not exceed 400 square feet or 10% of the Shoreline Buffer area, whichever is less.
 - c. For Shoreline Buffer areas, only 10% of the total allowed square footage or 300 square feet, whichever is less, can be located in Zone 1, except when upland of Priority Aquatic B, the total allowable square footage is 5% of Zone 1 or 150 square feet, whichever is less.
 - d. All structures must be designed to not significantly impact views from adjoining property primary buildings.
 - e. All structures must meet the following standards:
 - i. Only water-related structures are allowed within 30 feet of the OHWM or in Zone 1.
 - ii. Shall not exceed 12 feet in height above existing grade.

- iii. Decks and/or patios shall be permeable and shall not exceed 30 inches in height above existing grade.
- 3. Stairways to the shoreline shall not exceed 300 square feet for private use, the minimum necessary for public use and are not included in the total square footage allocations prescribed in subsections 4.1.3.8(3) of this Program.
 - a. Larger stairways serving a single-family residence may only be allowed through approval of a shoreline variance. As an alternative to a stairway larger than 300 square feet and to reduce environmental impacts, a tram may be allowed without a variance.
 - b. Stairway design shall meet minimum criteria in the International Building Code.
 - c. Stairways shall not end waterward of the ordinary high water mark (OWHM) unless allowed pursuant to Section 6.3, Overwater Structures.
 - d. Landings are required, unless demonstrated not to be necessary, and shall be determined by:
 - A. Existing site topography;
 - B. Personal safety; and
 - C. Slope stability.

4.1.5 Critical Areas

4.1.5.1 Applicability

This section provides policies and regulations that apply to critical areas including critical saltwater and freshwater habitats as defined by WAC 173-26-221(2)(c)(iii) and (iv), including those portions of streams and wetlands, and flood plains or other flood prone areas within the shoreline jurisdiction. These policies and regulations apply in addition to the critical areas protection standards for fish and wildlife habitat conservation areas found in Appendix B. All shoreline uses and activities, including development which does not require a shoreline permit, must conform to these provisions. Shoreline development and activities associated with critical areas will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.1.5.2 Goal

Comprehensively manage shoreline uses and activities to protect, enhance, and restore existing ecological functions and ecosystem-wide processes of critical areas by utilizing the most current, accurate, and complete scientific and technical information.

4.1.5.3 Policies

1. Protect shoreline resource areas, including but not limited to critical areas, including:
 - a. Critical Aquifer Recharge Areas
 - b. Fish and Wildlife Habitat Conservation Areas
 - c. Frequently Flooded Areas
 - d. Geologically Hazardous Areas
 - e. Wetlands
 - f. Critical Saltwater and Freshwater Habitat Areas
 - g. Critical Habitat
2. Encourage development proposals to include elements of preservation, conservation, restoration, or enhancement of critical areas, including saltwater habitat and fish and wildlife conservation areas, through incentives and ecosystem-wide restoration planning.

3. Locate, design, construction, and manage all shoreline uses and activities in ways that assure no net loss of shoreline ecological functions and ecosystem-wide processes, and protect critical saltwater habitat, including fish and wildlife habitat conservation areas.
4. Locate and design shoreline uses, activities, and/or development to avoid risks to people and property. See also Section 3.0, Shoreline Designation Policies and Regulations, for additional provisions.
5. Ensure that proposed shoreline uses, activities and/or development proposed adjacent to critical areas or their buffers, will not adversely impact shoreline ecological functions and/or ecosystem-wide process or critical areas, fish and wildlife habitat conservation areas and critical saltwater habitat.
6. Promote and manage shoreline uses and activities, such as public access and recreation that are compatible with critical areas, provided they do not adversely impact ecological function.
7. Monitor critical areas, including critical saltwater habitats, and fish and wildlife habitat conservation areas, to assure that these areas are not being adversely impacted by approved development or restoration projects.

4.1.5.4 Regulations – General

1. Development, uses, and activities proposed within shorelines of the state shall meet the requirements of the City’s shoreline-specific Critical Areas Regulations as contained in Appendix B, in addition to the requirements found elsewhere in the Master Program.
2. Development, uses, and activities adjacent to critical areas, including critical saltwater habitats ~~and fish and wildlife habitat conservation areas~~, proposed within shorelines of the state shall be monitored to assure that these areas are not being adversely impacted by approved development or restoration projects, consistent with Section 4.1.2 monitoring and mitigation requirements and the monitoring and mitigation requirements in Appendix B.
- ~~3. Special Reports. For development proposed on property with marine bluffs, steep slopes, erosion hazard areas and/or landslide hazard areas, a geotechnical report shall be required to assess potential hazards and propose measures to mitigate such hazards consistent with the requirements of this Master Program and attached appendices.~~

4.1.5.5 Regulations – ~~Fish and Wildlife Habitat Conservation Areas and~~ Critical Saltwater Habitat

1. Water-dependent development and uses, including marinas, docks, piers, mooring areas, underwater parks, utility crossings, and shoreline modifications, shall not intrude into or be built over critical saltwater habitat unless:
 - a. The applicant can show that all of the following criteria can be met:
 - i. The use preferences of Section 4.1.1 shall be utilized for uses in Shorelines of State-wide Significance; and
 - ii. The need for such a structure is clearly demonstrated and an alternative alignment or location on the property that would avoid impacts to critical saltwater habitats is not feasible or would result in unreasonable and disproportionate cost to accomplish

- the same general purpose, as demonstrated through an alternatives analysis. The analysis should include in part, shoreline bathymetry, shoreline features at the site, and substrate composition;
- iii. It can be demonstrated that the project is consistent with the state's interest in resource protection and species recovery; and
 - iv. Impacts to critical saltwater habitat functions and processes are mitigated to result in equal or better ecological function; or
- b. The proposal is for private, non-commercial, residential docks for single use, community, or joint-use, which may be authorized, provided that:
 - i. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible; and
 - ii. The project, including any required mitigation, will result in no net loss of ecological functions and processes associated with critical saltwater habitat.
 - c. New or expanded overwater structures shall be located the greater or most protective of:
 - i. A horizontal distance of 25 feet from the outside edge of the structure to native aquatic vegetation attached to or rooted in substrate;
 - ii. A horizontal distance equal to the maximum distance shade will be cast by the structure and vessel;
 - iii. A 4-foot vertical distance from eelgrass or relevant submerged aquatic vegetation;
 - iv. A distance the diameter of the turning circle, if the structure is to be utilized for motorized vessels. The turning circle is defined as 3.5 times the length of the longest vessel to use the structure.
 - v. Alternative measures that demonstrate no net loss of ecological functions.
 - d. For projects within WDFW documented Pacific herring spawning locations, in-water activities that would affect herring spawn should be restricted to WDFW's approved work window for Bainbridge Island (May 1 through January 14). For aquaculture projects, the City may consider alternative methods that are contained in federal and/or state aquaculture permits for reducing impacts to herring spawning habitat and other forage fish spawning habitat.
 - e. For projects other than commercial aquaculture within WDFW documented sand lance and surf smelt spawning locations, no activities should occur during spawning windows as identified by WDFW. For commercial aquaculture projects within WDFW documented sand lance and surf smelt spawning locations, no harvesting may occur during the surf smelt or sand lance spawning seasons until a spawning survey is conducted. If surf smelt or sand lance spawn are present in the growing area to be harvested or adjacent tidelands, then no harvest activities may occur until the eggs are hatched. Extreme caution should be taken to avoid impact and minimize disturbance of sand lance and surf smelt larvae that are present.
2. Aquatic herbicide treatments, mechanical removal of vegetation or aquatic pesticide treatments shall not be used on critical saltwater habitats, except for approved habitat restoration or enhancement measures that meet the provisions of Section 4.1.6, Water Quality and Stormwater Management.

3. Sand, gravel or other materials shall not be added or removed from critical saltwater habitat, unless approved as part of a restoration effort or beach nourishment program or as allowed in 1, above.
4. New outfalls (including stormwater and sewer outfalls) and discharge pipes shall not be located in critical saltwater habitats or areas where outfall or discharge will adversely affect critical saltwater habitat, unless the applicant can show that all of the following can be met:
 - a. There is no feasible alternative location for the outfall or pipe; and
 - b. The outfall or pipe is placed below the surface of the beach or bed of the water body; and
 - c. The discharge point(s) on the outfall or discharge pipe is located so the discharges, including nutrients and flow, do not adversely affect critical saltwater habitats; and
 - d. For public sewage outfalls:
 - i. The outfall discharges waterward of the intertidal zone.
 - ii. The disturbed area will be revegetated with native vegetation.
5. The use of existing outfalls shall be maximized to limit the need for additional outfalls, provided the existing outfall meets the standards of this section, or unless an alternatives analysis demonstrates the dispersal is less impacting to the shoreline environment.
6. For activities adjacent to fish and wildlife habitat conservation areas the maximum prescribed buffer shall apply. These buffers can be modified on a case-by-case basis through a habitat management plan, pursuant to Section B-4 contained in Appendix B. In order to determine the need or extent of a buffer, a critical area report shall be required for all development in or adjacent to a habitat conservation area.
 - a. In addition to the requirements in Appendix B, the Habitat Management Plan shall:
 - i. Describe actions that will be implemented to ensure that buffer areas provide ecological functions and processes equivalent to a dense native plant-community to the extent possible given the area that is feasibly available; and
 - ii. Demonstrate that no net loss of ecological functions and processes in critical saltwater habitat and other critical areas will occur, as specified in WAC 173-26-201(3)(d) and WAC 173-26-221(2)(c)(iii).
7. Until an inventory of critical saltwater habitat is completed, all over water and near-shore development shall conduct an inventory of site and adjacent beach sections to assess the presence of critical saltwater habitat and/or functions and processes. The inventory shall occur prior to construction and the methods and extent of the inventory shall be consistent with accepted research methodology. New studies shall be required only when existing information is out dated or does not exist.

~~4.1.5.6 Regulations – Frequently Flooded Areas~~

- ~~1. All new development and new uses within the jurisdiction of this Master Program shall comply with the provisions of Section B-11, Frequently Flooded Areas located in Appendix B of this Master Program.~~

~~4.1.5.7 Regulations—Geologically Hazardous Areas~~

- ~~1. All new development and new uses within the jurisdiction of this Master Program shall comply with regulations for Geologically Hazardous Areas as set forth in the shoreline-specific Critical Areas Regulations contained in Section B-9 of Appendix B of this Master Program.~~
- ~~2. Additional standards for marine bluffs (i.e., slopes greater than 40 percent that exceed a vertical height of 10 feet within the marine shorelines jurisdiction) are provided in section 4.1.5.8, Special Reports and Determination of Buffers, and 4.1.5.9, Regulations—Bluff Drainage, below.~~

~~4.1.5.8 Special Reports and Determination of Buffers~~

- ~~1. Applicants proposing development adjacent to a marine bluff shall submit a geotechnical engineering report prepared in accordance with the requirements of this Master Program and the shoreline-specific Critical Areas regulations contained in Appendix B. In terms of this regulation, “adjacent” means development proposed either within 50 feet from the crest of a marine bluff or within a distance equal to the height of the slope from the crest (measured from the top), whichever is greater.~~
- ~~2. The geotechnical engineering report shall be prepared by a Washington State licensed professional civil engineer with a specialty in geotechnical engineering or an engineering geologist with a Washington State specialty license in engineering geology as specified in RCW 18.220, Geologists. The report shall be based upon the most appropriate and current science, existing and proposed uses, risks of slope failure, and coastal erosion rates over at least 100 years, if applicable.~~
- ~~3. All proposed development on the face of a marine bluff or in the required buffer area shall be prohibited, except:~~
 - ~~a. Development may be allowed as specified in Appendix B; Subsection B-9(E)(3)(a)(i)(F) of this Master Program;~~
 - ~~b. Minor development for public access (e.g., public trails, stairs, or view points) may be allowed, provided that environmental impacts are mitigated and the development can meet the factor of safety in Appendix B; subsection B-9(E)(1); and~~
 - ~~c. Minor development permitted in the Shoreline Buffer and Site-specific Vegetation Management Area pursuant to Sections 4.1.3.8 through 4.1.3.11 such as boathouses, decks, stairs, ramps, piers, and docks except at the toe of unstabilized feeder bluffs and the development can meet the factor of safety in Appendix B; subsection B-9(E)(1).~~
- ~~4. All alterations to the vegetation within a geological hazardous area shall provide a Bluff Management Plan developed by qualified professional(s) to address vegetation management for slope stability and ecological functions and processes for a ten year period. The plan at a minimum shall include:~~
 - ~~a. A geotechnical analysis of slope stability as defined in B-9, Geologically Hazardous Areas of Appendix B.~~

- b. ~~A site plan showing existing vegetation location and species.~~
- e. ~~An analysis of identified vegetation appropriate for removal or alteration.~~
- d. ~~An analysis of vegetation management strategies for slope stability.~~
- e. ~~A mitigation plan developed according to Section 4.1.2, Environmental Impacts and Section 4.1.3, Vegetation Management.~~
- f. ~~The Administrator may include additional conditions for a site-specific analysis and require a third-party review by a qualified professional at the cost of the applicant.~~

4.1.5.9 — Regulations — Bluff Drainage

- 1. ~~Surface drainage shall be directed away from marine bluffs. When no other solution is feasible, surface drainage piping may be located on the face of a steep slope when contained in a tight line (closed, non-leaking pipe) and in such a way that erosion will not be increase at the base of the bluff and provided that physical access along the shoreline is not degraded. Furthermore, conditions may be applied to mitigate the aesthetic impacts of the proposed drainage systems as viewed from public areas.~~

4.1.5.10 — Regulations — Wetlands

- 1. ~~All development, development proposals and alterations that are located within or adjacent to shoreline jurisdictional wetlands or their buffers, or that are likely to significantly impact shoreline jurisdictional wetlands shall prepare a wetland analysis pursuant to Subsection B-4.7 10 of Appendix B, of this Master Program. The wetland analysis shall include the wetland rating (using the Washington State Wetland Rating System for Western Washington (2006) or as revised by Ecology), a functional assessment of potential buffers (based on Ecology's best available science for wetlands), and noting of any water features and other critical areas and their related buffers in the proximity of the proposed development.~~
- 2. ~~Wetlands will be delineated using the Regional Supplement to the Army Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region or the current Washington State Department of Ecology methodology. The wetland buffer for shoreline wetlands shall be established pursuant to the provisions of Subsection B-10 in Appendix B of this Master Program.~~
- 3. ~~Alteration of wetlands and their buffers is prohibited, unless:~~
 - a. ~~Such a prohibition is deemed a violation of constitutional or statutory limitations on regulations of private property; or~~
 - b. ~~The proponent can conclusively demonstrate to the satisfaction of the Administrator that the impacts are unavoidable.~~
- 4. ~~In either case of subsection 3.a or 3.b, above, the proponent shall provide mitigation to achieve no net loss of wetland functions and values, according to an approved mitigation plan prepared consistent with this Master Program, including Section B-4 and B-6 of Appendix B, shoreline-specific Critical Areas Regulations.~~

