

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
PUBLIC COMMENT – Accept public comment on off agenda items
BLAKELY ELEMENTARY SCHOOL – Review and Recommendation
SHORELINE MASTER PROGRAM GENERAL AMENDMENT – Study Session
NEW/OLD BUSINESS
ADJOURN

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

Chair J. Mack Pearl called the meeting to order at 6:04 PM. Commissioners in attendance were Jon Quitslund, William Chester, Michael Killion and Kimberly McCormick Osmond. Lisa Macchio and Don Doman were absent and excused. City Staff present were Planning Director Gary Christensen, Planning Manager Heather Wright, Senior City Planner Christy Carr, Development Engineer Peter Corelis and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

The agenda was reviewed. There were not any conflicts disclosed.

PUBLIC COMMENT – Accept public comment on off agenda items

None.

BLAKELY ELEMENTARY SCHOOL – Review and Recommendation

Planning Manager Heather Wright stated the Bainbridge Island School District architect would be making an opening presentation (see attached). Seamus Kelly offered a quick overview of the project and Richard Franko described the general school design. Stormwater dispersion and wetland impact mitigation were discussed. Mr. Kelly listed the changes the Bainbridge Island School District wanted the Staff Report conditions to reflect. The Commissioners expressed concern over approving the site plan without having an approved Habitat Management Plan (HMP). The School District agreed to finalize their HMP and bring it before the Planning Commission at their next meeting on October 26, 2017.

SHORELINE MASTER PROGRAM GENERAL AMENDMENT – Study Session

Senior City Planner Christy Carr gave a general overview of information she provided to the Commissioners at the meeting (see attached) and spoke about the timeline of this work in conjunction with the Critical Areas Ordinance progress through City Council review.

NEW/OLD BUSINESS

None.

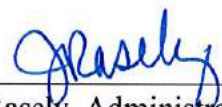
ADJOURN

The meeting was adjourned at 9:03 PM.

Approved by:



J. Mack Pearl, Chair



Jane Rasely, Administrative Specialist



Planning Commission Special Meeting

October 18, 2017 6:00 – 9:00 PM

PLEASE PRINT

[illegible]



Bainbridge Island SD #303
Facilities/Capital Projects Office

Memo

To: Peter Corelis, P.E. Development Engineer
From: Tamela Van Winkle, Executive Director
Facilities, Operations & Capital Projects
Date: 10/18/17
Re: Response to Staff Report 10.13.17

We respectfully submit the attached responses to the City of Bainbridge Island's (CoBI) Staff Report, dated October 13, 2017. Key items addressed are the CoBI's assumptions regarding Blakely's current and future capacity.

For additional clarification, school capacity fluctuates depending on enrollment from year to year and program support requirements. At the time Blakely was constructed, school programs and capacity were far less complicated. Capacity was calculated simply by number of classrooms (17) times the number of students in the classroom (example 27:1) = 459. Over the years, program support requirements (special education, resource, differentiation, etc.) has placed demands on square footage. To maintain capacity, portables were added as support to classrooms. Capacity, including portables, has been reported in the district's Six-Year Facilities Capital Plan as 448.

- With the recent passage of House Bill 2242, class sizes are funded at 17:1 (student: teacher), funding allows for "additional support". The district is using a 20:1 student: teacher ratio to calculate capacity, which will reduce student occupancy numbers rather than increase them. The new Blakely School capacity will be 403 (19 classrooms times 20 students per classroom (20:1) plus 15 (pre-k) & ILC (8).
- We believe this reduction in student numbers will create a reduction in traffic impacts, especially where they occur at Blakely Avenue NE and NE Baker Hill Road.

Please refer the attached reports for supporting documentation regarding capacity and class size reduction.

1. House Bill 2242 pages 45-46
2. Washington Association of School Administrators (WASA) Special Focus: HB2242, page 20
3. Six-Year Facility Capital Plan BISD Program Space and Use



Blakely Elementary School

Planning Commission Meeting
October 18, 2017

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 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.**

Agenda—

- Site Orientation and Constraints
- Building Blocks
- Site / Building Design
- Bainbridge Island Municiple Code Compliance
 - Design Review Board
 - Historical Preservation Board
 - Stormwater
 - Wetland
 - Trees
 - Parking

Project Goals—

**FOSTER NEXT GENERATION LEARNING,
STRENGTHEN COMMUNITY,
ENHANCE CONNECTIVITY,
SAFETY AND FLOW,
CREATE A HEALTHY ENVIRONMENT FOR LEARNING.**

FOSTER NEXT GENERATION LEARNING

- Respect, honor, and extend traditional and innovative learning opportunities - exploration driven by curiosity, discovery inspired by play, and creativity and productivity enhanced by technology
- Support the quest for knowledge and discovery
- Celebrate and express the learning process through the built environment
- Emphasize the importance of play
- Inspire engagement in academic excellence

STRENGTHEN COMMUNITY

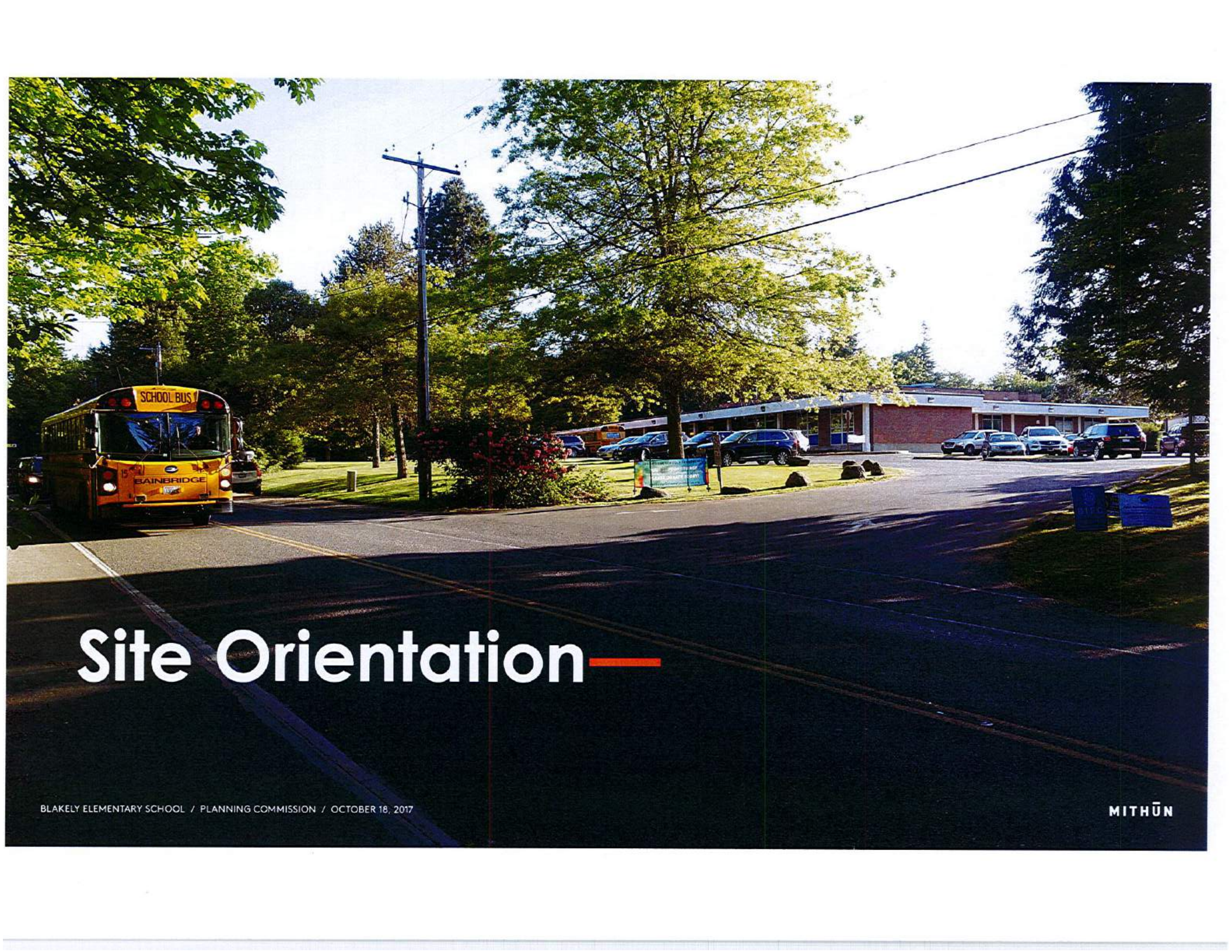
- Celebrate and strengthen the Blakely School culture + larger Bainbridge Island community
- Create flexibility and adaptability to support evolving pedagogical + program needs
- Accommodate expansion + convey wholeness regardless of enrollment
- Invite community partnerships
- Provide a welcoming place for parents and community users

ENHANCE CONNECTIVITY, SAFETY AND FLOW

- Allow access to the surrounding natural environment and nature-based play
- Create a safe place for all types of learners, educators and staff
- Configure effective pathways for students, parents and service to optimize efficiency and safety
- Employ balanced visual transparency to promote interconnection and safety
- Optimize layered functionality and accommodation of large and small group activities
- Design a facility to capture time and allow for educational innovation

CREATE A HEALTHY ENVIRONMENT FOR LEARNING

- Invite natural light into places of learning
- Integrate sustainability with the learning process
- Promote wellness and enhance learning through healthy materials and building systems
- Prioritize acoustic comfort and performance
- Design for lifetime maintenance commensurate with district resources

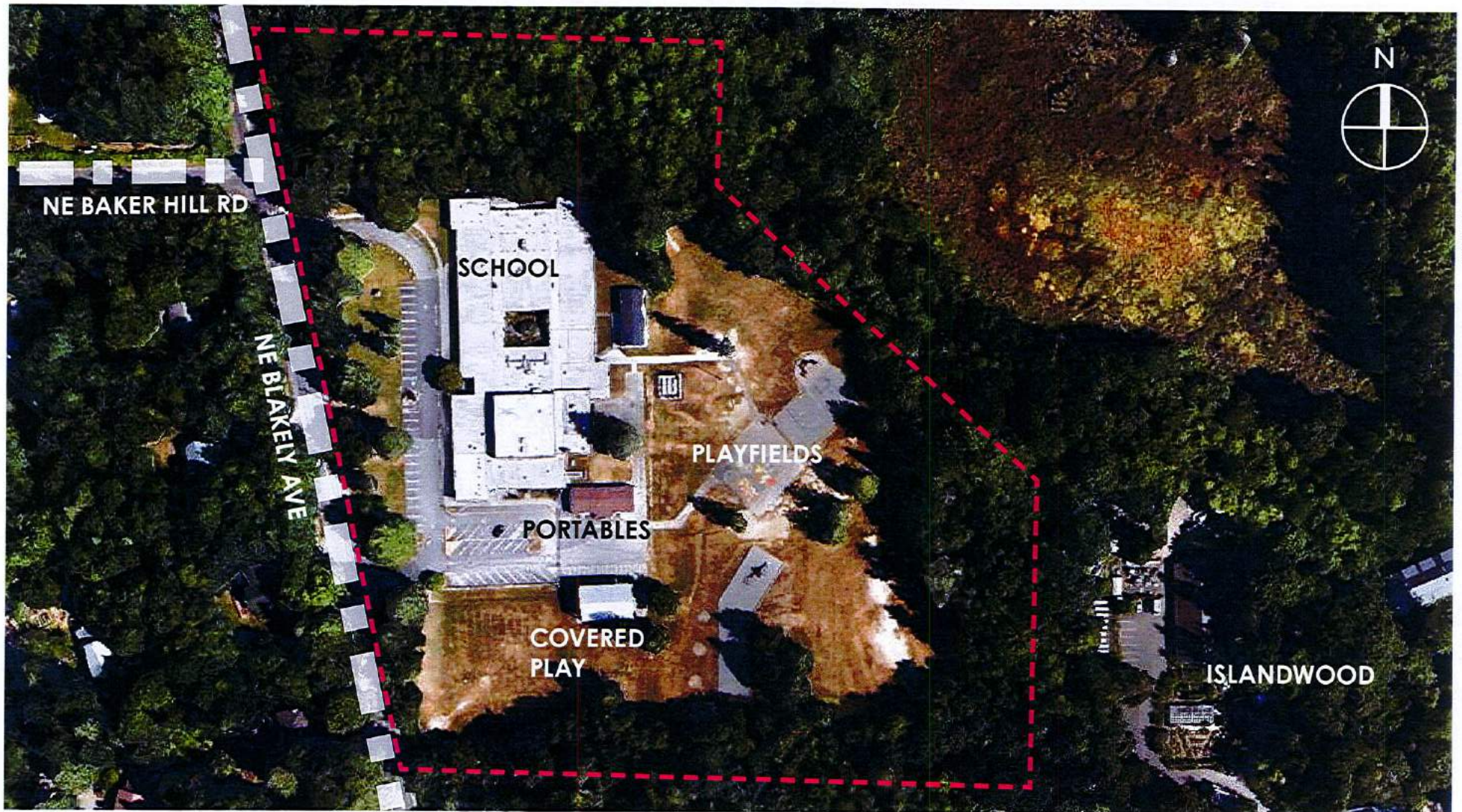
A photograph of a school bus and a school building. The bus is yellow with "SCHOOL BUS" and "BAINBRIDGE" written on it. It is parked on a road. In the background, there is a school building with a red brick facade and a white roof. There are several cars parked in front of the building. The scene is surrounded by trees and a utility pole.

Site Orientation—

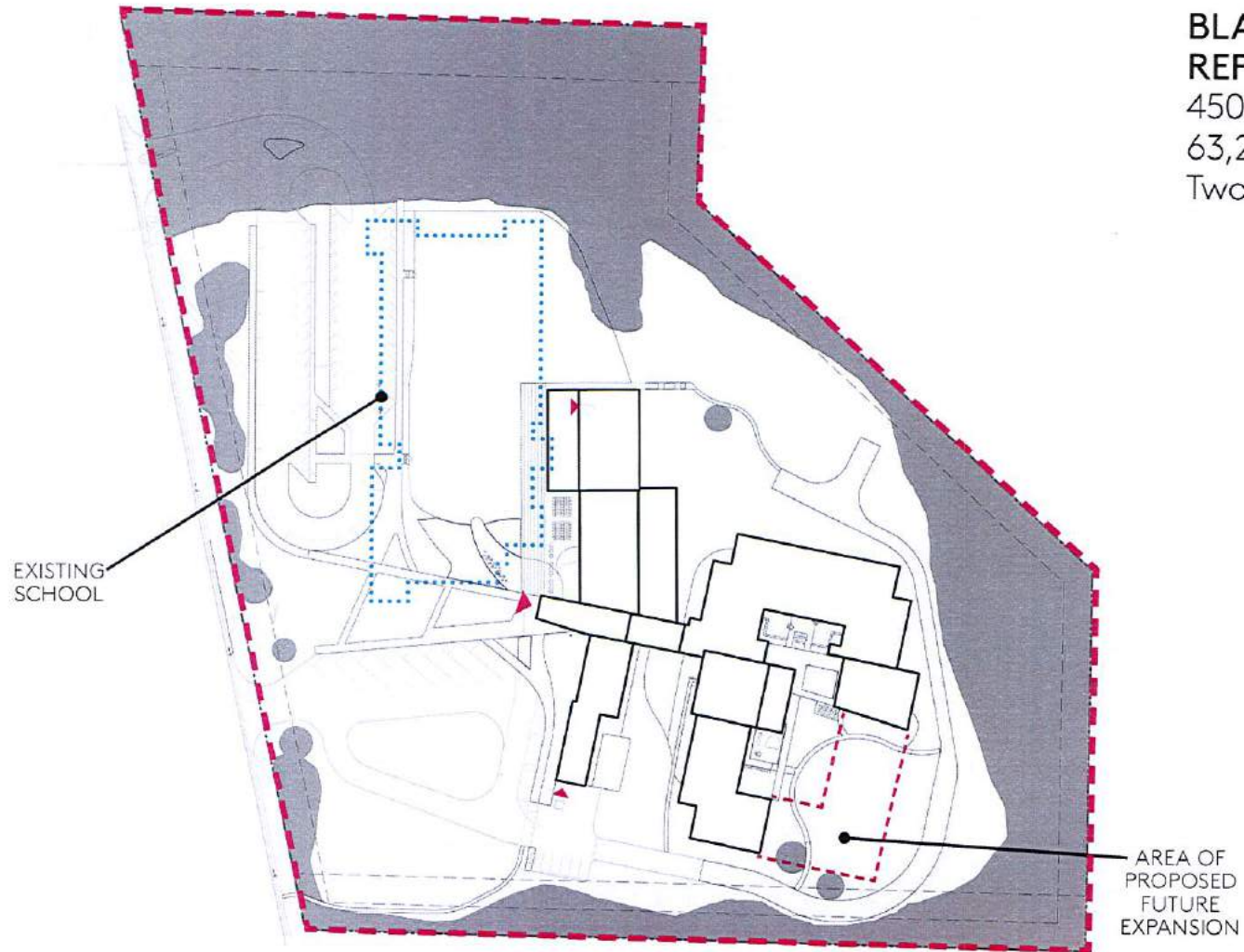
BLAKELY ELEMENTARY SCHOOL / PLANNING COMMISSION / OCTOBER 18, 2017

MITHŪN

EXISTING SITE



PROPOSED SITE & PROJECT STATS



BLAKELY ELEMENTARY REPLACEMENT

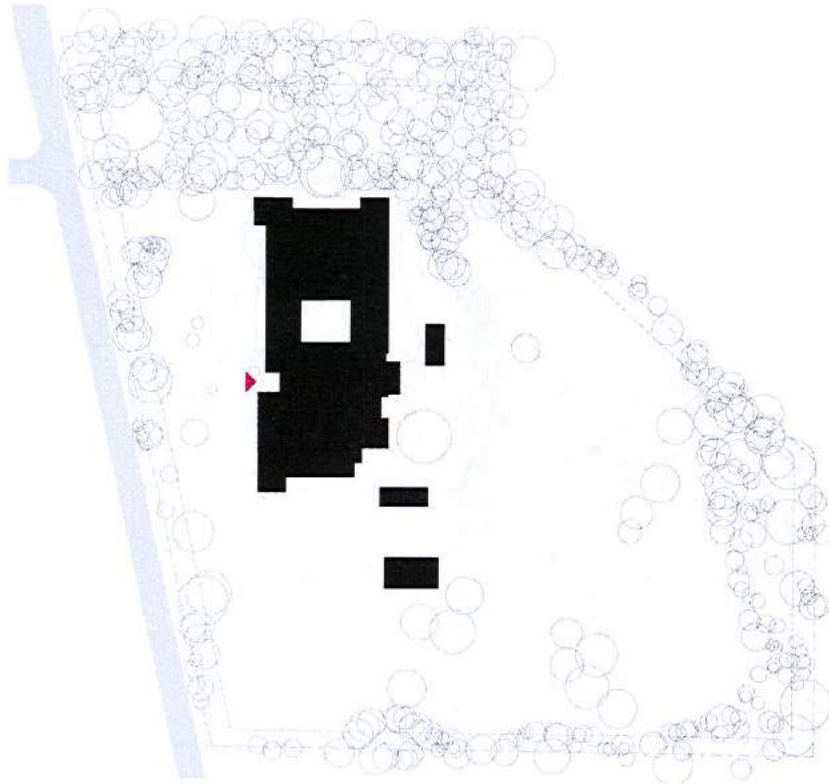
450 Students

63,250 gsf (current)

Two stories / three levels

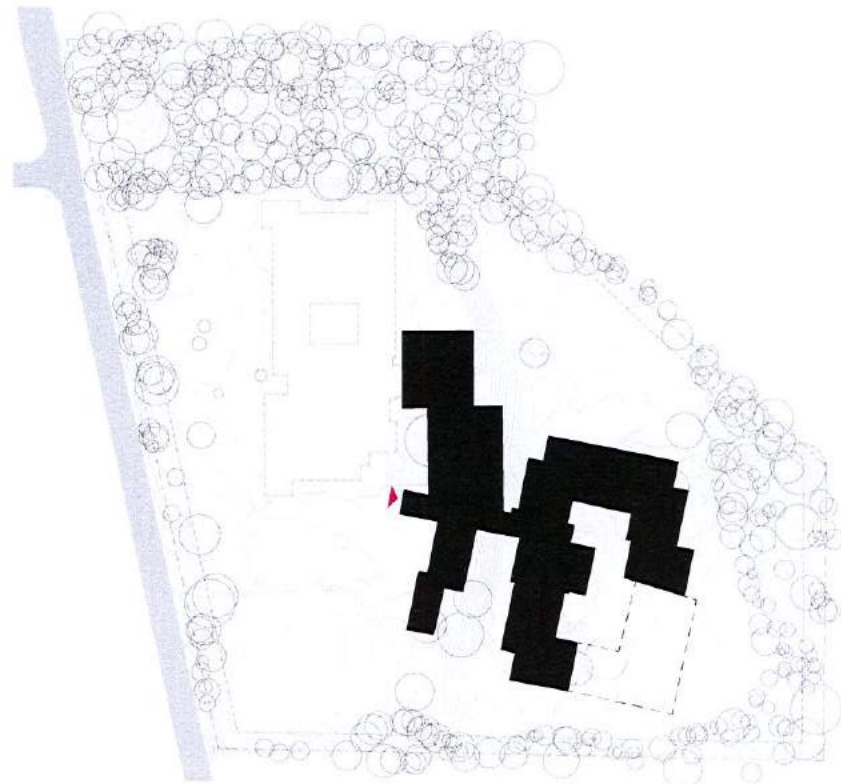
LOT COVERAGE

EXISTING



350 Students
~48,900 gsf
~48,900 sf coverage
One-story

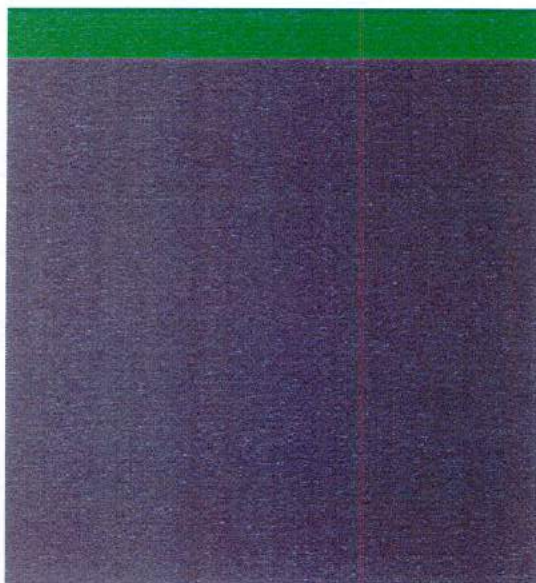
PROPOSED



450 Students
63,800 gsf
53,566 sf coverage (10.1% of 15% allowed)
Two-story



EXISTING BUILDING FOOTPRINT
48,900 SF



ADDITIONAL BUILDING FOOTPRINT
4,666 SF (9%)

TOTAL PROPOSED FOOTPRINT
53,566 SF

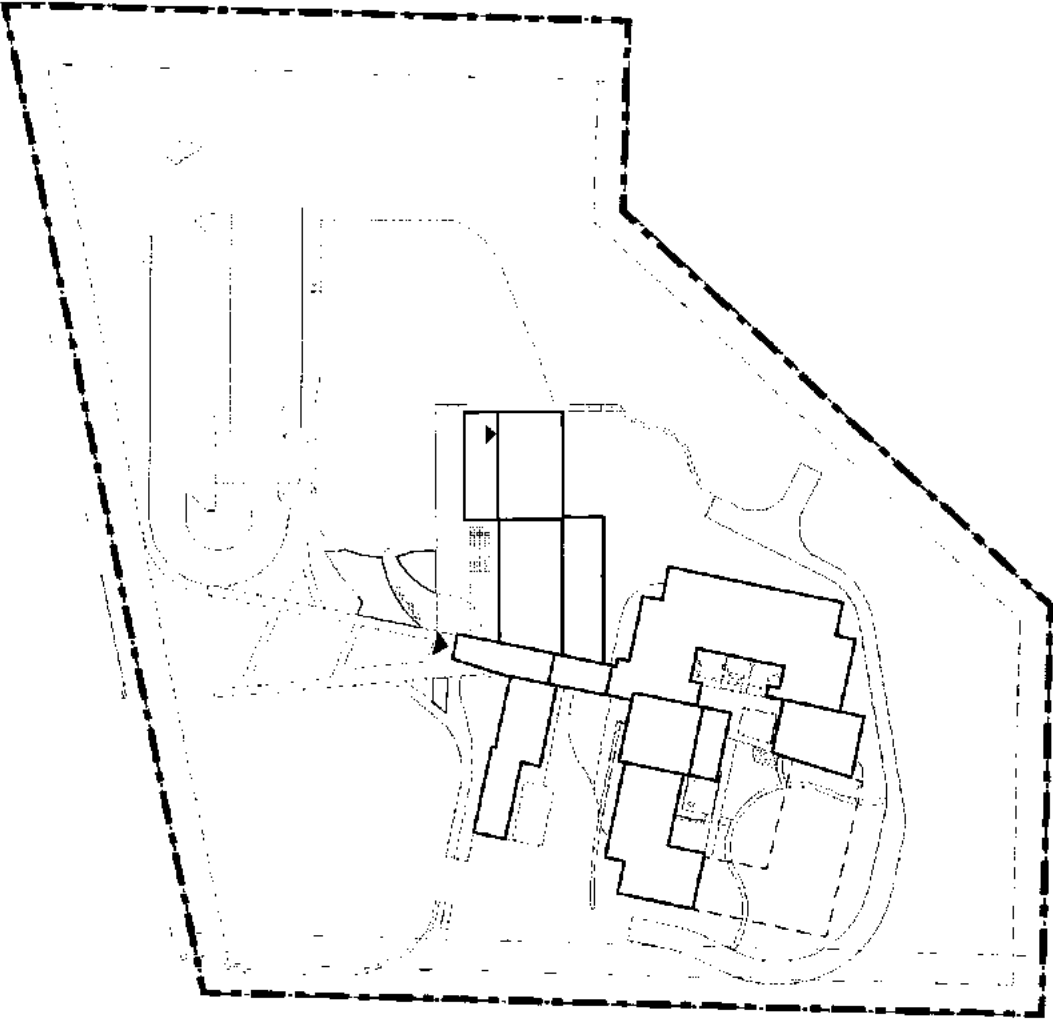
Site Constraints

A wide-angle photograph of a schoolyard under a clear blue sky. In the foreground, a large, mature evergreen tree casts a long shadow across a grassy area. To the right, a paved basketball court with white and orange markings is visible. A wooden bench sits on the grass near the court. In the background, a single-story school building with a red roof and brick walls is partially obscured by more trees. The overall scene is bright and sunny.

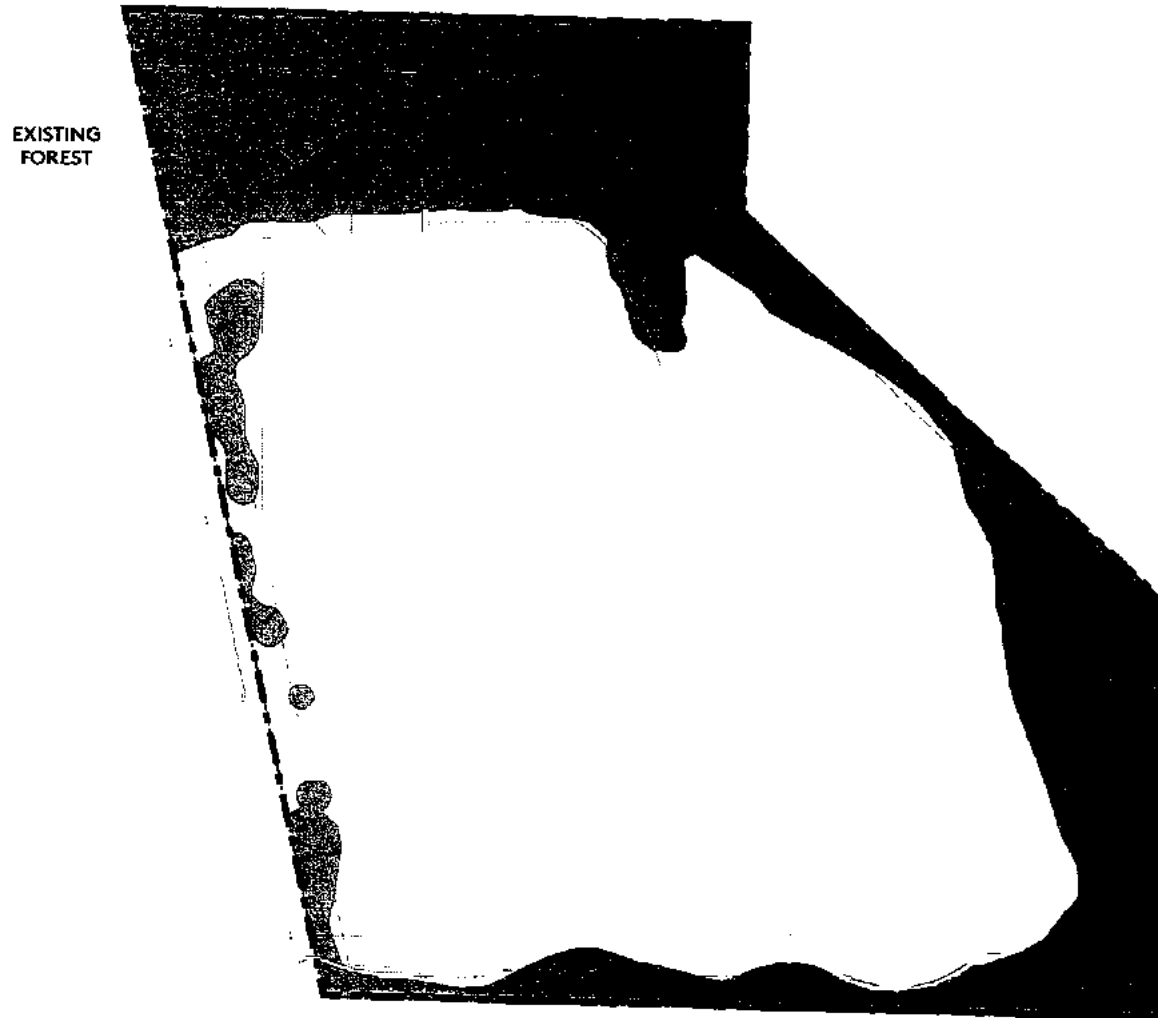
BLAKELY ELEMENTARY SCHOOL / PLANNING COMMISSION / OCTOBER 18, 2017

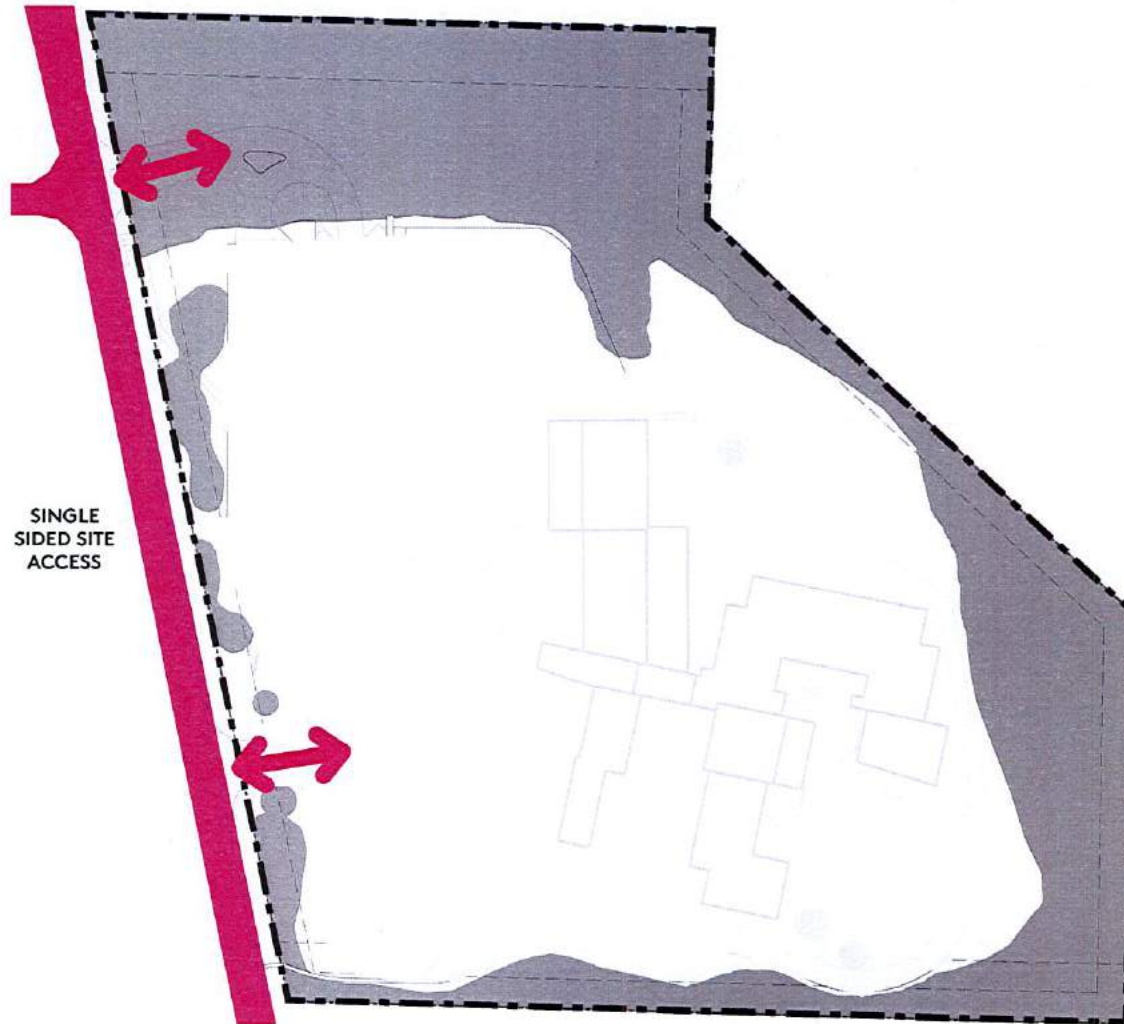
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SITE CONSTRAINTS

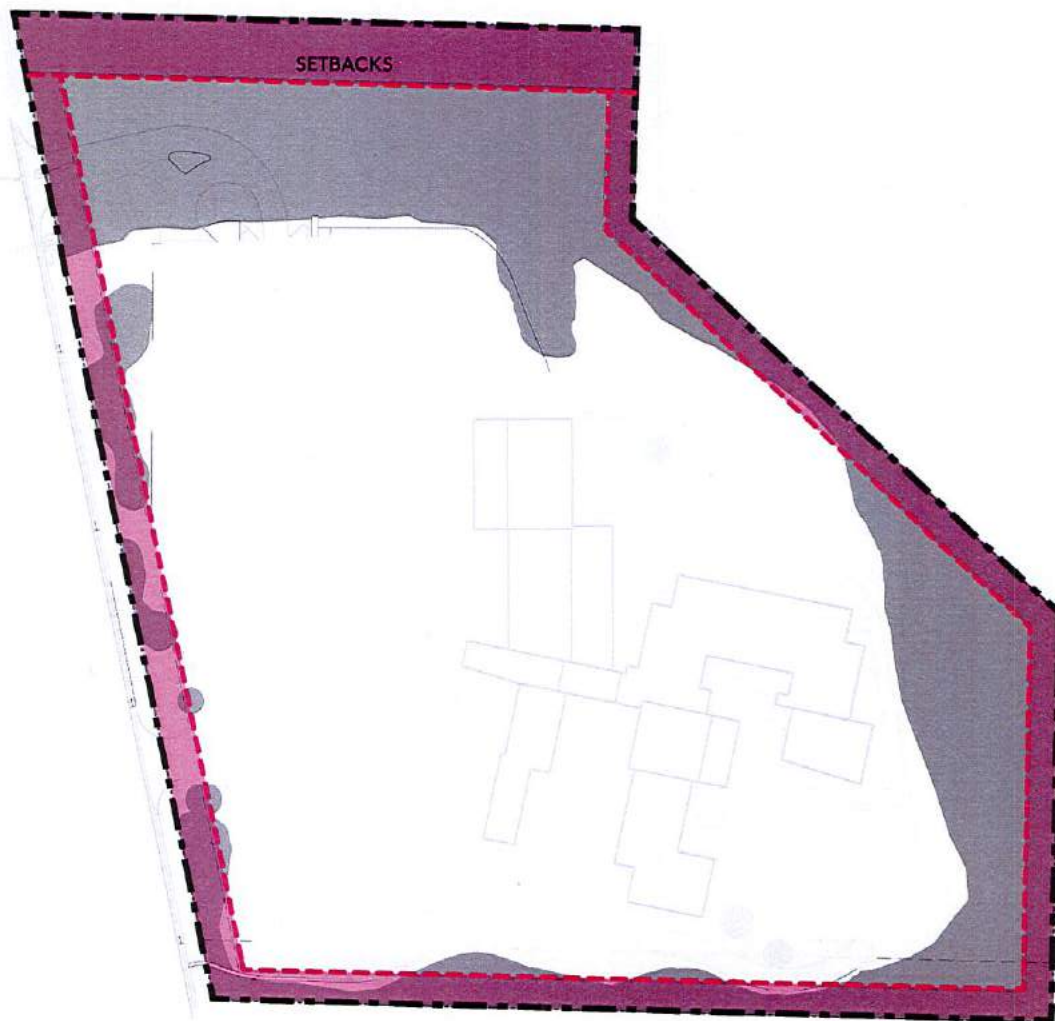


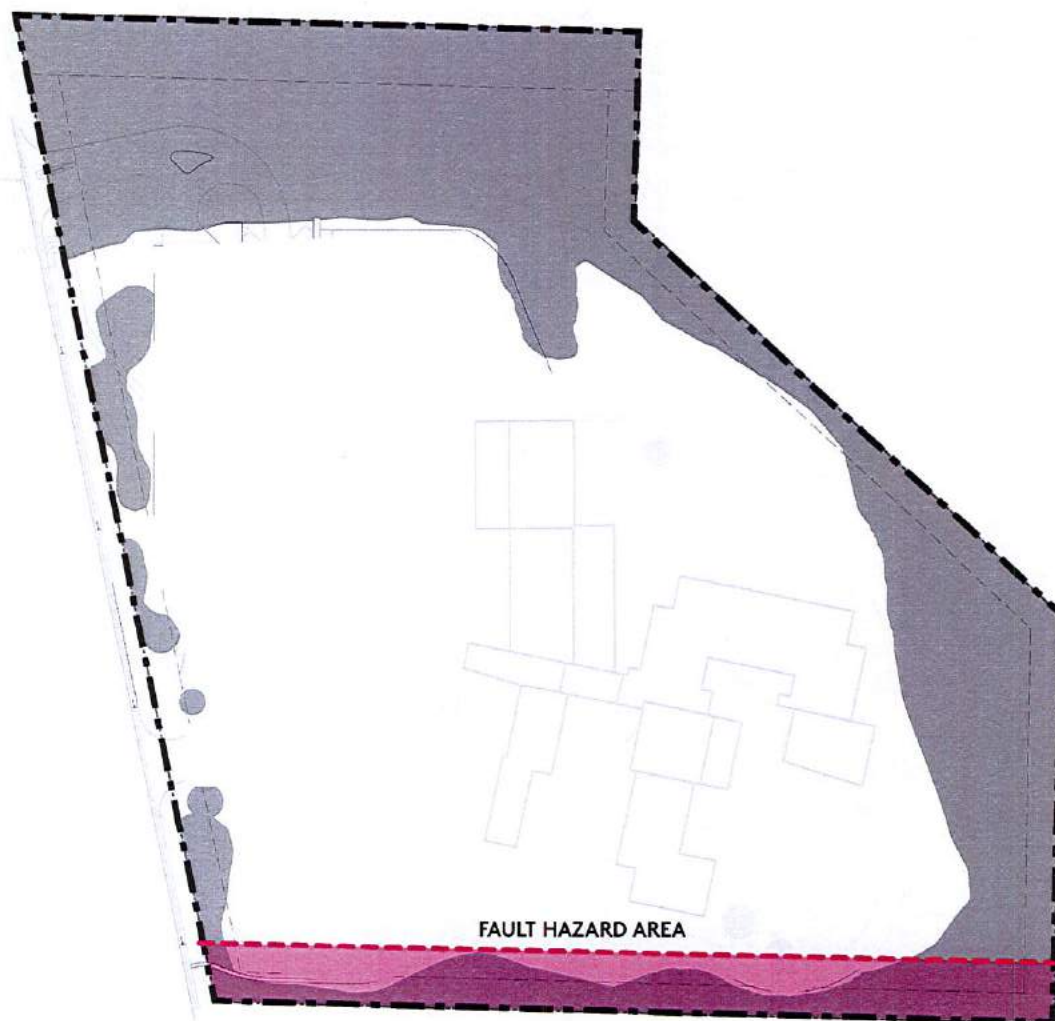
SITE CONSTRAINTS





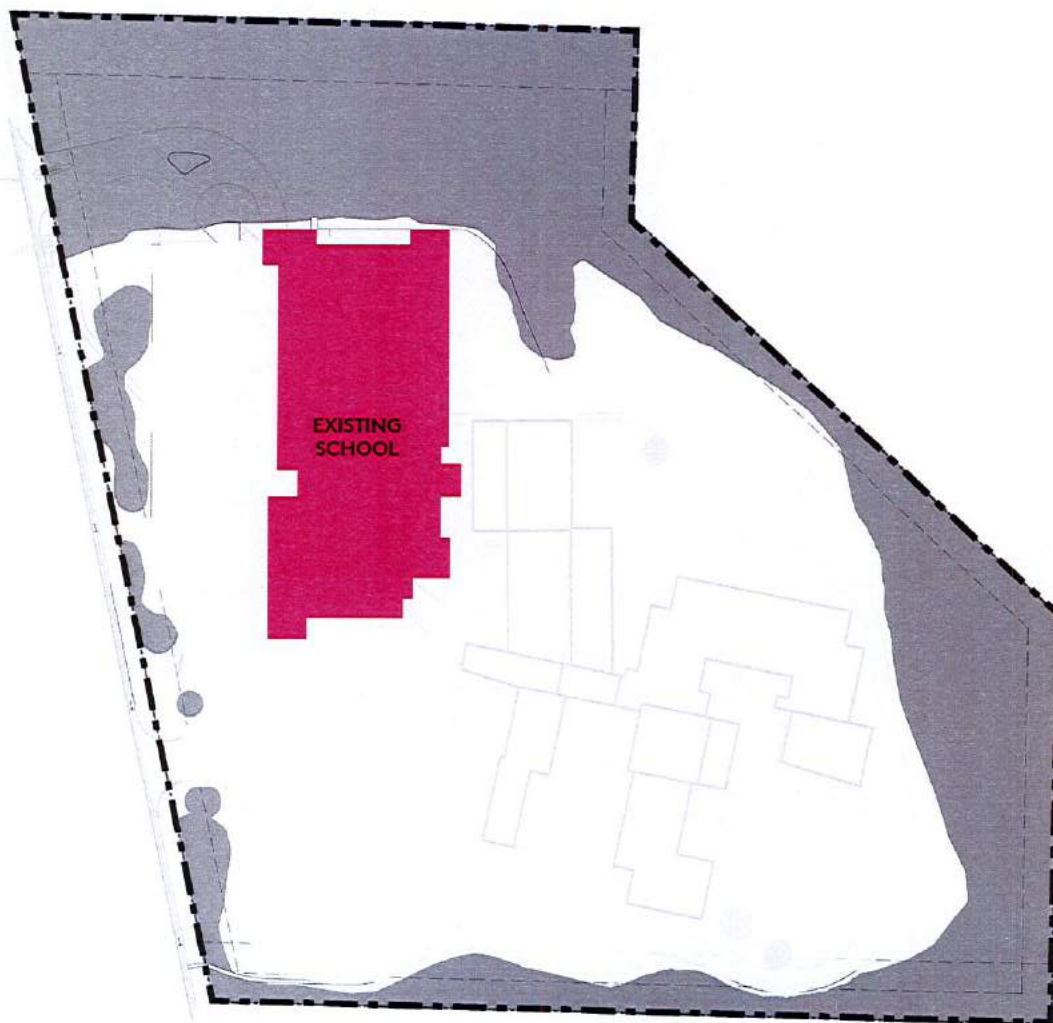
SINGLE
SIDED SITE
ACCESS









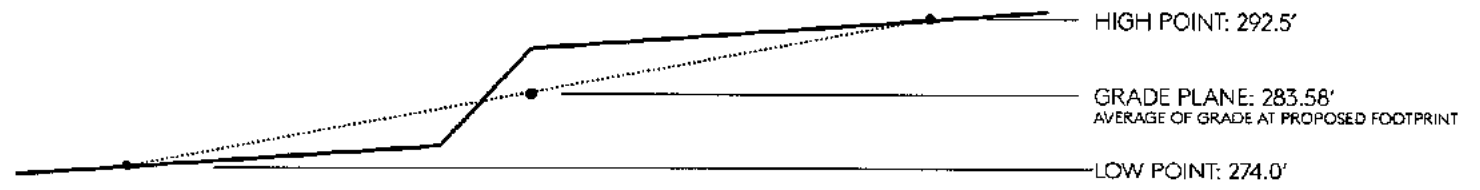


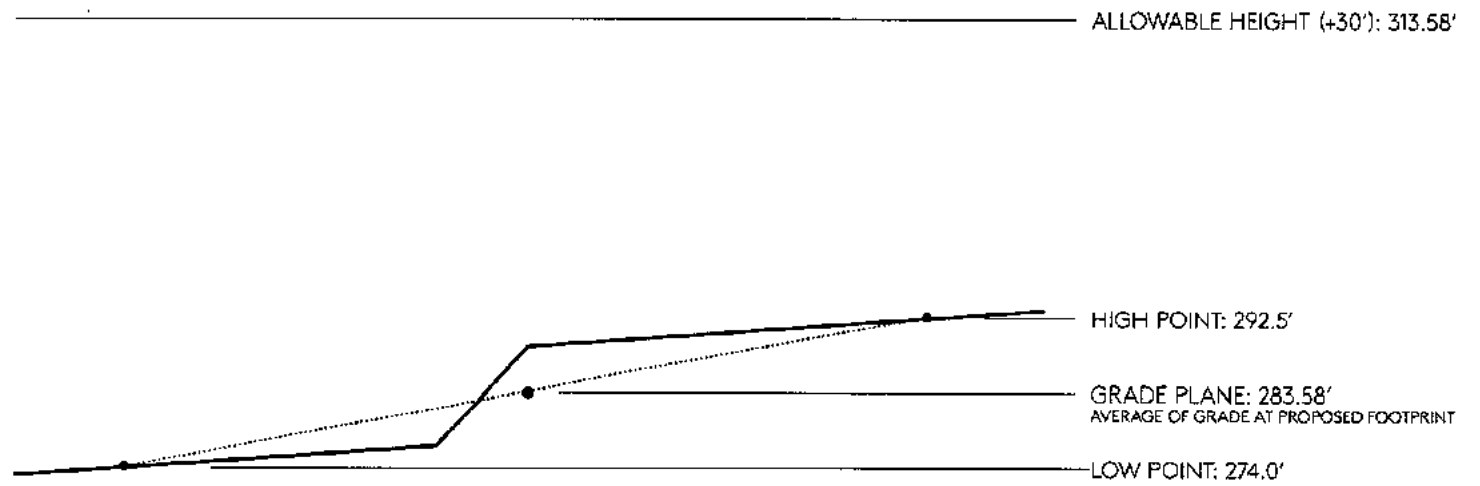
COMPOSITE

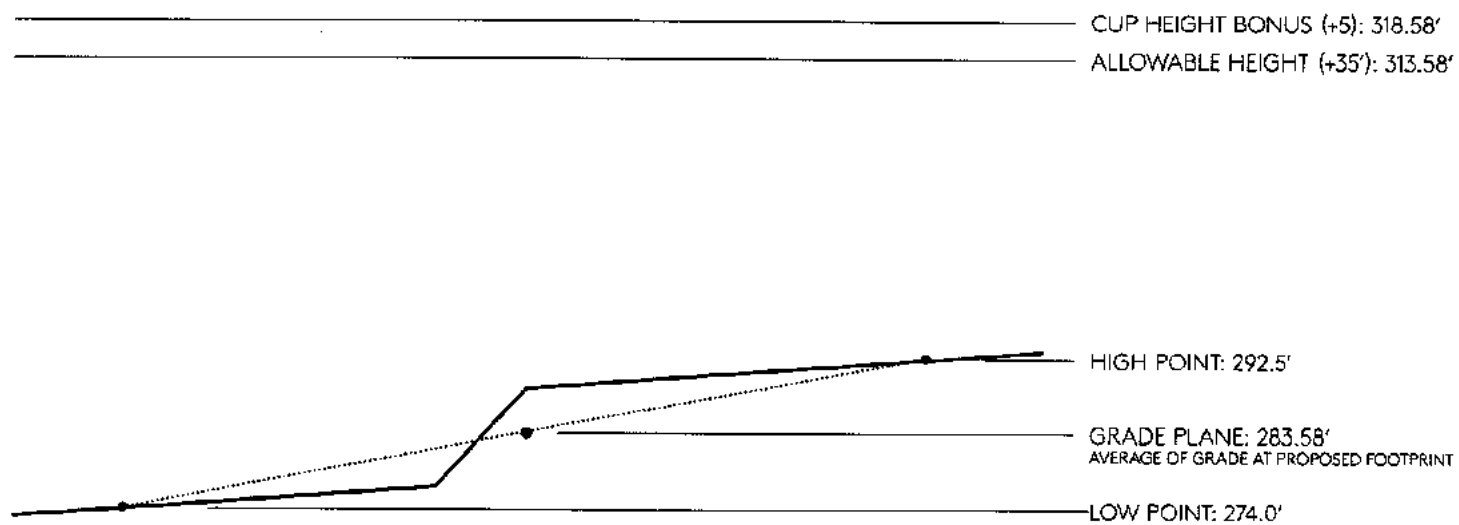


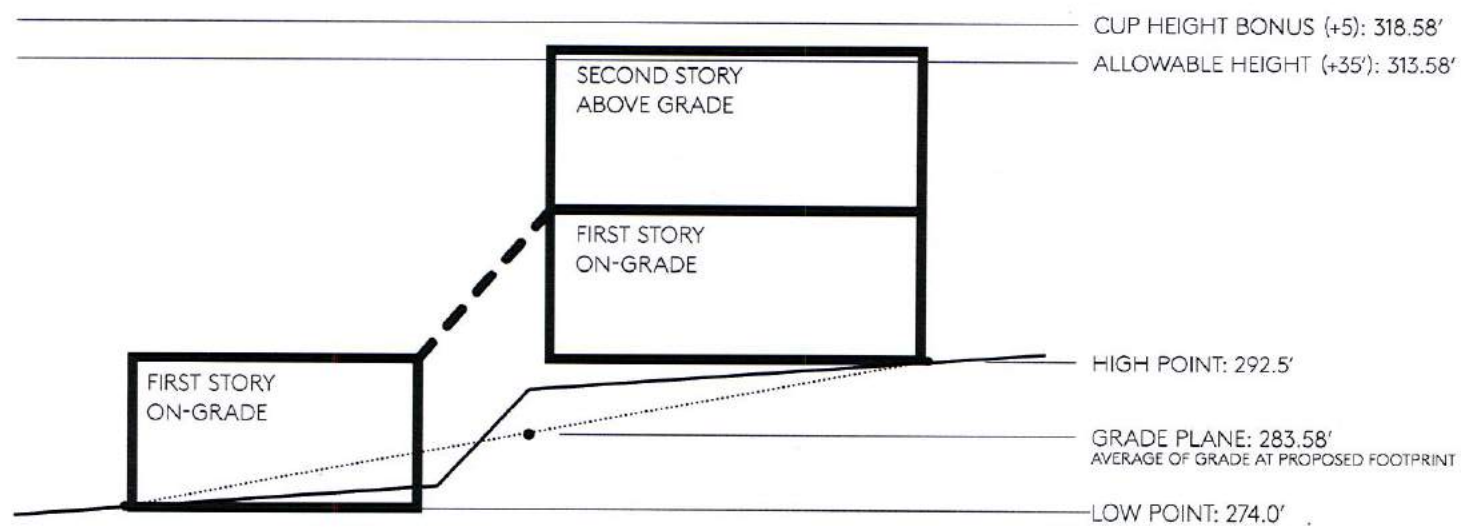
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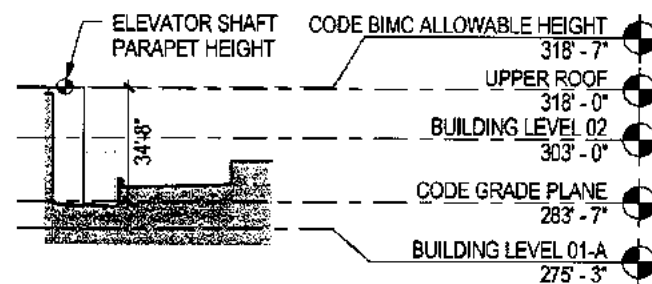
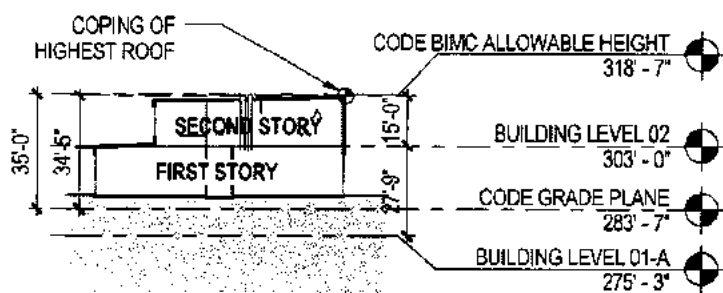
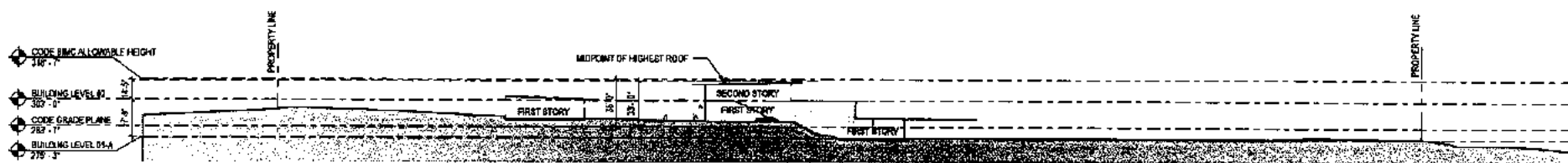
DASHED LINE INDICATES
OFFSET FROM BUILDING



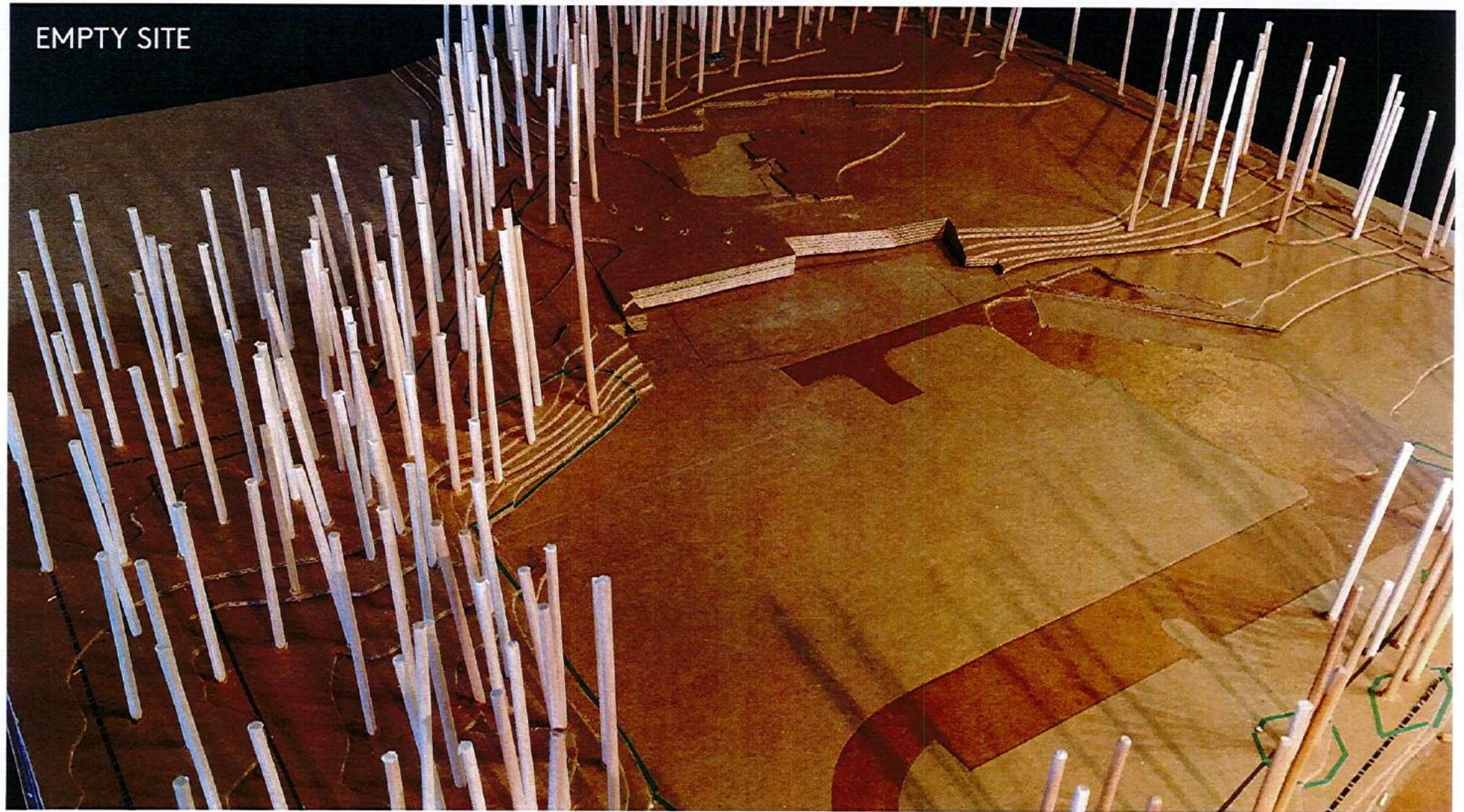




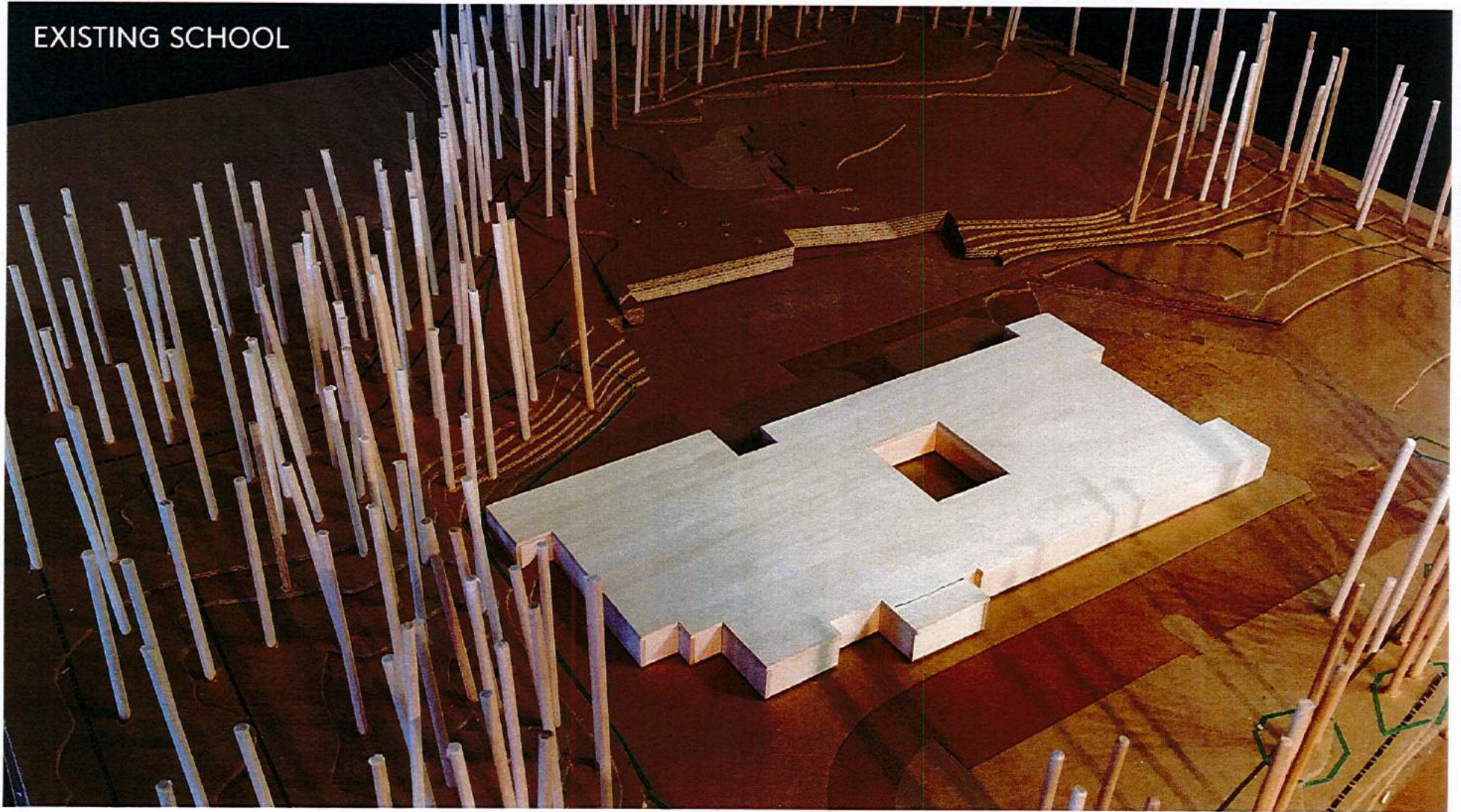




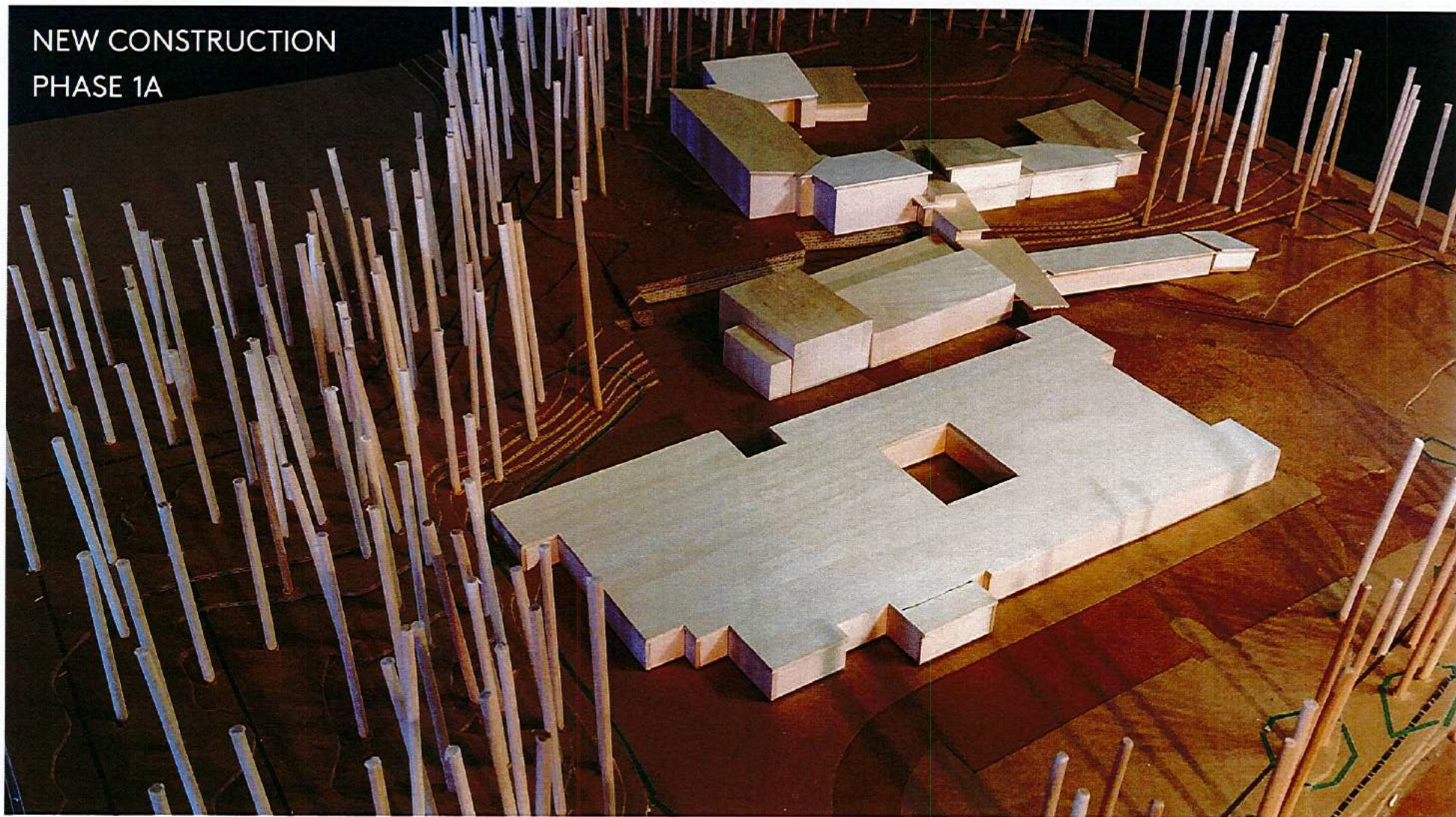
PHASING LIMITATIONS



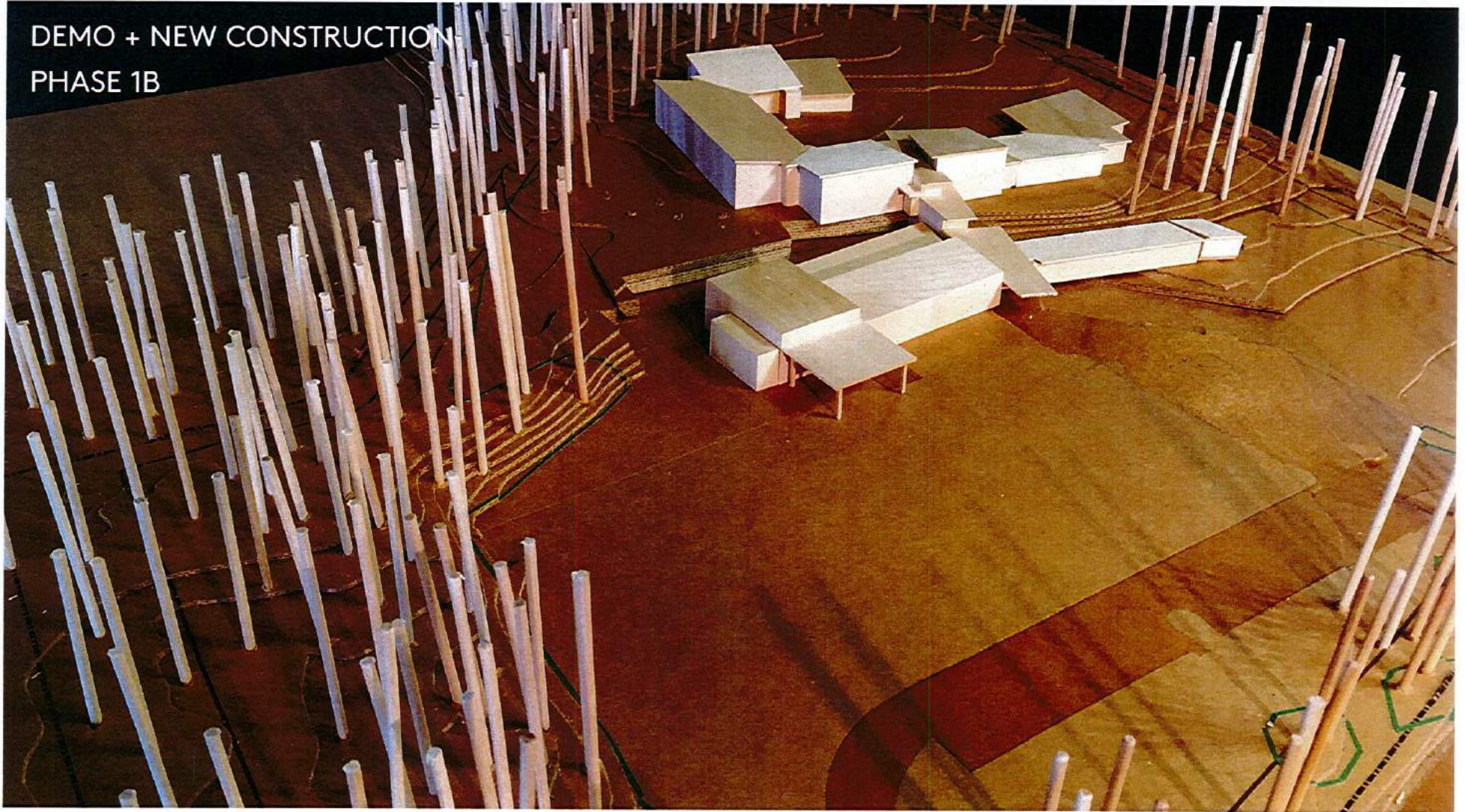
EXISTING SCHOOL



NEW CONSTRUCTION PHASE 1A



DEMO + NEW CONSTRUCTION
PHASE 1B

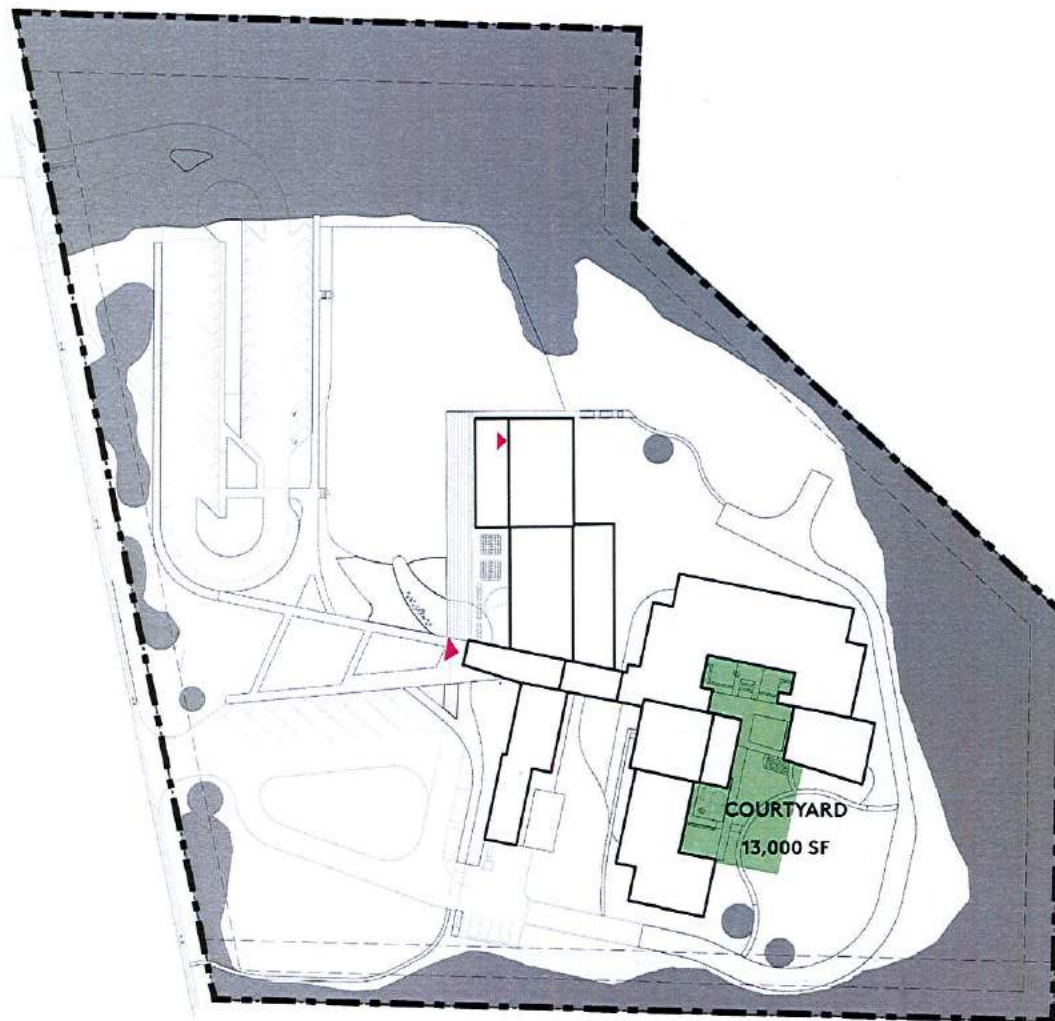


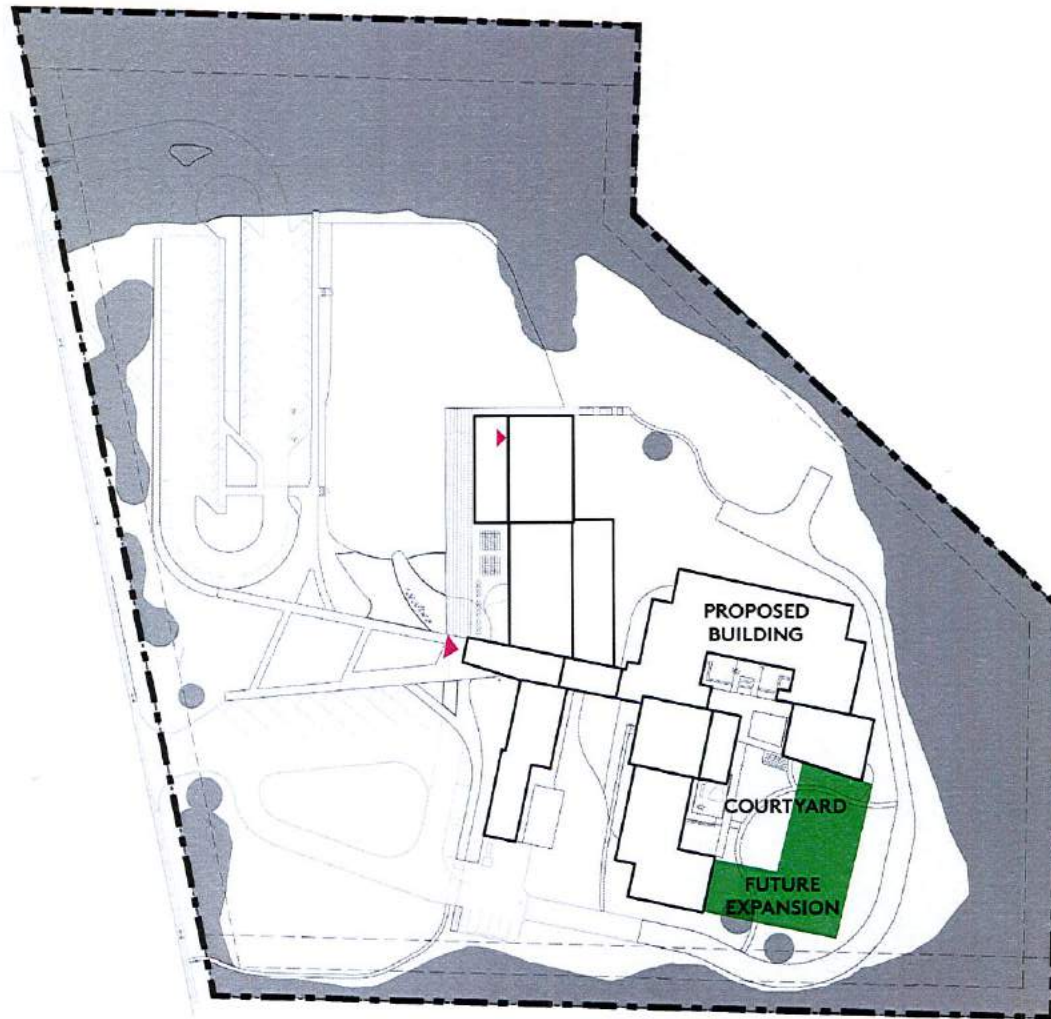
Building Blocks—

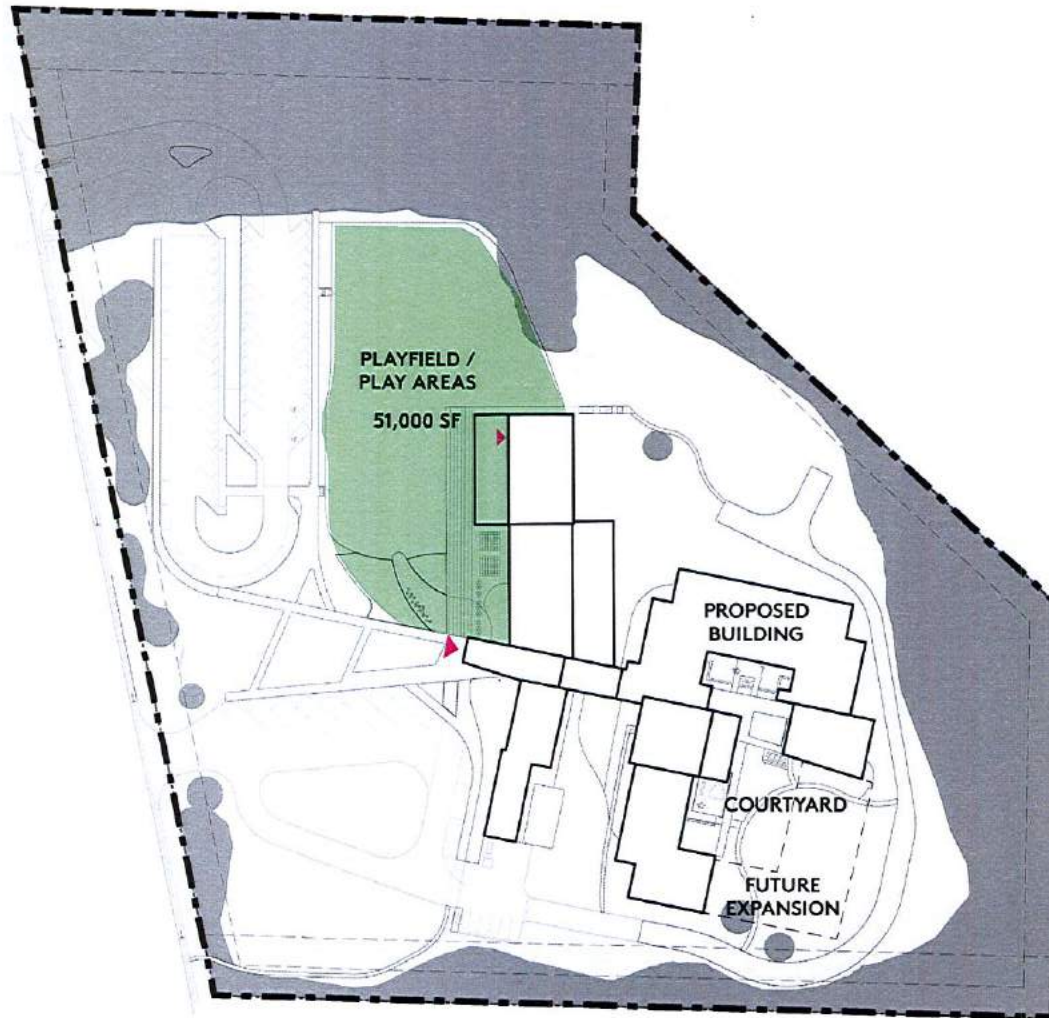
CAPTAIN JOHNSTON BLAKELY
ELEMENTARY SCHOOL 1965

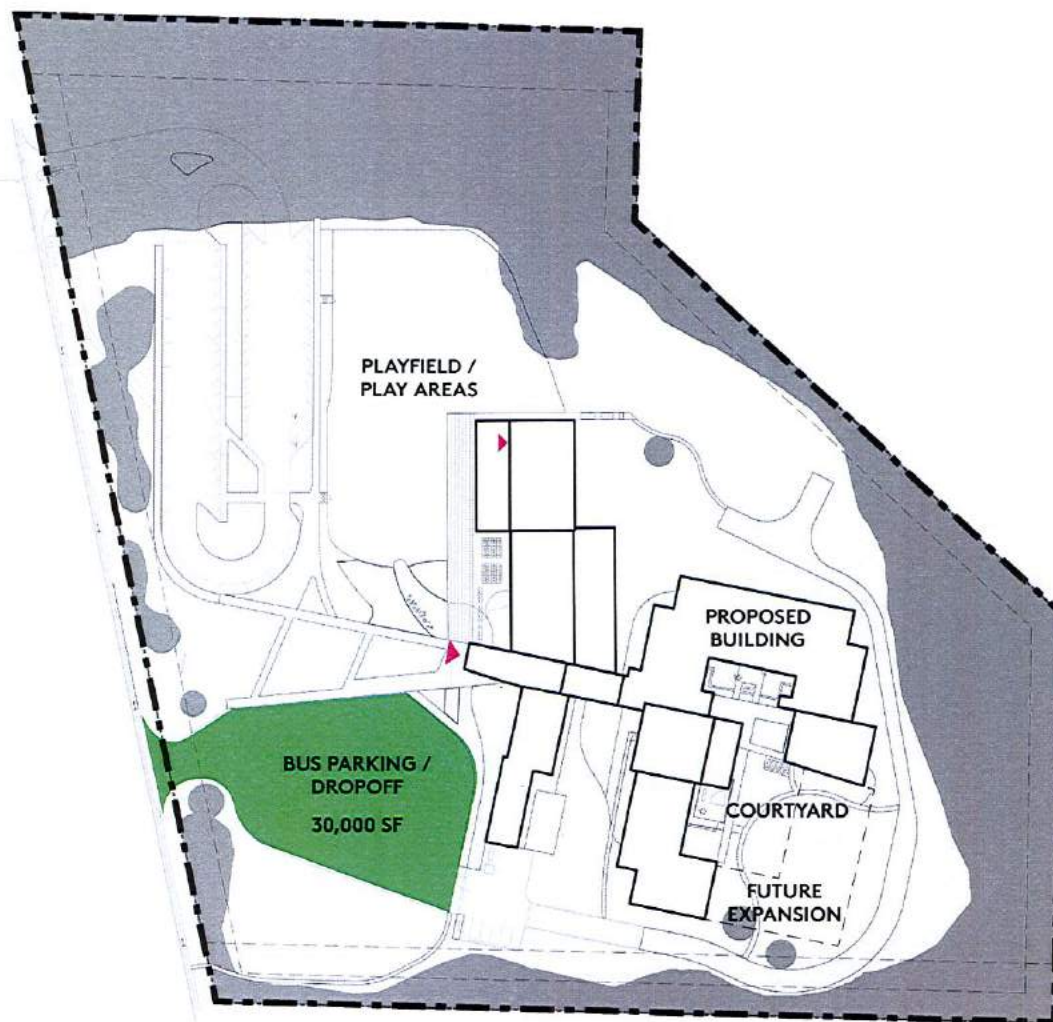
BLAKELY
ELEMENTARY
STATE APPRECIATION
WEEK 2-6
PTO MTG MAY 12 9AM

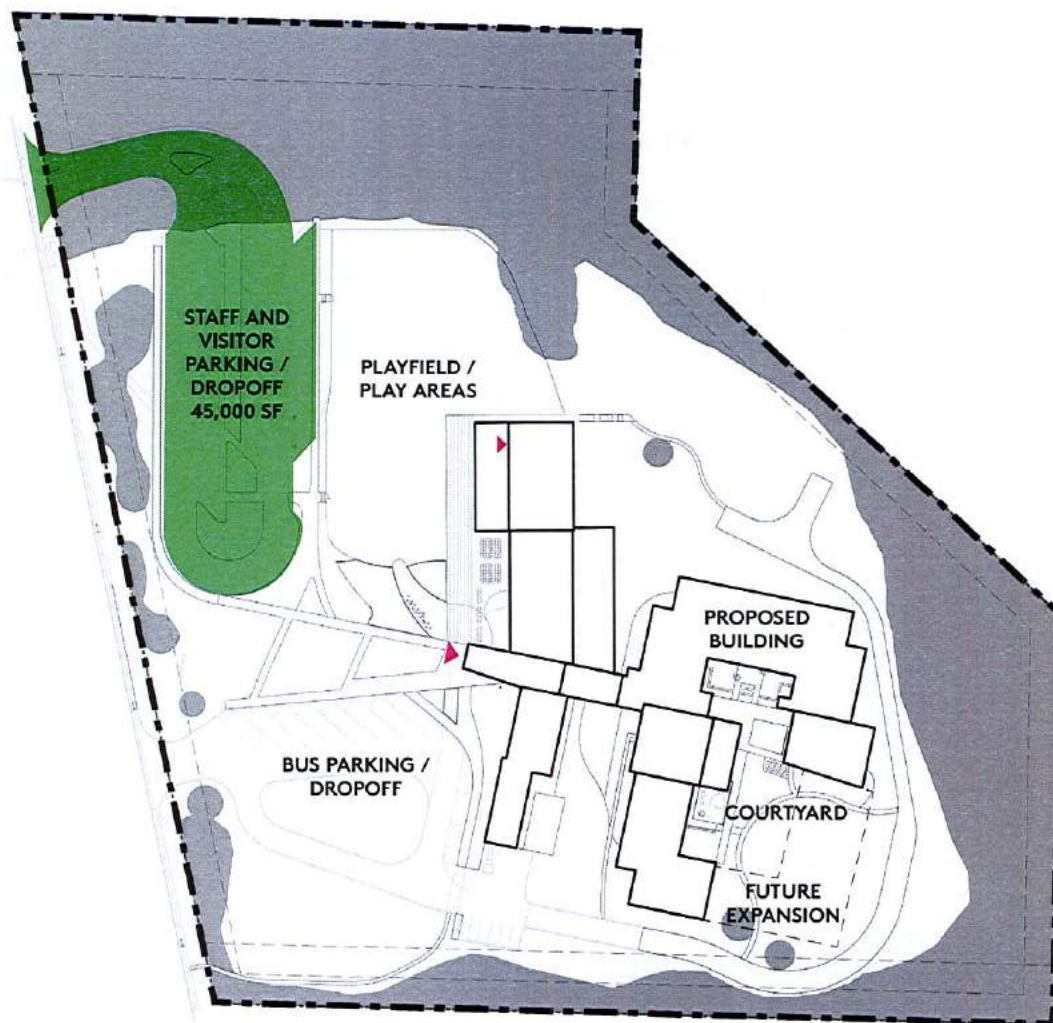


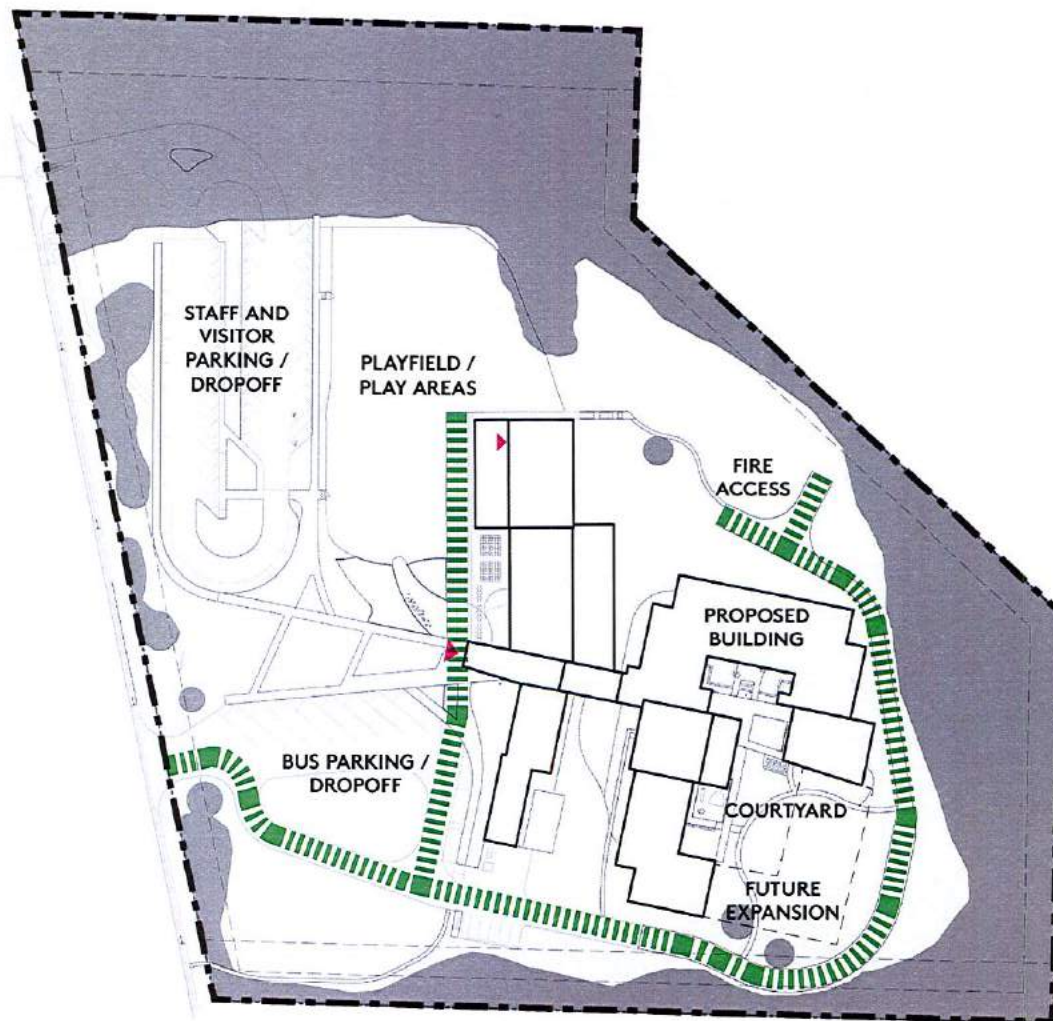




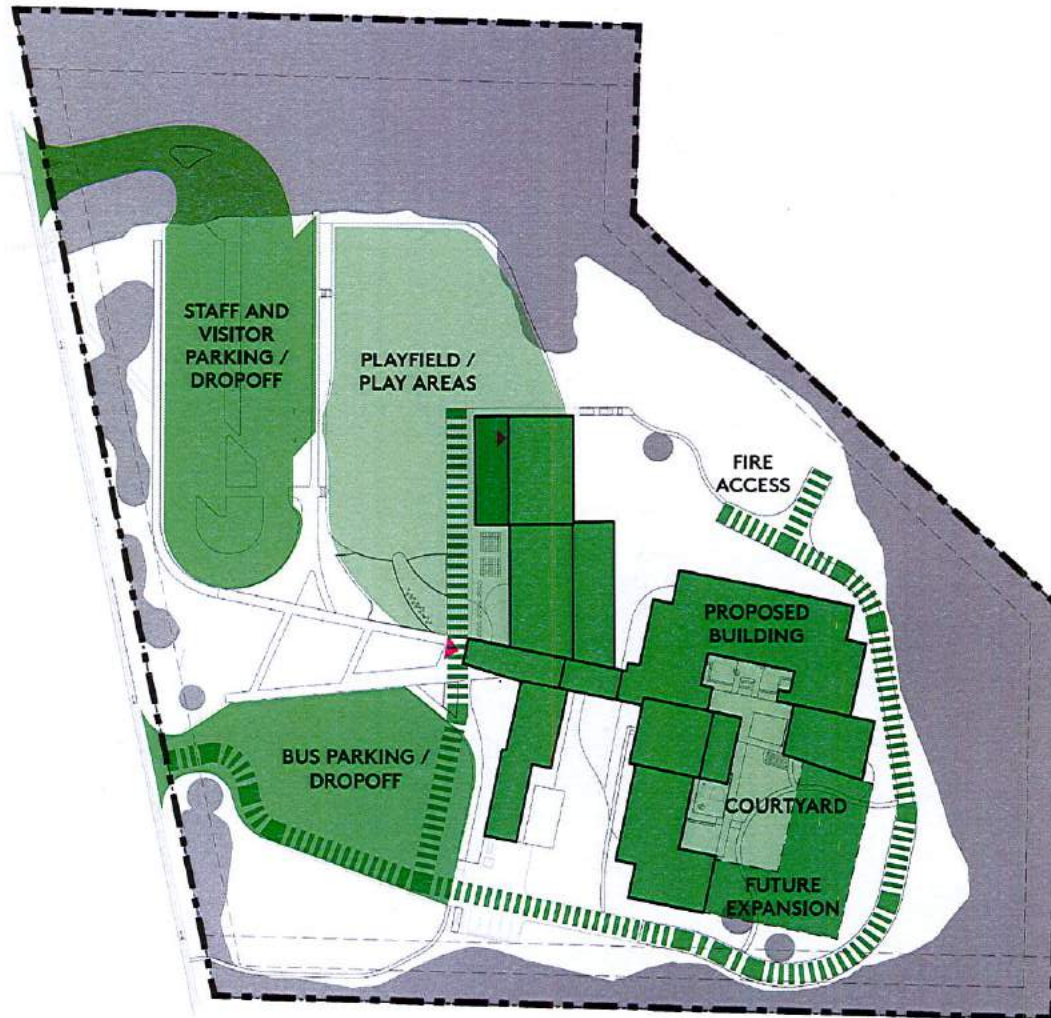




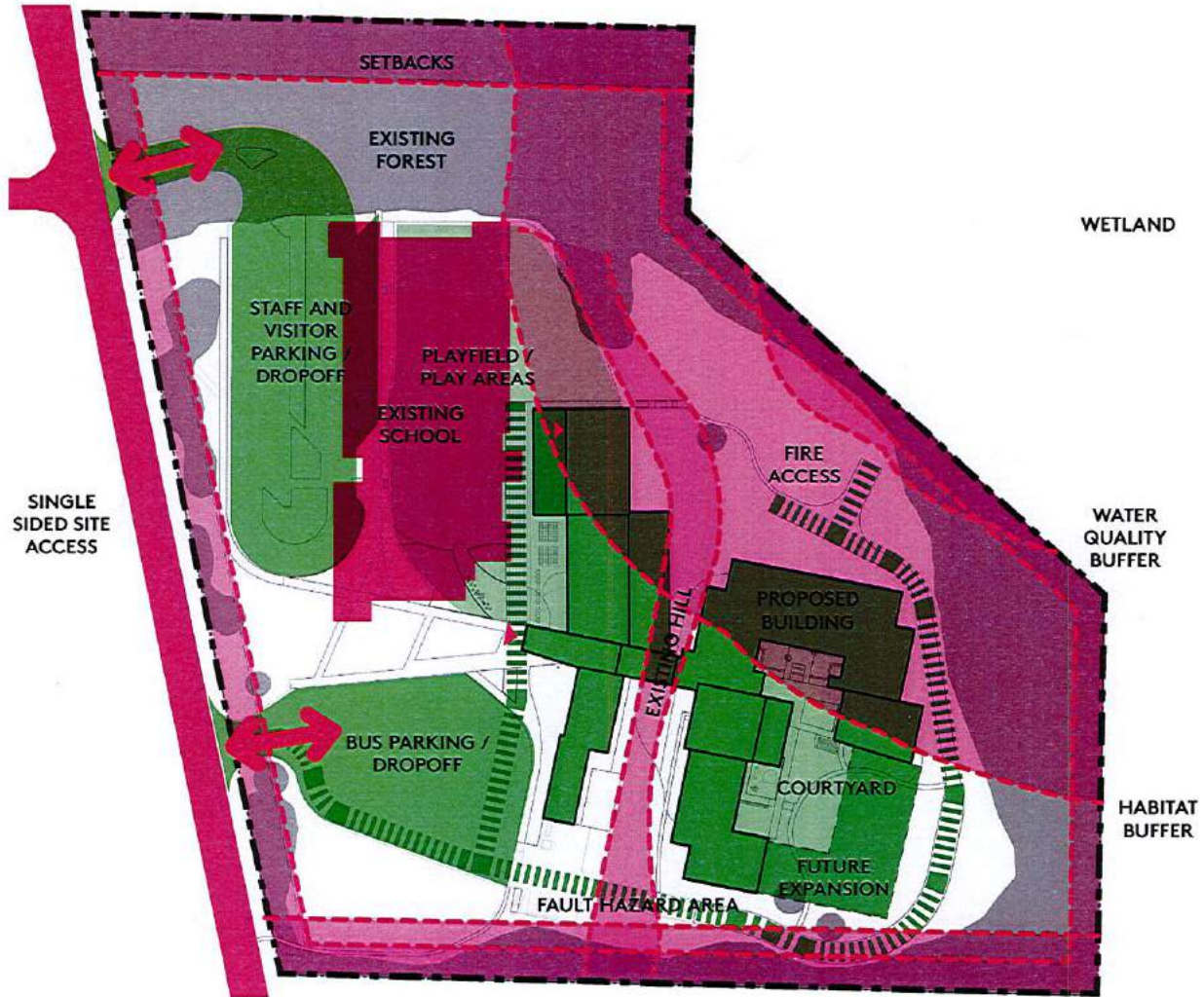




COMPOSITE



COMPOSITE



Site / Building Design—

18 / 19
MITHUN
MIDDLE SCHOOL / PLANNING COMMISSION / OCTOBER 18, 2017

MITHUN

LANDSCAPE PLAN



LANDSCAPE SPATIAL EXPERIENCES



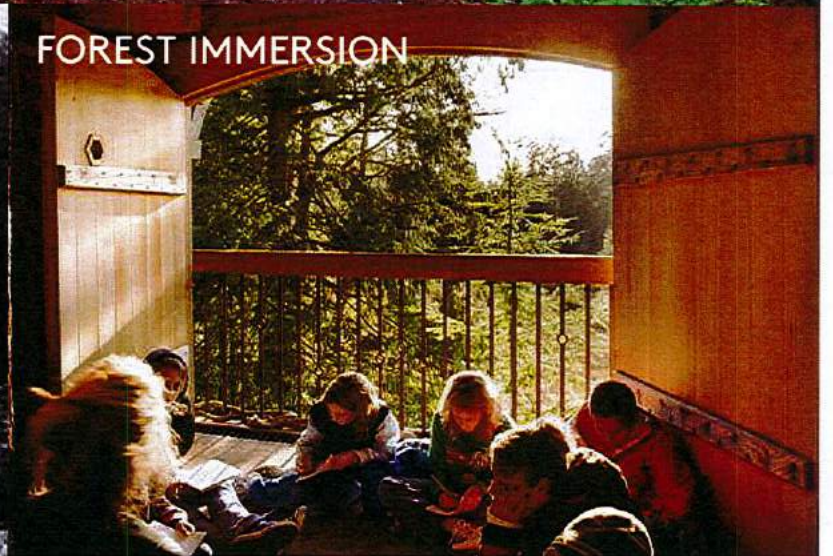
MEADOW



FOREST CLEARING



UPLIFT



FOREST IMMERSION

STREET FRONTAGE - BLAKELY AVE



PARENT DROPOFF APPROACH



BLAKELY ELEMENTARY SCHOOL / PLANNING COMMISSION / OCTOBER 16, 2017

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BUS DROPOFF APPROACH



PLANT PALETTE



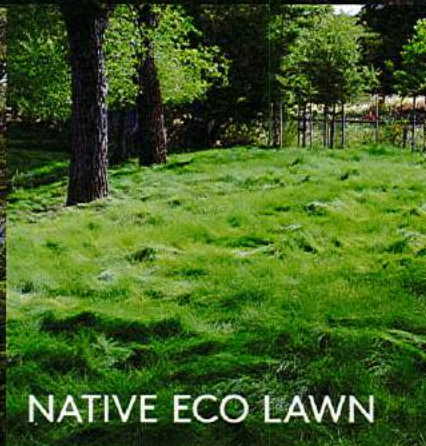
NATIVE NW FOREST



ORNAMENTAL MEADOW GRASSES



NATIVE NW FOREST



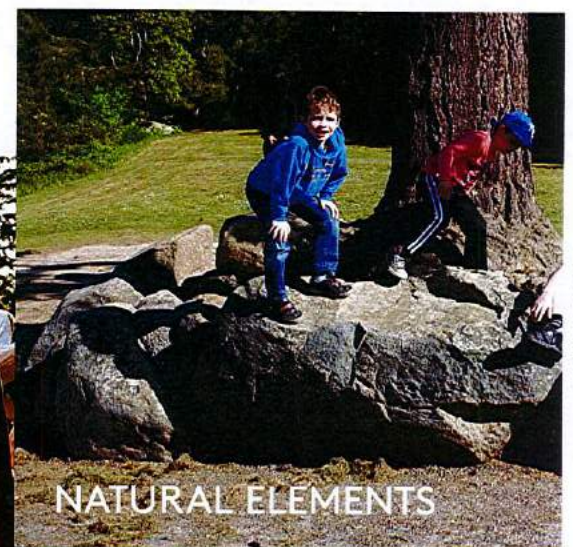
NATIVE ECO LAWN



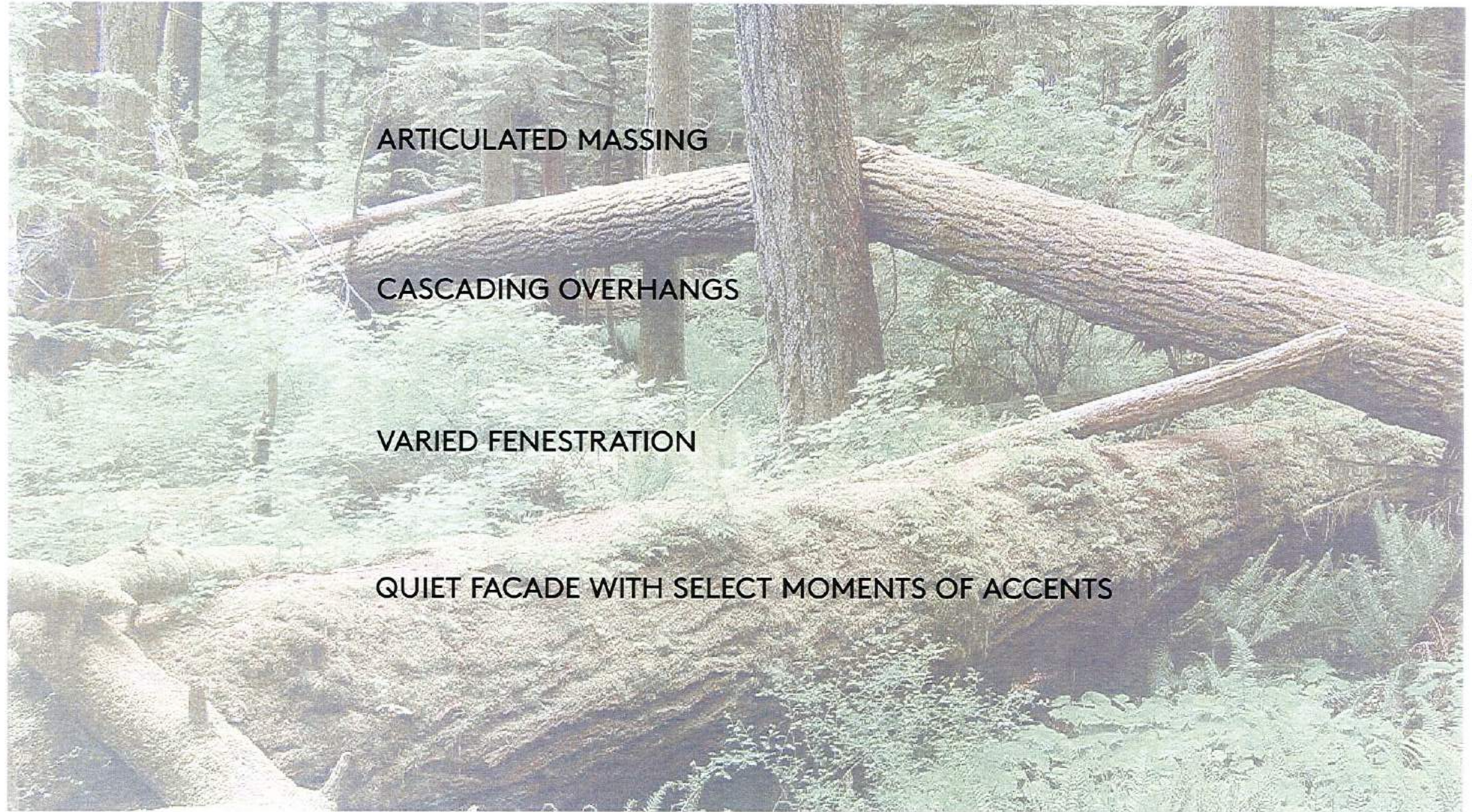
BIORETENTION

VEGETABLE GARDENS

LANDSCAPE MATERIALS



A NATURALLY INSPIRED BUILDING



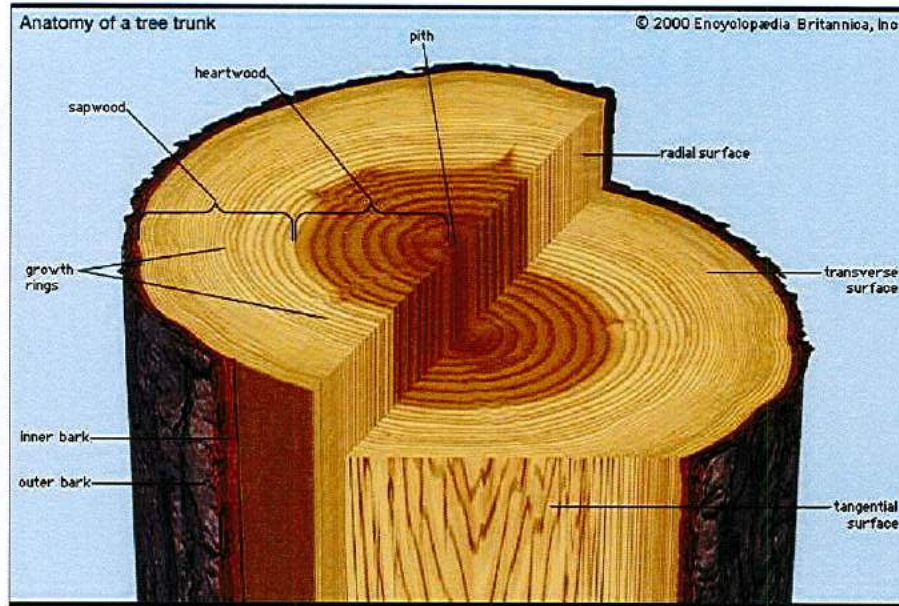
ARTICULATED MASSING

CASCADING OVERHANGS

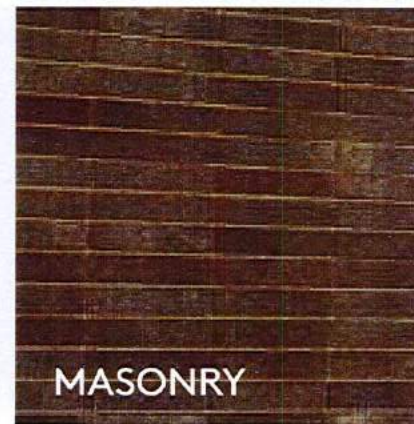
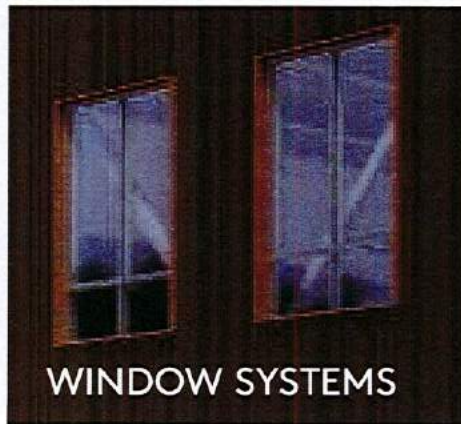
VARIED FENESTRATION

QUIET FACADE WITH SELECT MOMENTS OF ACCENTS

BUILDING MATERIAL PALETTE



NATURALLY INSPIRED COLOR PALETTE



CASCADING OVERHANGS



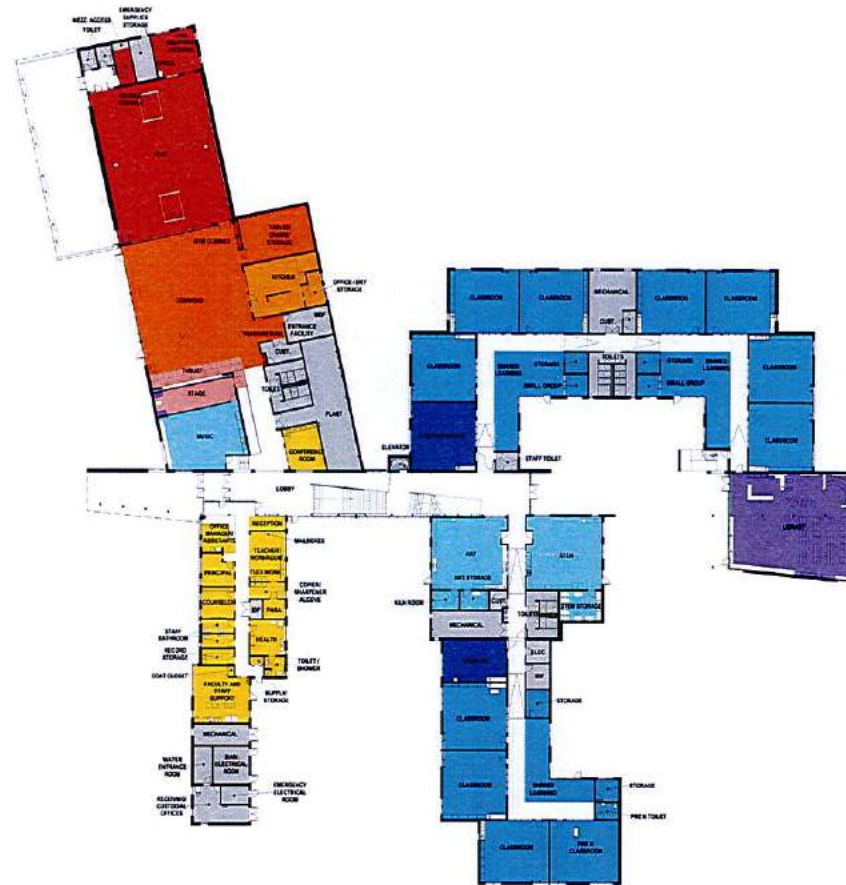
VARIED FENESTRATION



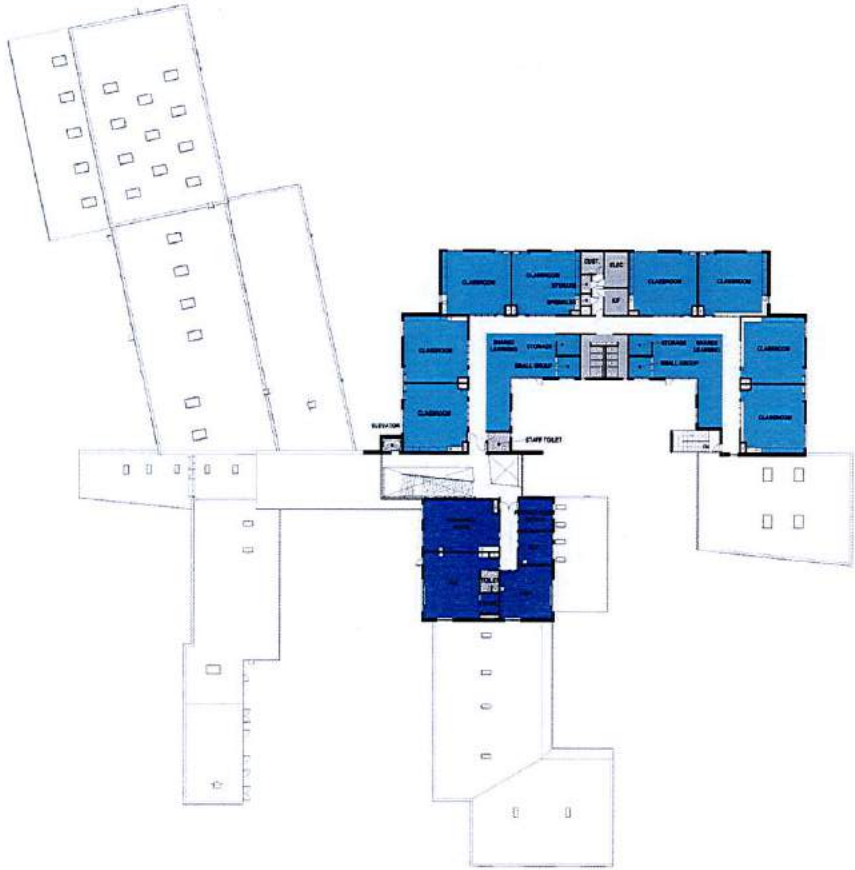
QUIET FACADE WITH SELECT MOMENTS OF ACCENTS



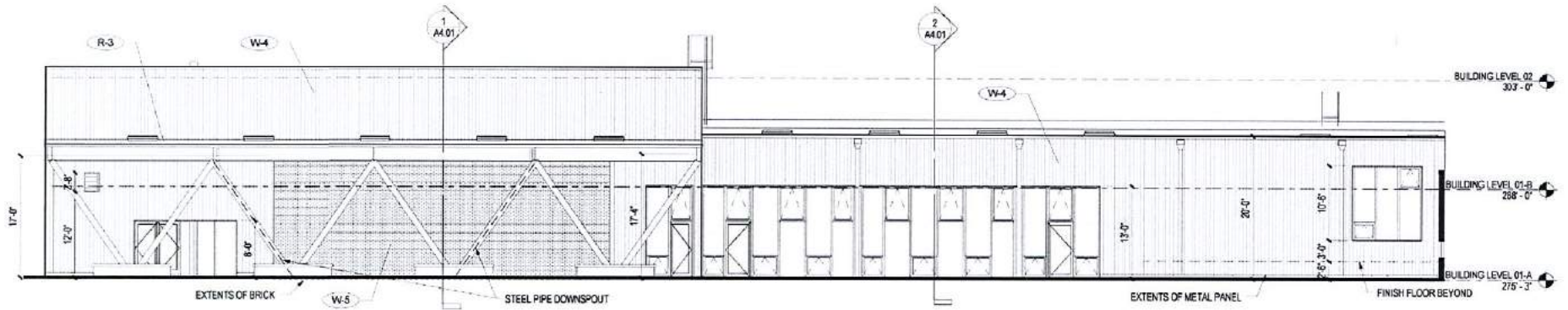
PROPOSED FLOOR PLAN : GROUND LEVEL



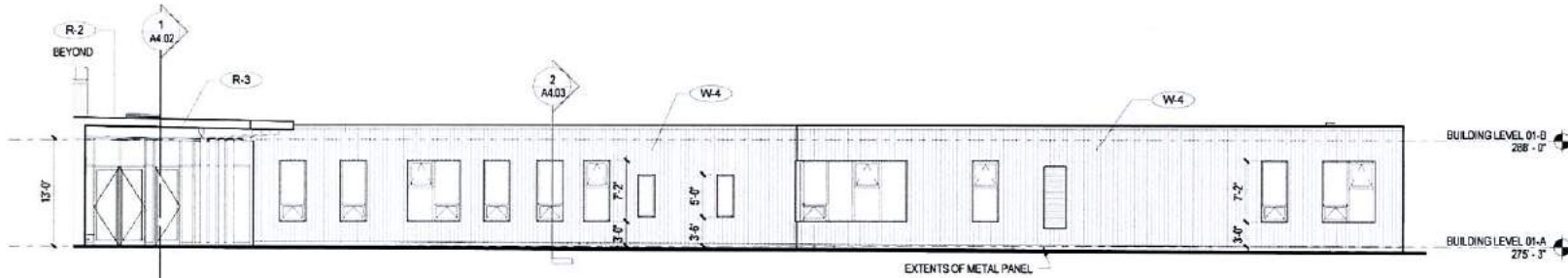
PROPOSED FLOOR PLAN : UPPER LEVEL



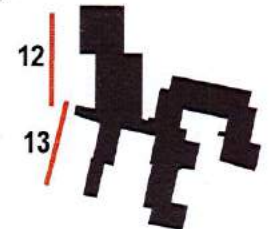
PROPOSED ELEVATIONS



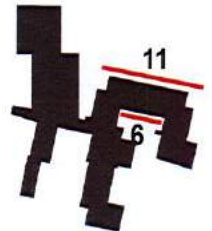
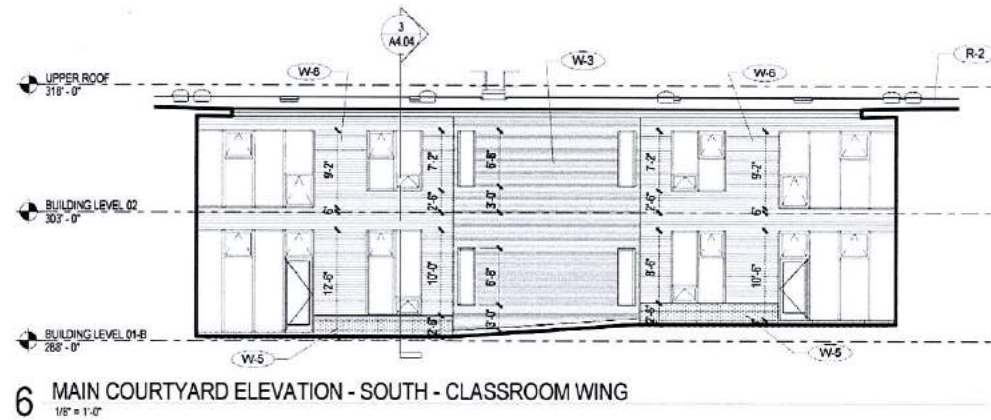
12 EXTERIOR ELEVATION - WEST - GYM / COMMONS
1/8" = 1'-0"



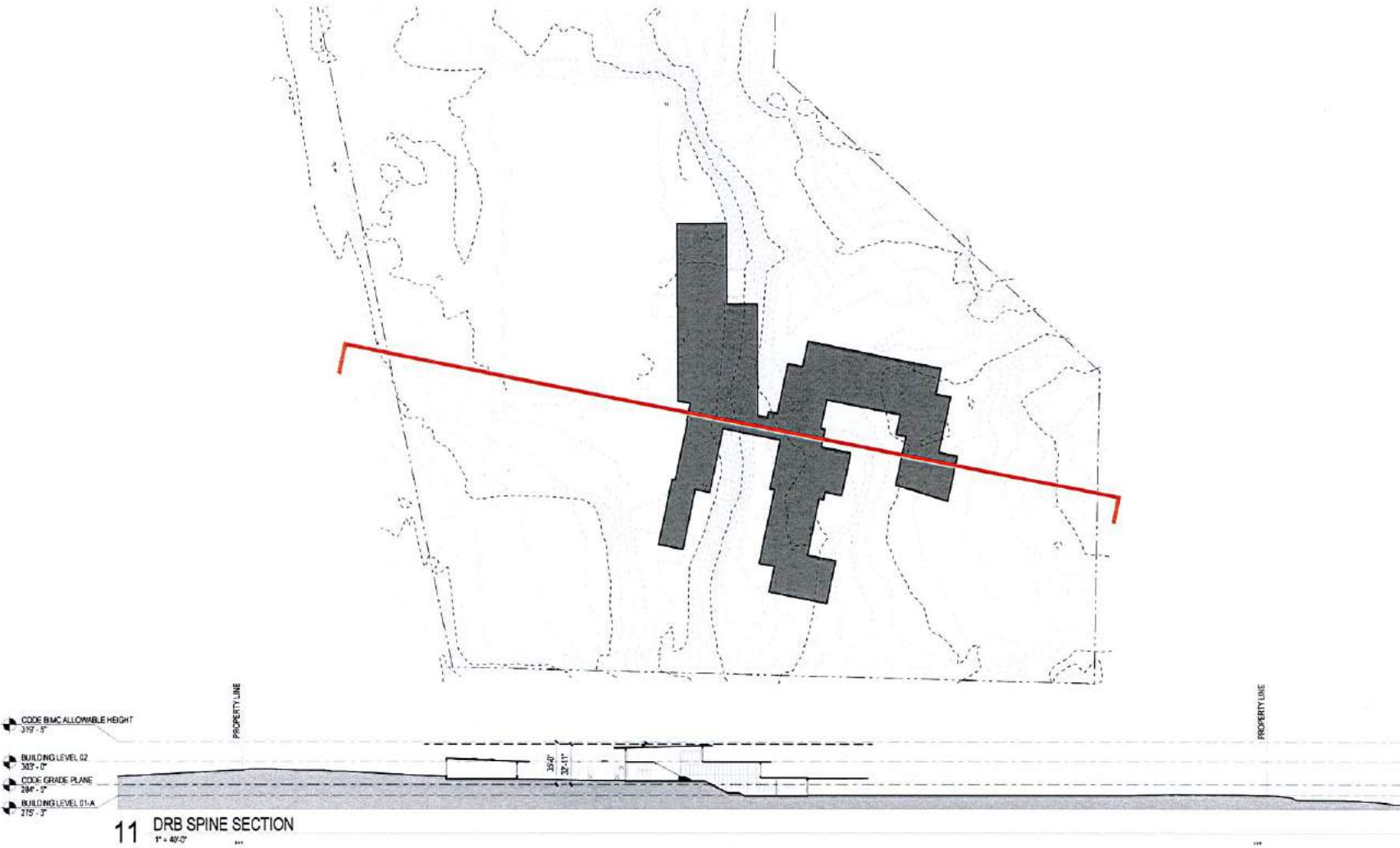
13 EXTERIOR ELEVATION - WEST - ENTRY / ADMIN
1/8" = 1'-0"



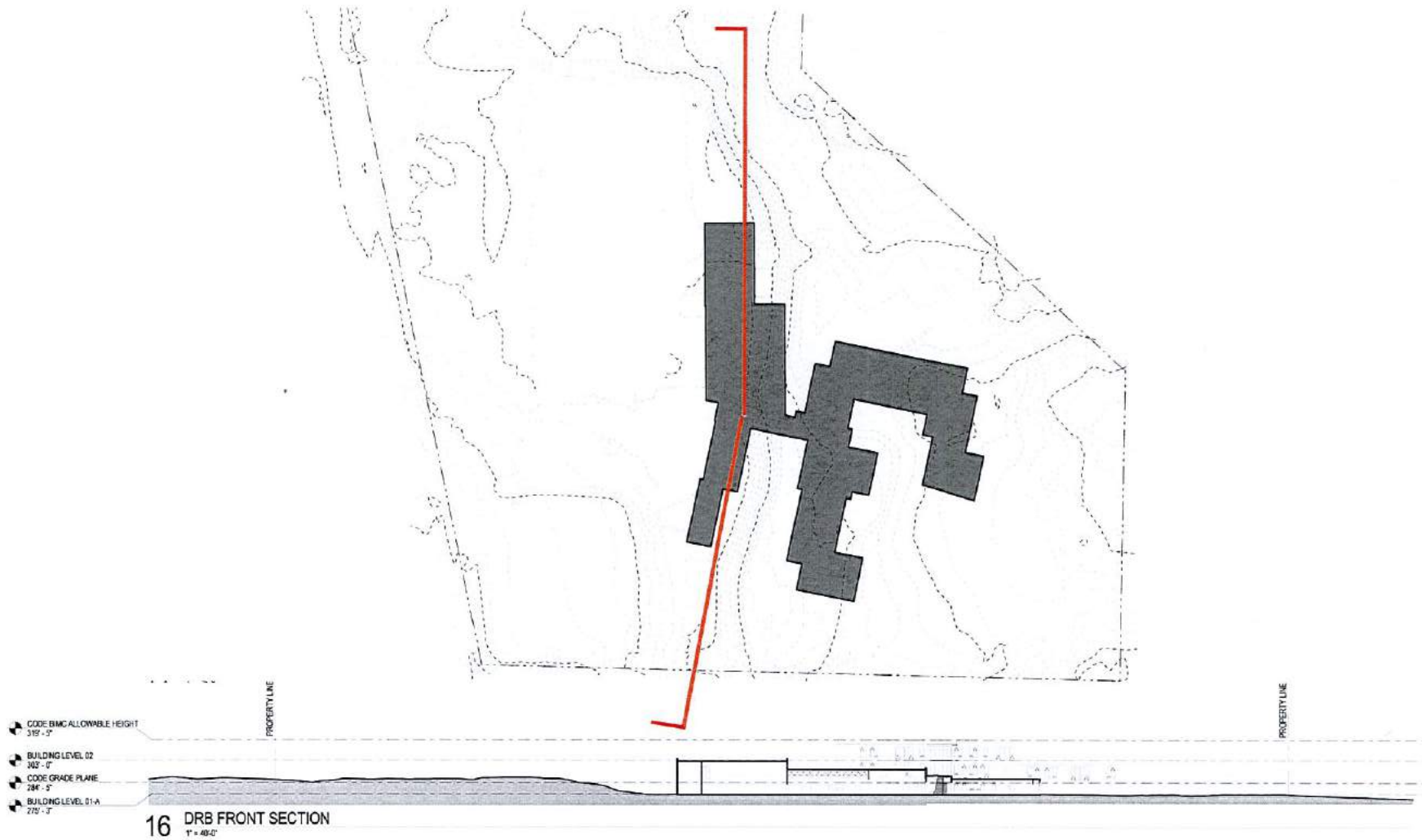
PROPOSED ELEVATIONS



SITE SECTIONS :: EAST / WEST



SITE SECTIONS :: NORTH / SOUTH

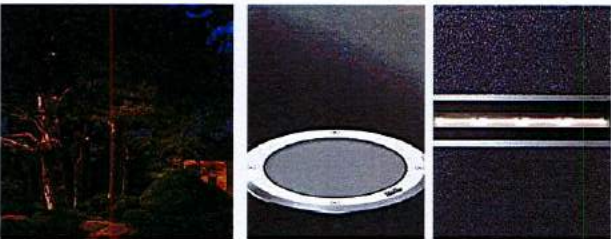


SITE LIGHTING CONCEPT

ROADWAYS AND PARKING



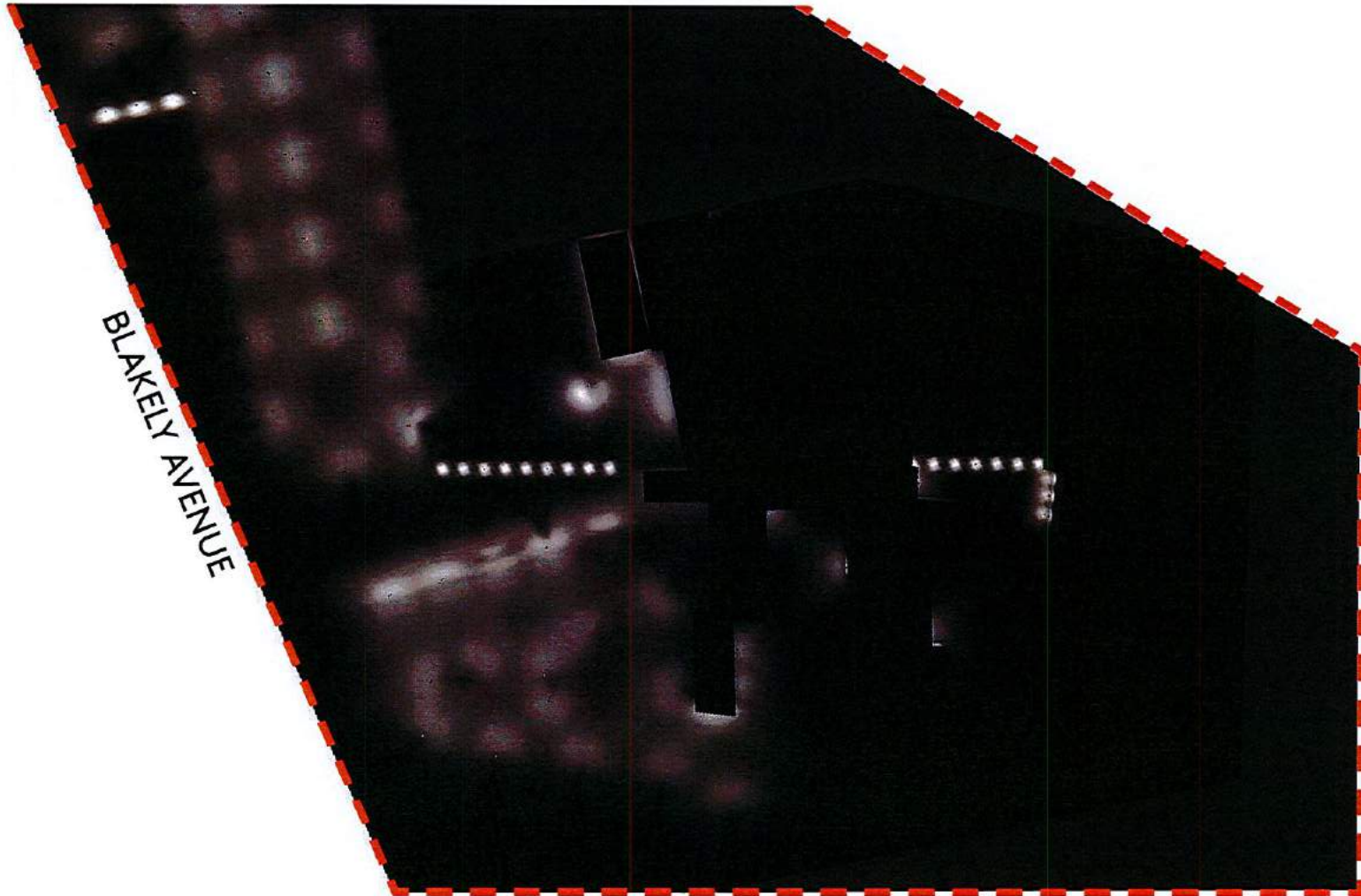
ENTRY SEQUENCE

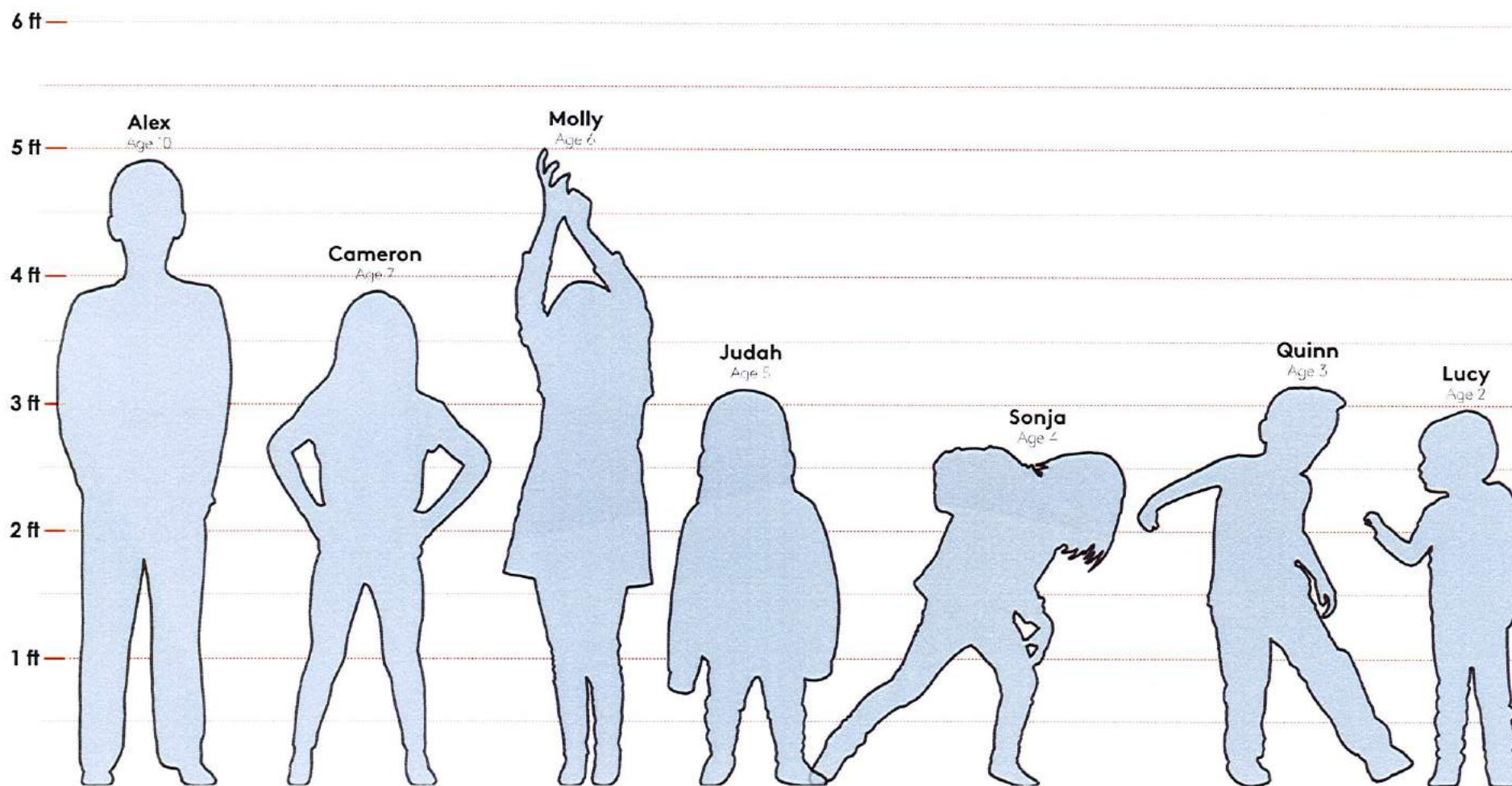


PLAY

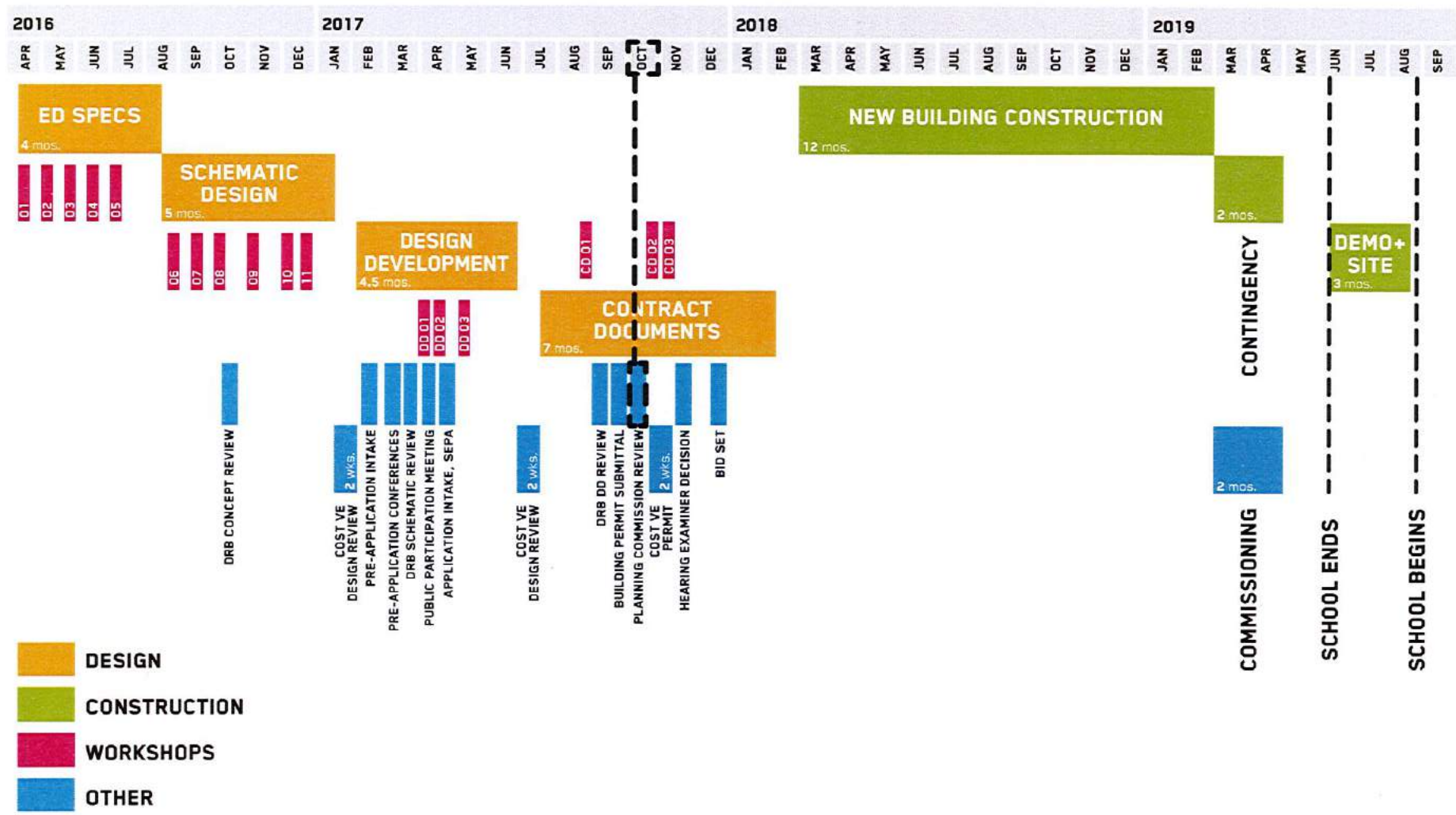


SITE LIGHTING ILLUMINATION





GRAPHIC SCHEDULE



83 DESIGN REVIEW

BIMC Compliance—

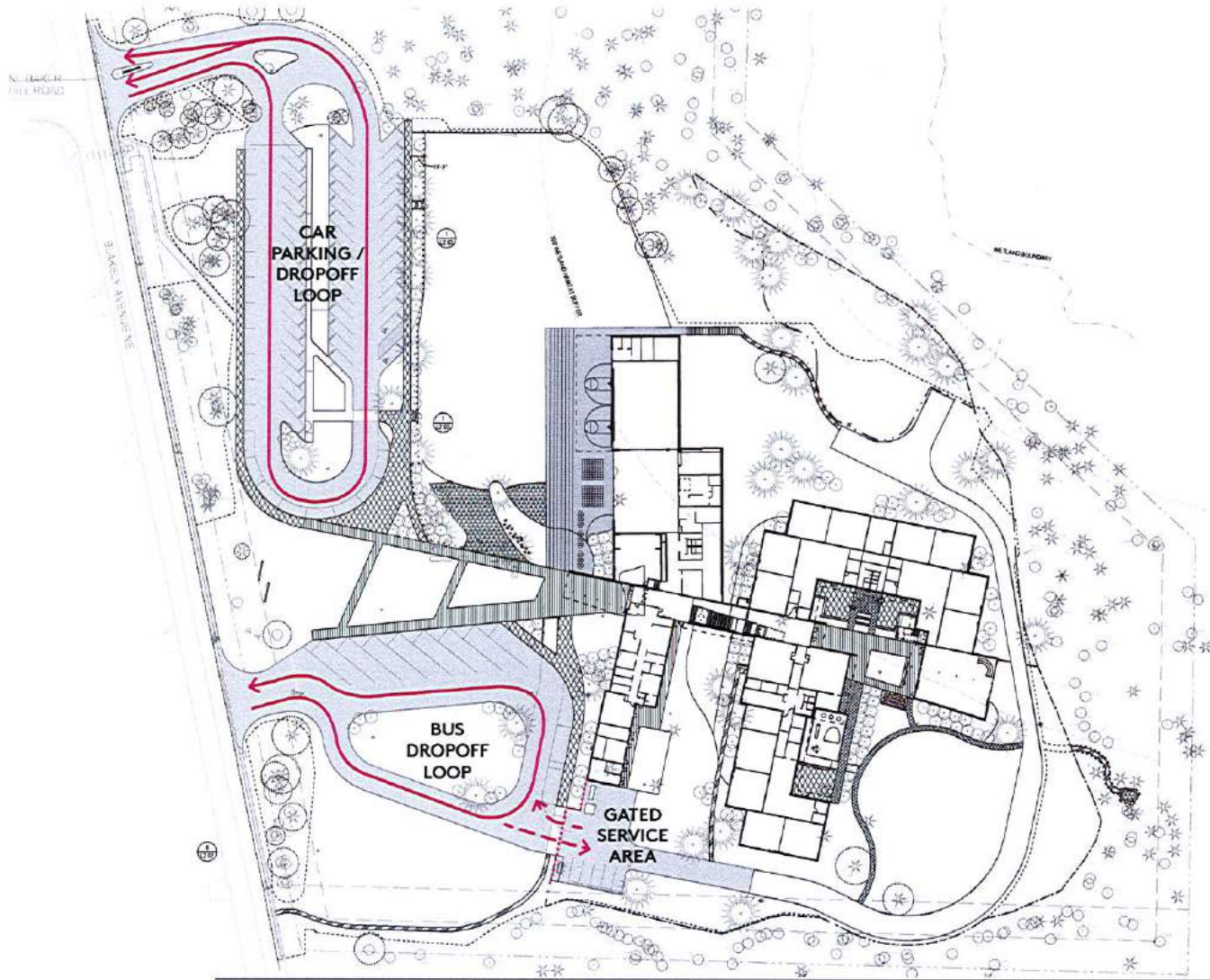
Design Review Board—

MARCH 6, 2017 DRB MEETING

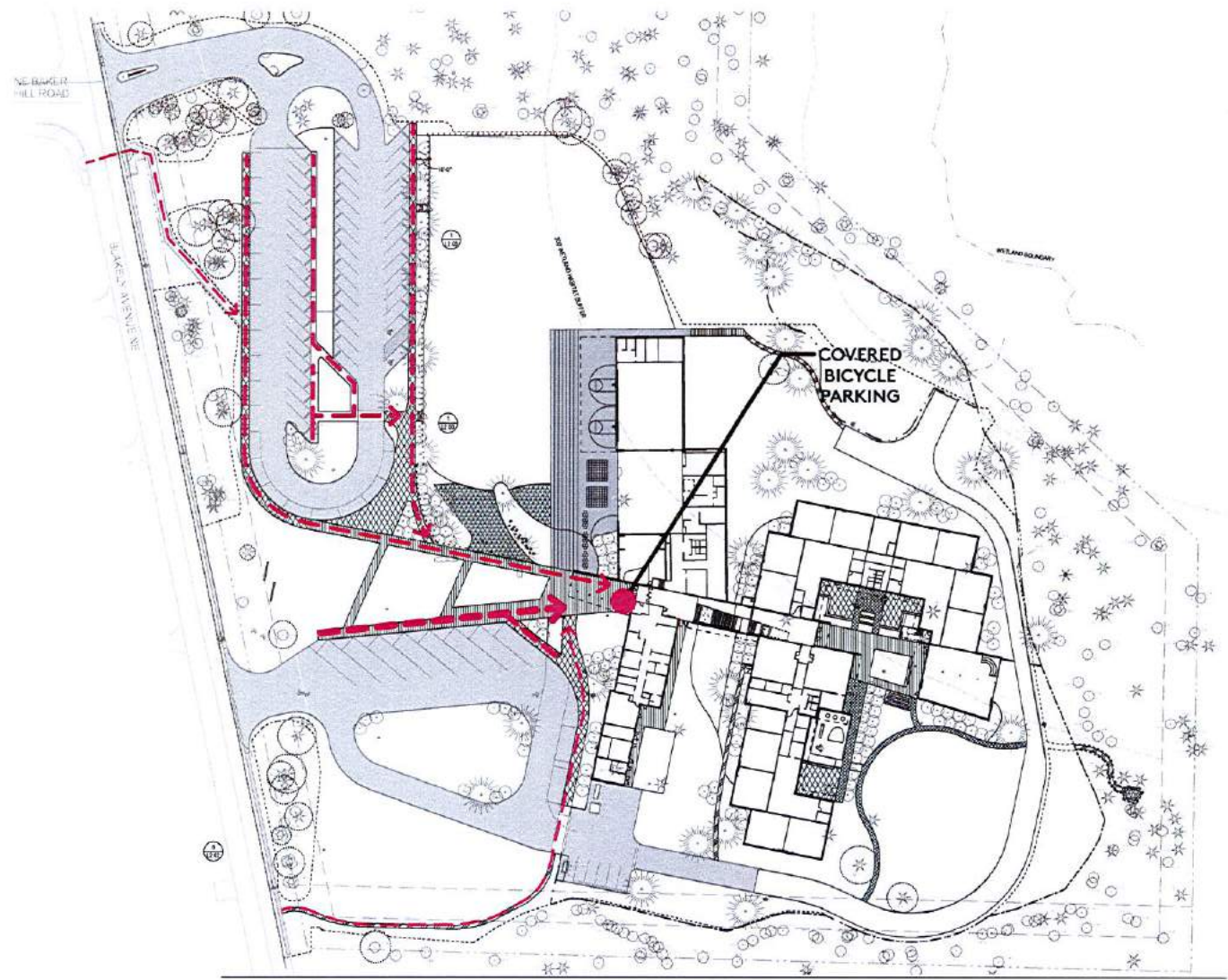
SEPTEMBER 11, 2017 DRB MEETING

- Commercial / mixed-use Design Guidelines
- General Recommendations
 - Baker hill road alignment
 - Footpath from the southwest corner of the site
 - Further Develop landscaping at the front entry

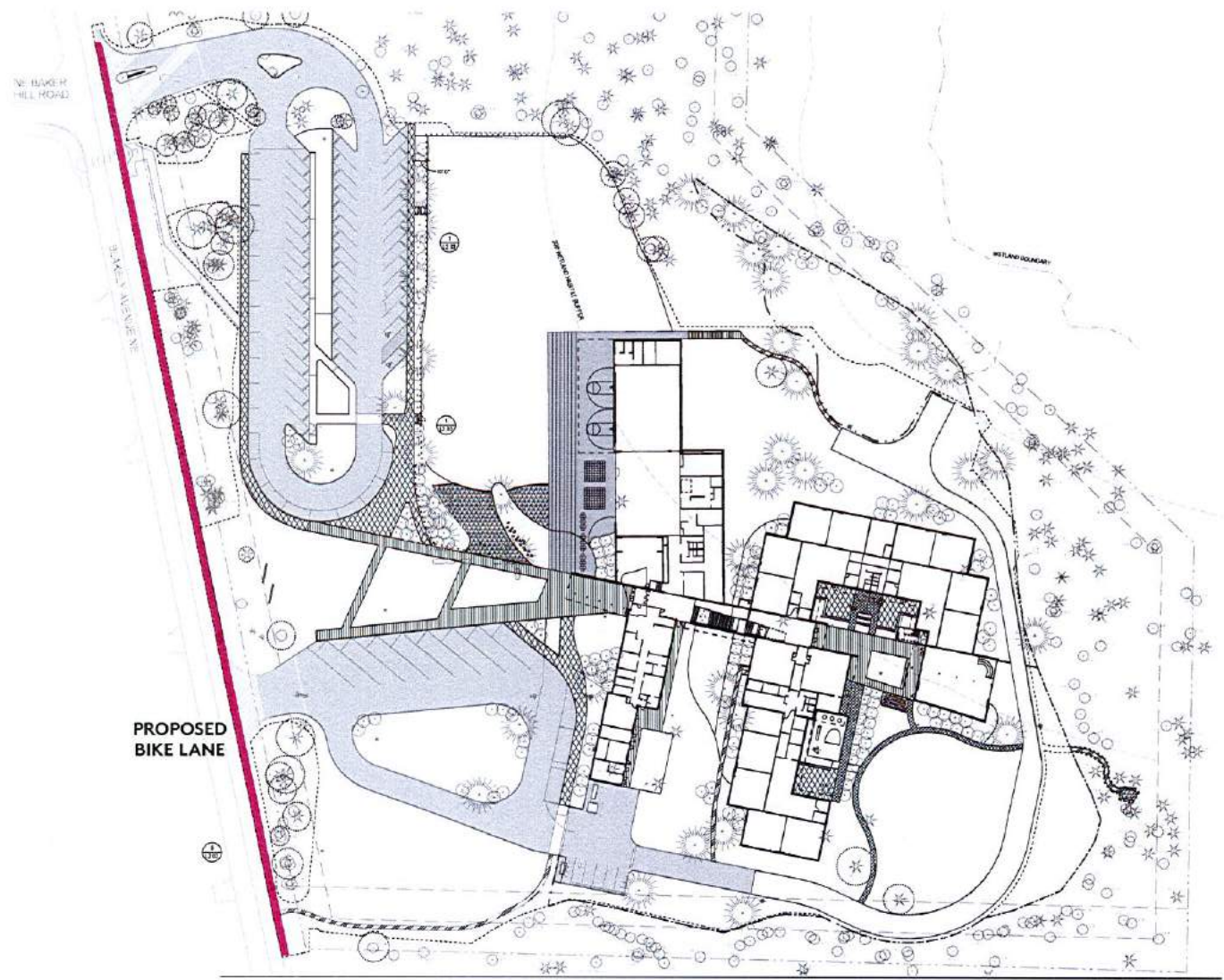
PARKING & BUS

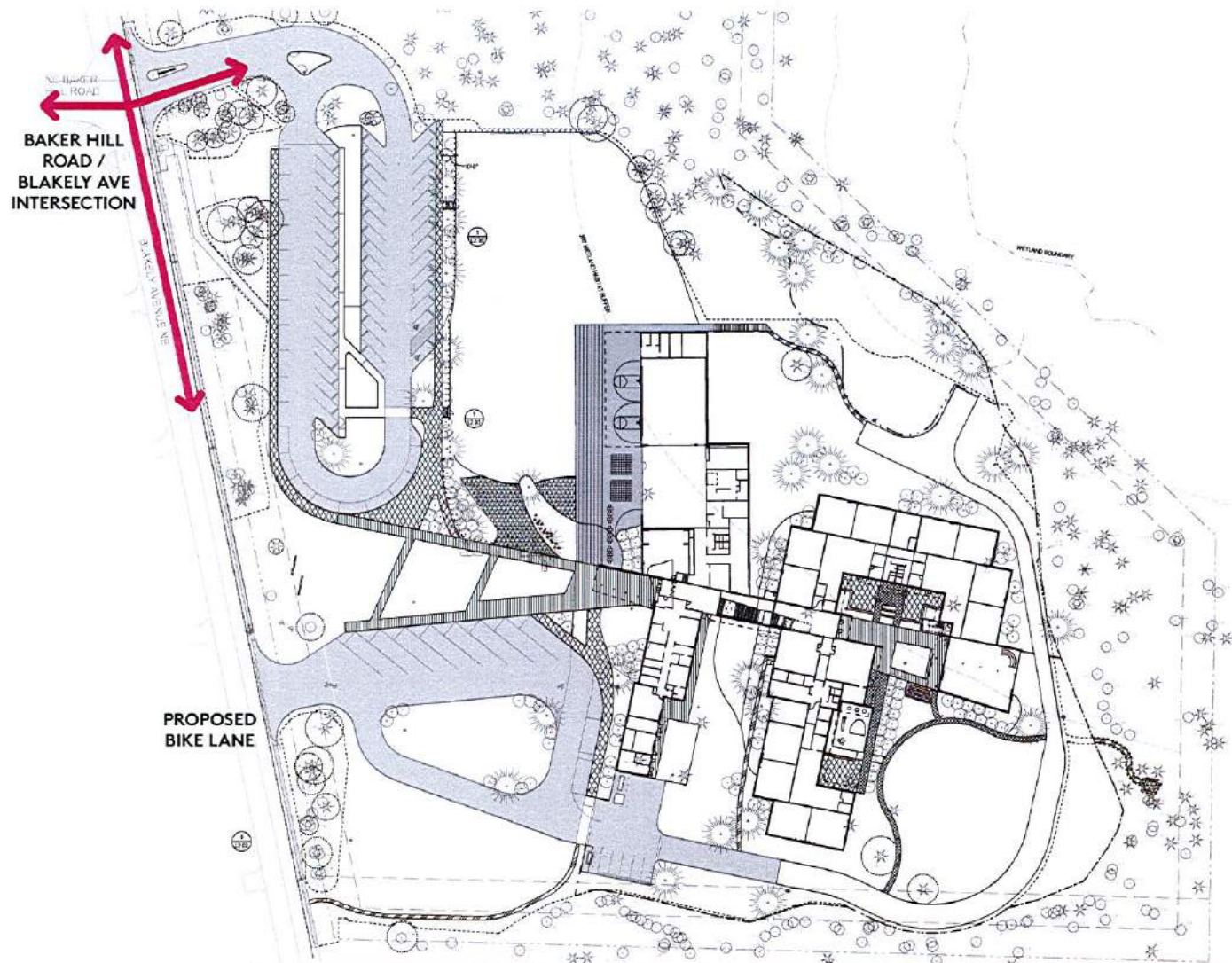


MOBILITY AND ACCESS



ADEQUATE PUBLIC FACILITIES





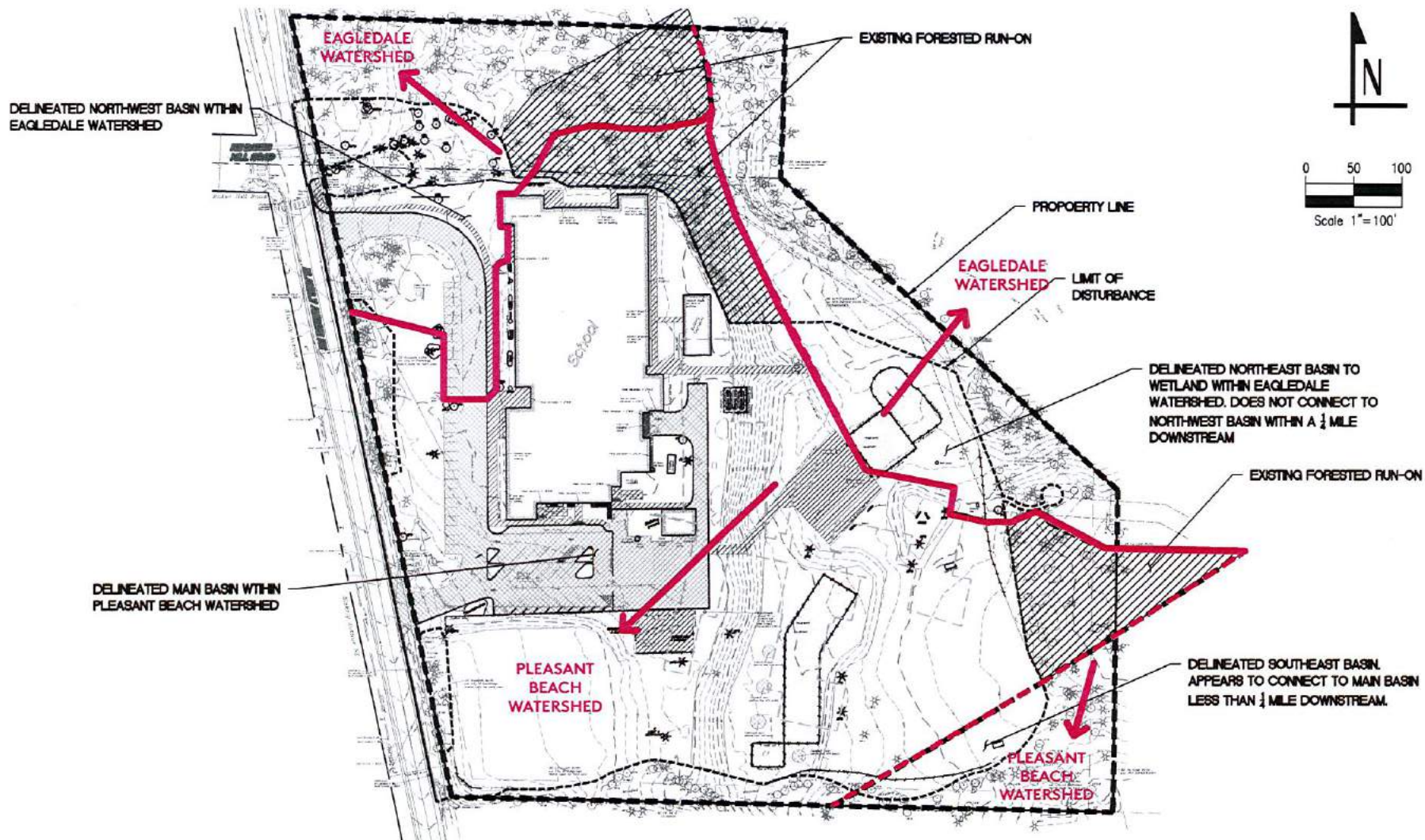
Historic Preservation Board—

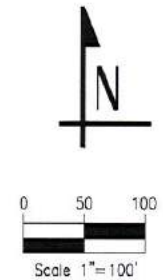
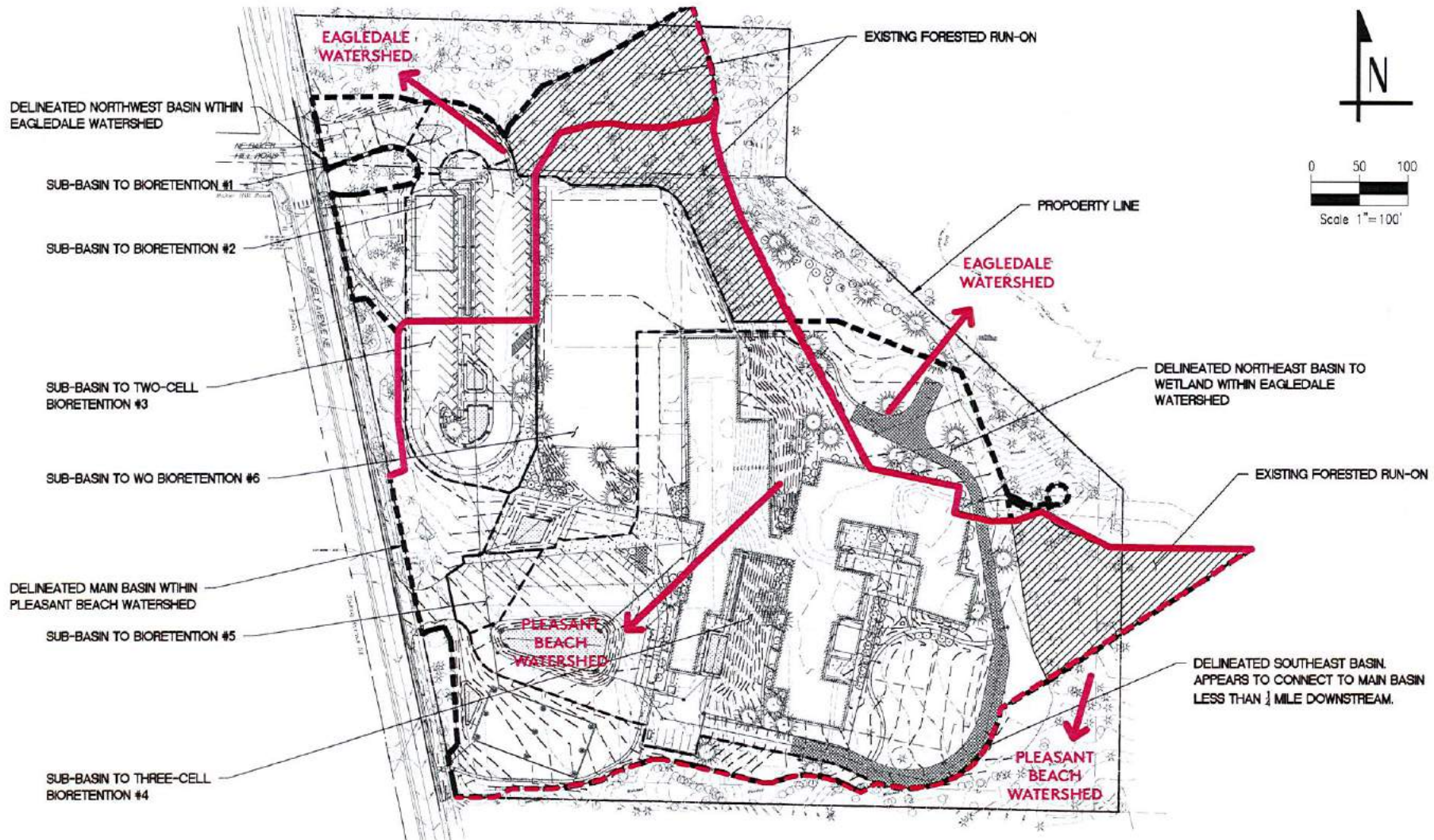
MARCH 2, 2017 MEETING

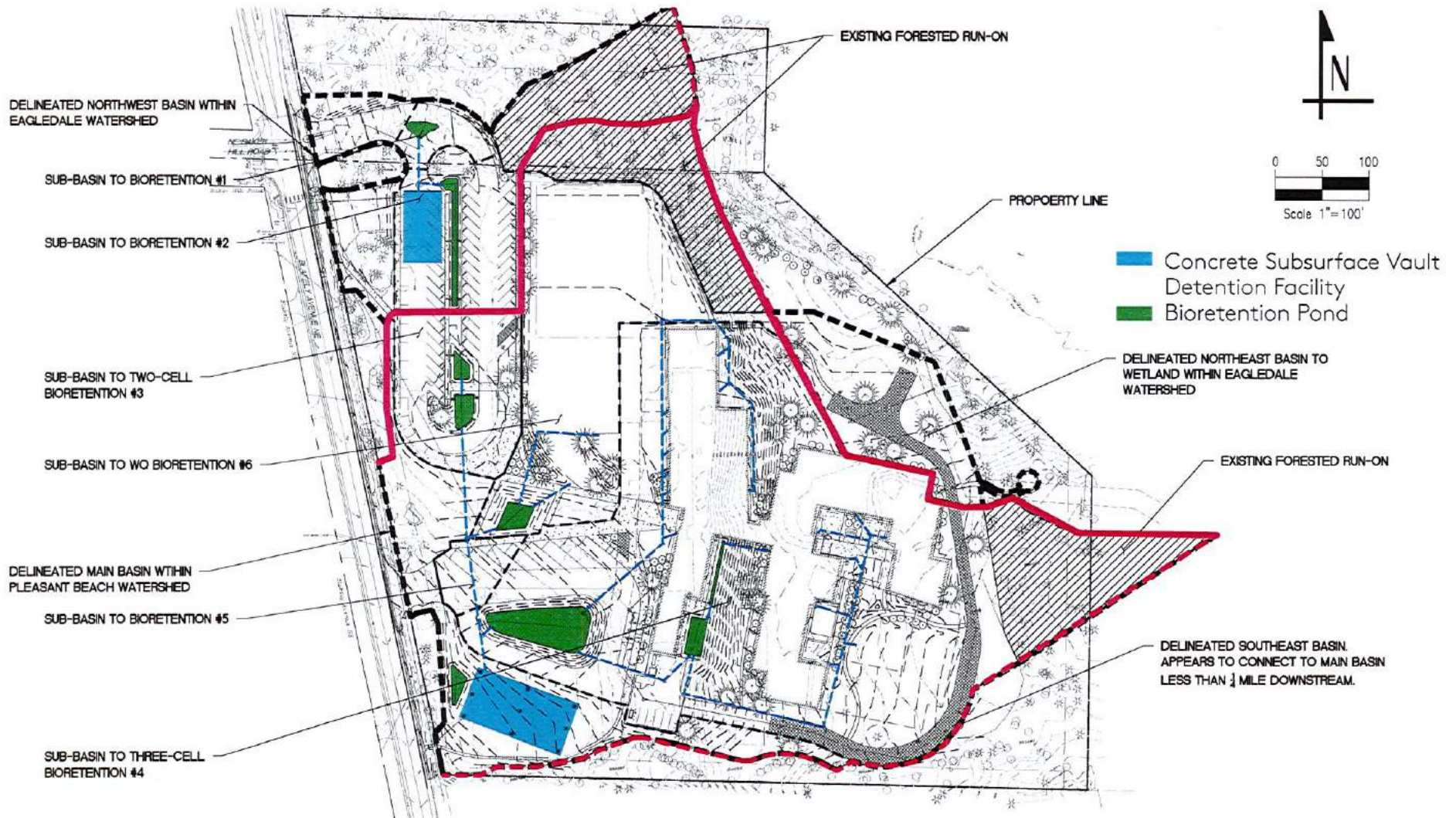
- Suggested mitigation of photographs of the original building in the library

Stormwater Topics—

- Existing Soils
- Existing Hydrology
- Quantity Control
- Quality Control









Wetland—

BLAKELY ELEMENTARY SCHOOL / PLANNING COMMISSION / OCTOBER 18, 2017

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RAEDEKE COMPANY PROFILE

Raedeke Associates, Inc. was started in 1979 to provide unbiased scientific assessments of complex natural resource issues. We have a multidisciplinary team skilled in environmental analyses, sensitive areas identification, wetland and stream delineation, assessment, permitting, and mitigation, plant and animal community studies, aquatic resources, and landscape architecture design and implementation. Our character, integrity and objectivity have allowed us to become a well-respected member of the consulting community. We are strongly committed to including these qualities in every aspect of the work we perform. Our reports convey the professional, objective, scientific approach we use in our field studies and data analyses. These reports clearly identify resource issues and options for the client and are designed so that information is readily accessible, understandable, and formatted to meet the requirements of federal, state, and local agencies.

William K Hohman, PWS

Wetland Scientist

Christopher W Wright, BS

Soil and Wetland Scientist

Richard W Lundquist, MS

Vice President / Wildlife Biologist

G Emmett Pritchard, BS

Wetland Ecologist

RAEDEKE SELECTED PROJECT EXPERIENCE

Islandwood – Environmental Learning Center, Bainbridge Island, WA. RAI assisted in the permitting and site planning of the 251-acre Learning Center on Bainbridge Island, with emphasis on the environmental constraints of wetlands and wildlife habitat. We delineated the wetlands on the site and prepared an impact assessment as part of the SEPA and environmental permitting process. We also identified environmental learning opportunities within the wetland systems and wildlife habitat. As part of Phase II, we reviewed and updated the delineation of portions of two wetlands including the large wetland adjacent to the Blakely Elementary School site, evaluated project impacts, and recommended mitigation measures to avoid, minimize, or compensate for impacts.

Willow Property Habitat Management Plan, Bainbridge Island, WA. RAI prepared a critical areas report and habitat management plan for a proposed residential expansion on a 6-acre property on Bainbridge Island. The objectives of our study were to: (1) evaluate existing site conditions with respect to wetland, fish, and wildlife habitat that currently occurs within the Willow property, (2) assess potential impacts of the proposed development plan, and (3) develop habitat management recommendations which, if implemented, would result in an improvement of wetland and fish habitat currently found on-site.

Winslow Way Stormwater Outfall Marine Shoreline Assessment, Bainbridge Island, WA. As part of a consultant team under contract with the City of Bainbridge Island, RAI conducted the overall wetland and stream channel critical areas delineations and mitigation measures in Ravine Creek as part of the COBI stormwater outfall reconstruction below Winslow Way. This included quantification of impacts and a recommended planting plan for buffer impacts.

Village Pump Station Critical Areas Assessment, Bainbridge Island, WA. As part of a consultant team under contract with the City of Bainbridge Island, RAI evaluated a proposed site for a supplemental sewer pump station for wetlands and streams and associated buffer requirements. We prepared a critical areas report to evaluate impacts and outline mitigation measures for the project.

Bloedel Reserve Bird Marshland Meadow Trail, Bainbridge Island, WA. Raedeke Associates, Inc. conducted a reconnaissance of wetlands, streams, and Fish and Wildlife Habitat Conservation Areas to assist the Bloedel Reserve to avoid impacts to City-regulated critical areas and their buffers in preliminary design for a new trail within the south meadow.

Clearwater Casino, Kitsap County, WA. RAI conducted a bald eagle habitat survey and impacts assessment for an expansion of the Clearwater Casino for the Suquamish Tribe on the north side of Agate Pass on the Kitsap Peninsula, Washington.

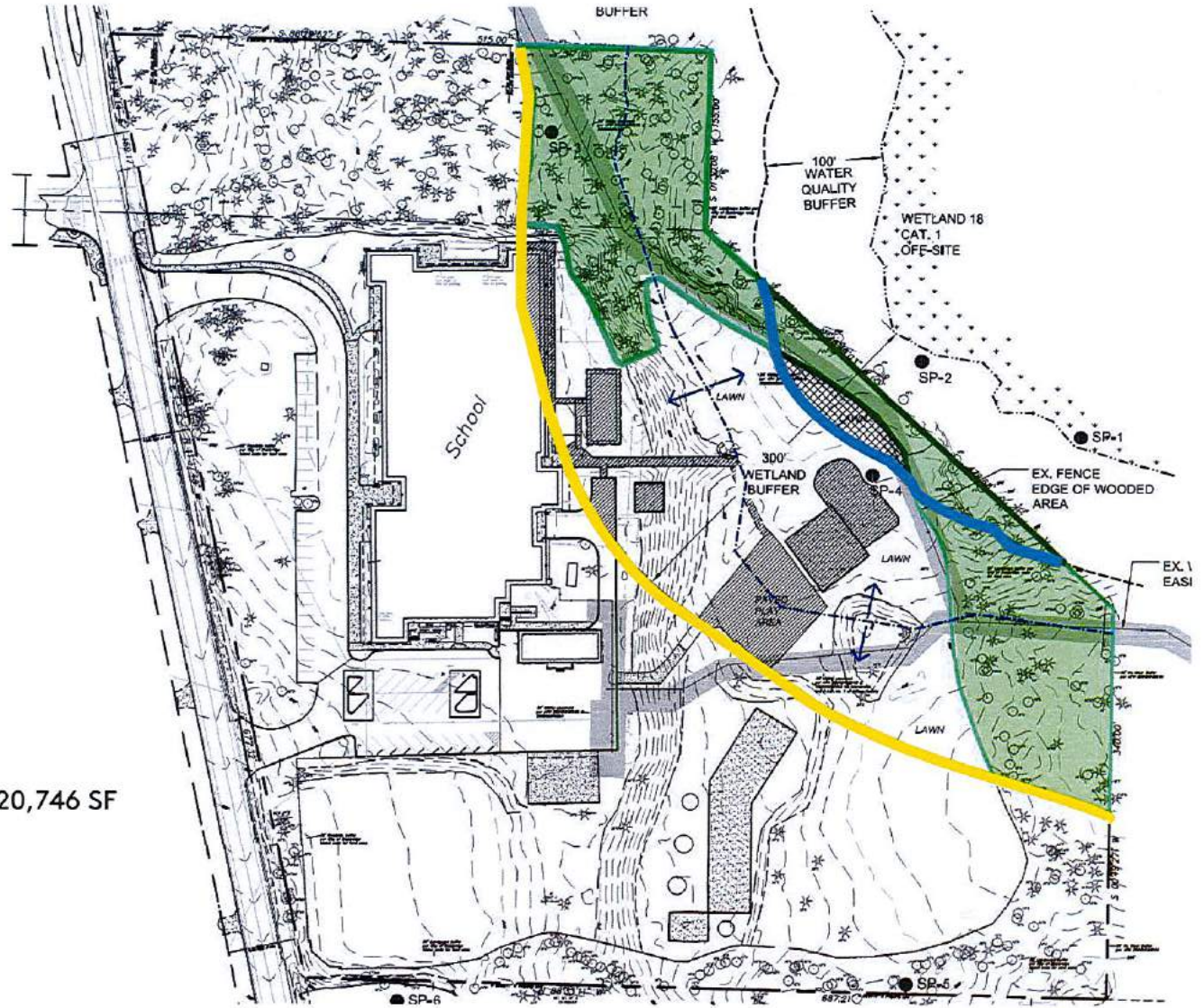
Bremerton National Airport – Wildlife Hazard Assessment and Management Plan. Under contract with the Port of Bremerton, RAI conducted a year-long wildlife hazard assessment at the Bremerton Airport. Bird observations points, small mammal trapping and game camera management were part of the field activities. RAI prepared a Wildlife Hazard Assessment Report and Wildlife Hazard Management Plan, both of which have received final approval by the FAA.

Lake Whatcom Forest Management Plan, Bellingham, WA. As part of a consultant team under contract with the City of Bellingham, RAI identified critical areas in the field, including stream type, fish passage issues, wetlands, and important wildlife habitat on the City of Bellingham's newly acquired 3,600-acre forest reserve. We conducted a field assessment of critical areas on the site and along with a forestry consulting team produced an initial management concepts report for the city managers, to help protect water quality in the tributary basin of Lake Whatcom, the City's water supply reservoir.

Suncadia (fka MountainStar) Master Planned Resort (Land Stewardship), Kittitas County, WA. Raedeke Associates, Inc. was responsible for the wetlands and plant and animal sections of SEPA and NEPA Environmental Impact Statements for this 6,200-acre destination resort near Roslyn, Washington. Project tasks have included preparation of a Land Stewardship Plan (LSP) to guide the management of over 3,500 acres of open space lands the site. The long-term strategy for the open lands is to create and maintain a forest landscape that is, in perpetuity, visually attractive, healthy, and capable of supporting a diverse native wildlife community. The specific goals of the approved plans were to achieve an attractive resort environment, to enhance the natural environment through active management, balance recreation and wildlife habitat needs, and accomplish management through cost-effective means. We are now in the process of updating the plan area GIS database and plan documents to incorporate site treatments that have been completed, reflect current conditions, and to address current and future forest stand issues and needs.

Plum Creek Timber Habitat Conservation Plan and EIS, Washington Cascades. RAI was the lead consultant in a scientific team that prepared a multi-species HCP and NEPA Environmental Impact Statement for 440,000 acres of commercial forestland in the central Washington Cascades. A wildlife habitat and use inventory was conducted to identify species protected by the Endangered Species Act, including spotted owls, marbled murrelets, grizzly bears, gray wolf, breeding birds, reptiles and amphibians. Management plans were developed for protected species.

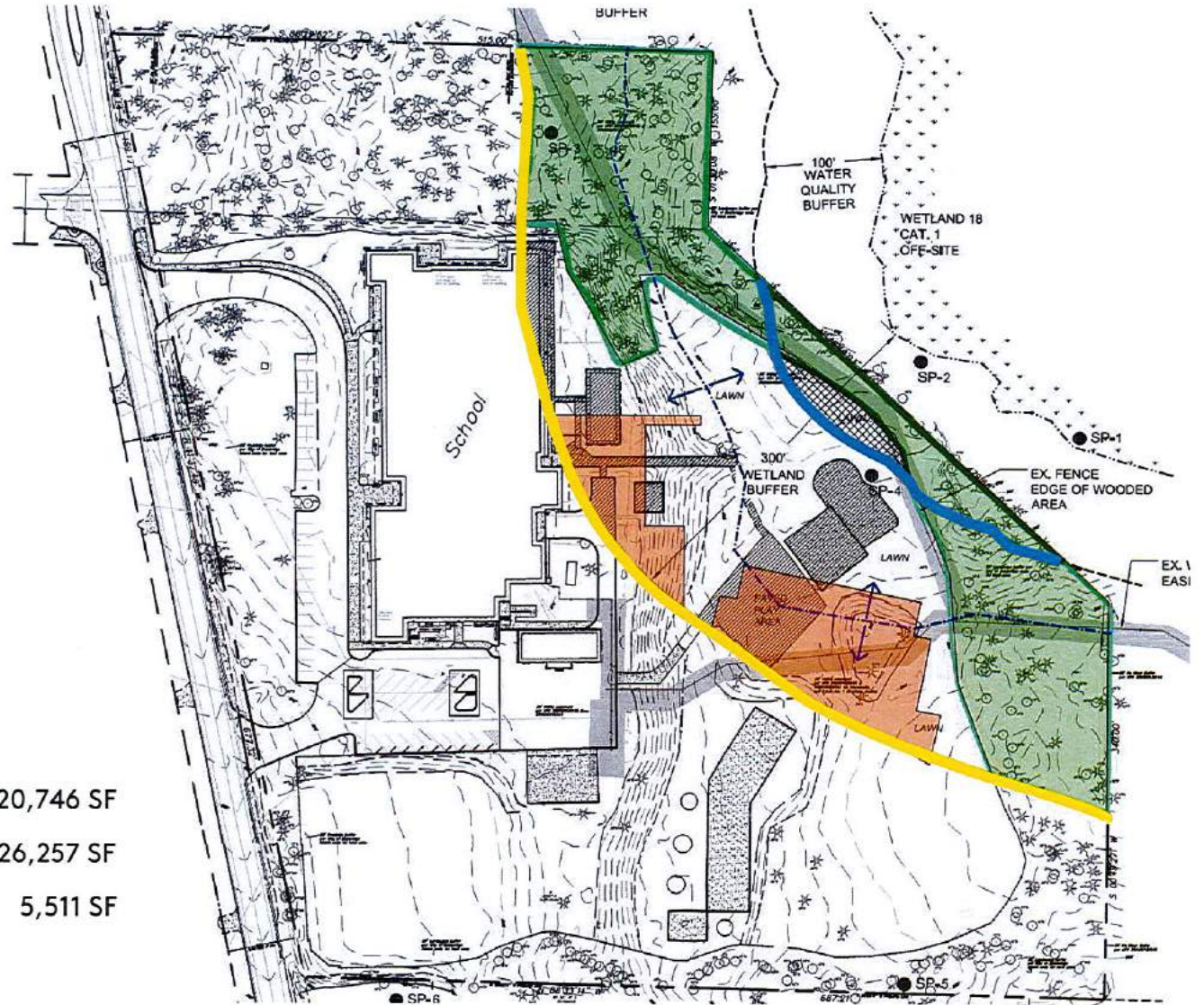
HMP- EXISTING CONDITIONS



EXISTING BUILDINGS & HARDSCAPE 20,746 SF

HMP- PROPOSED OVERLAY

EXISTING BUILDINGS & HARDSCAPE	20,746 SF
PROPOSED BUILDINGS & HARDSCAPE	26,257 SF
NET INCREASE	5,511 SF

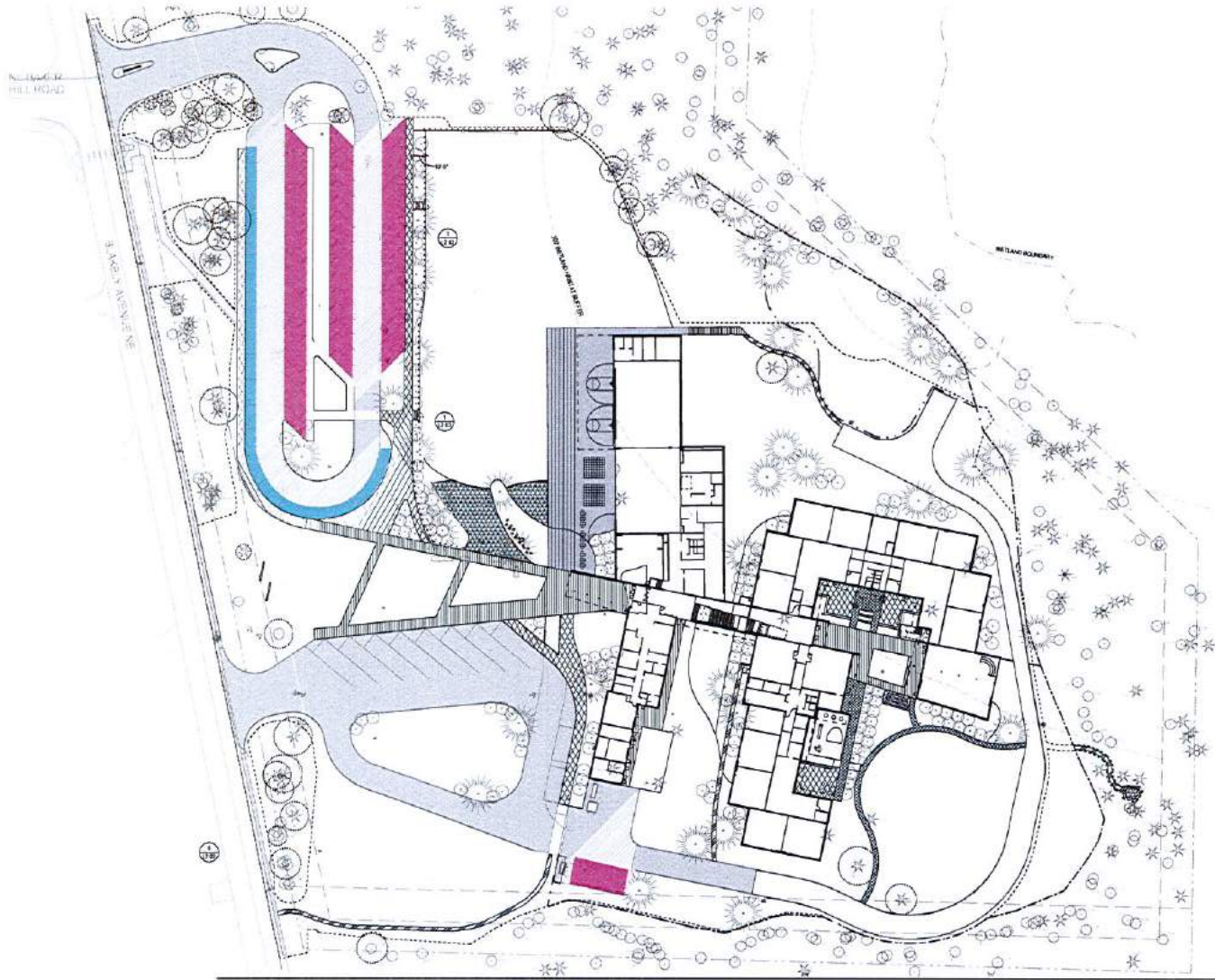


HMP- PROPOSED ENHANCEMENTS



PROPOSED HABITAT MITIGATION PLANTING 14,794 SF

PARKING & DROPOFF COUNTS



PARKING REQUIREMENTS

450 students = 9 spaces

45 employees = 45 spaces

54 spaces required by code

PROPOSED PARKING

54 parking spaces

19 dropoff spaces

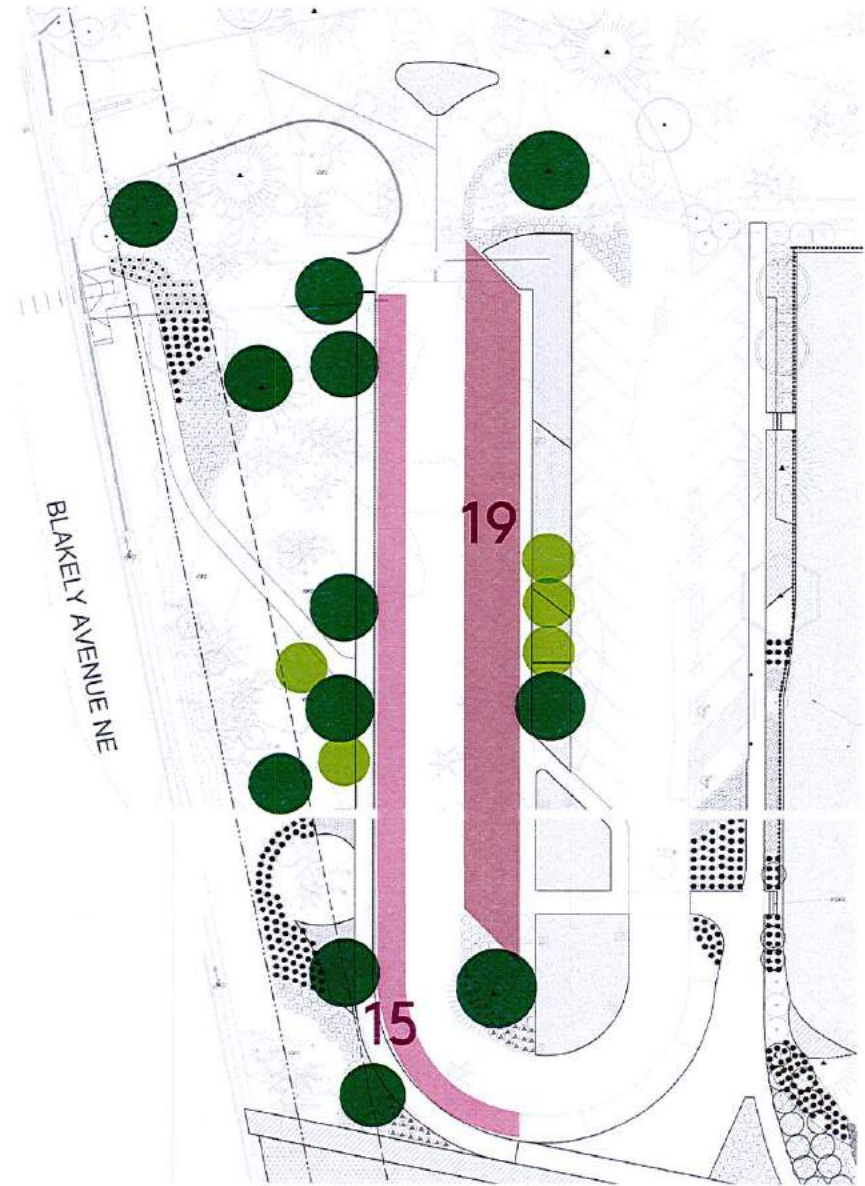
73 marked vehicle spaces

PARKING LOT WEST EDGE LANDSCAPING

15 DROP OFF STALLS
19 PARKING STALLS

35 TOTAL STALLS

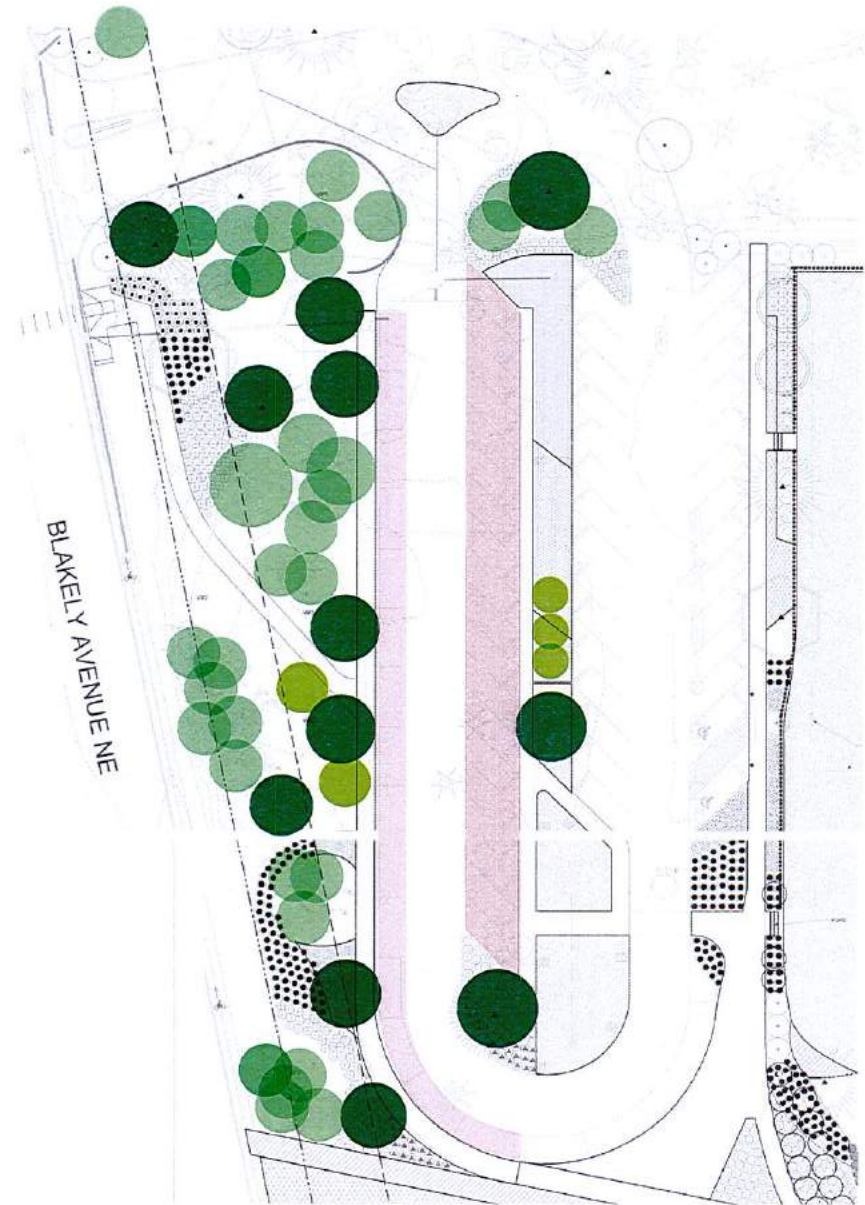
1 TREE/4 STALLS = 9 NEW TREES



PARKING LOT WEST EDGE LANDSCAPING

15 DROP OFF STALLS
19 PARKING STALLS
35 TOTAL STALLS

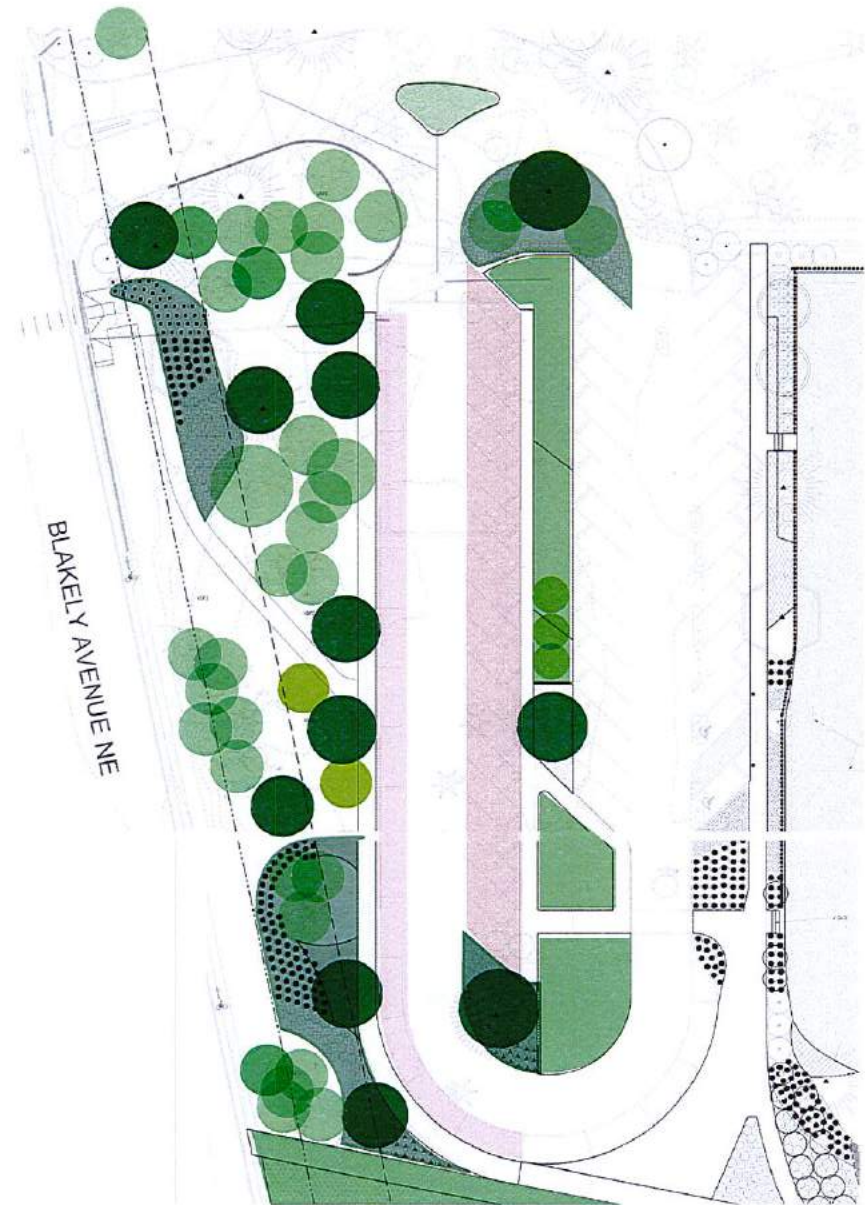
1 TREE/4 STALLS = 9 TREES



PARKING LOT WEST EDGE LANDSCAPING

15 DROP OFF STALLS
19 PARKING STALLS
35 TOTAL STALLS

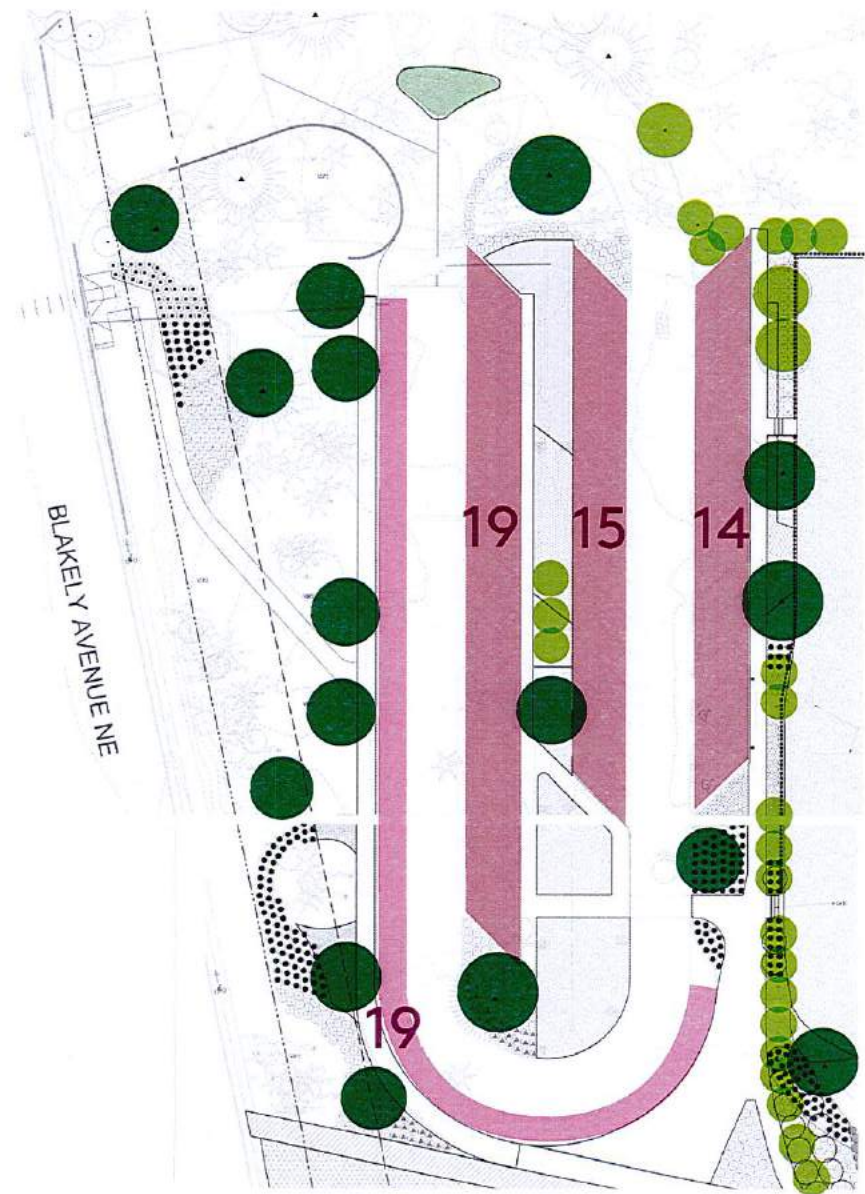
1 TREE/4 STALLS = 9 TREES



PARKING LOT LANDSCAPING

19 DROP OFF STALLS
48 PARKING STALLS
67 TOTAL STALLS

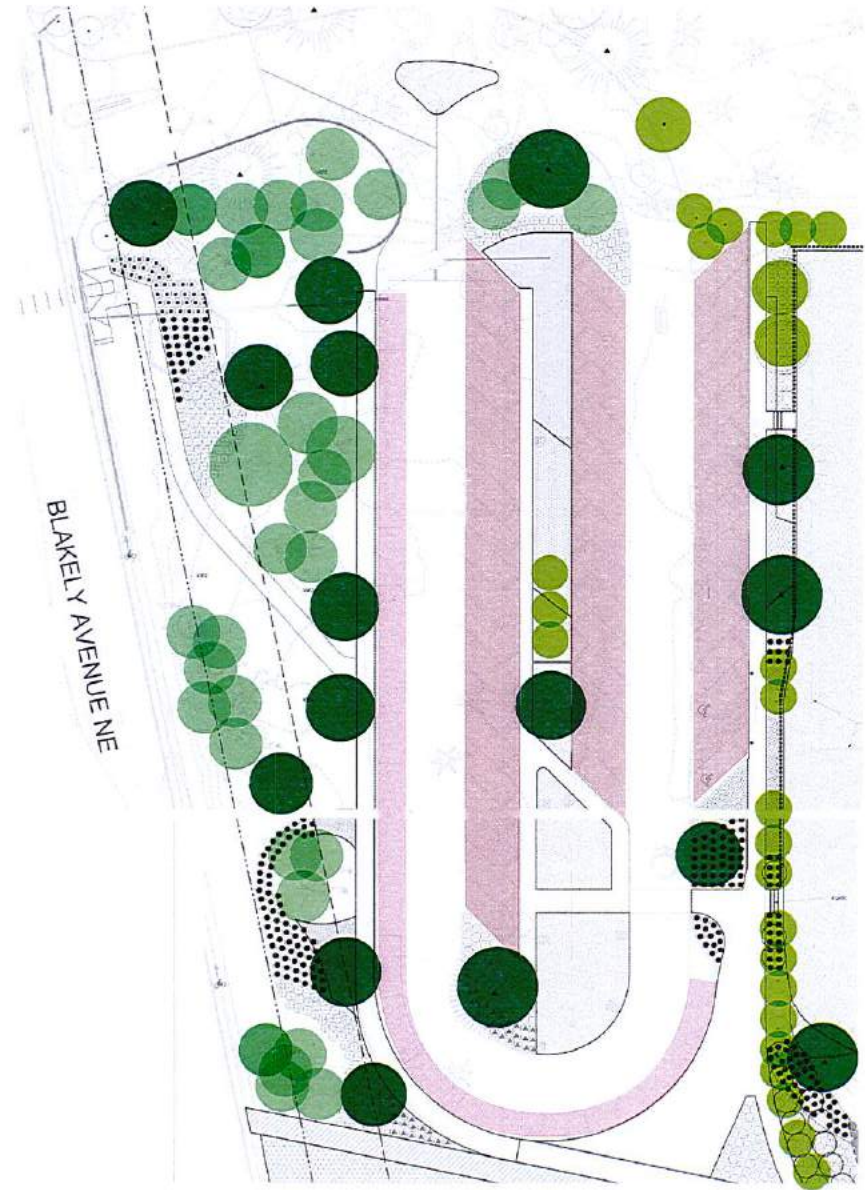
1 TREE/4 STALLS = 17 TREES



PARKING LOT LANDSCAPING

19 DROP OFF STALLS
48 PARKING STALLS
67 TOTAL STALLS

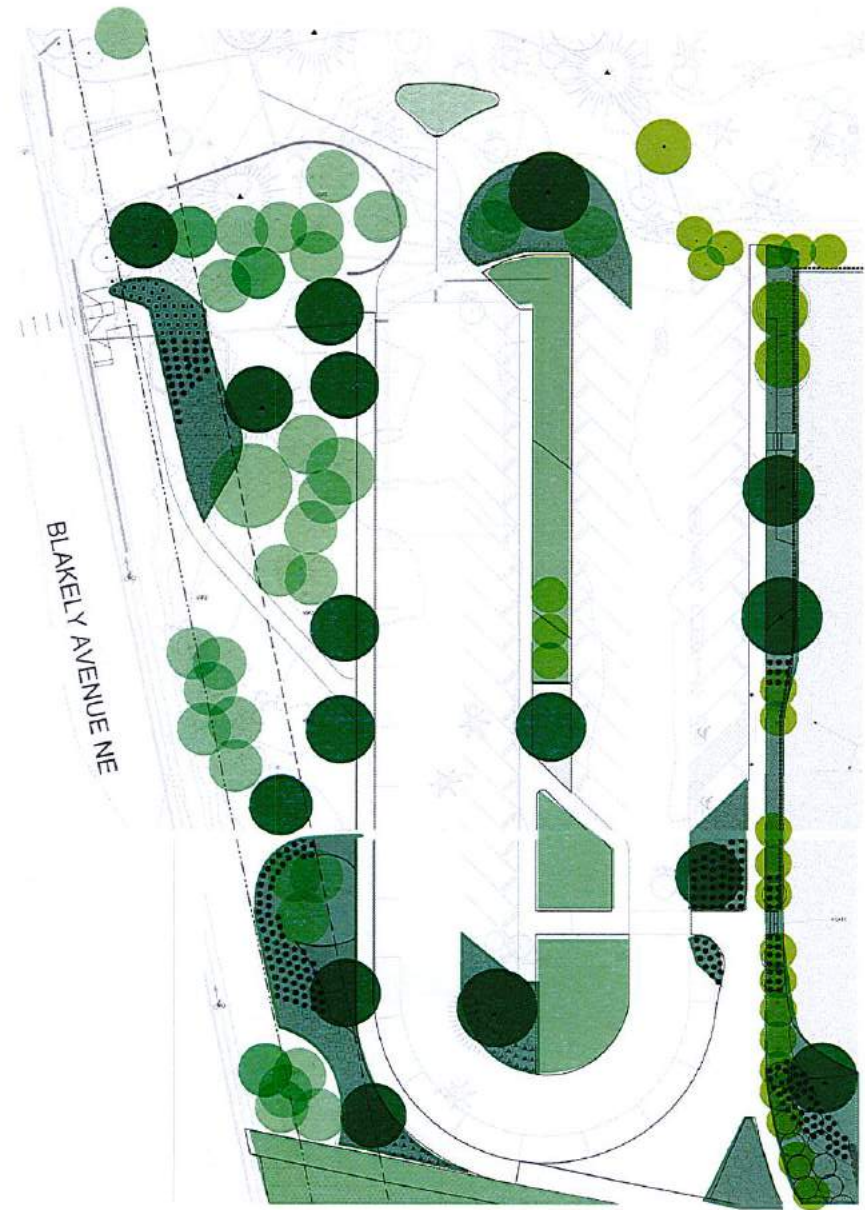
1 TREE/4 STALLS = 17 TREES



PARKING LOT LANDSCAPING

19 DROP OFF STALLS
48 PARKING STALLS
67 TOTAL STALLS

1 TREE/4 STALLS = 17 TREES



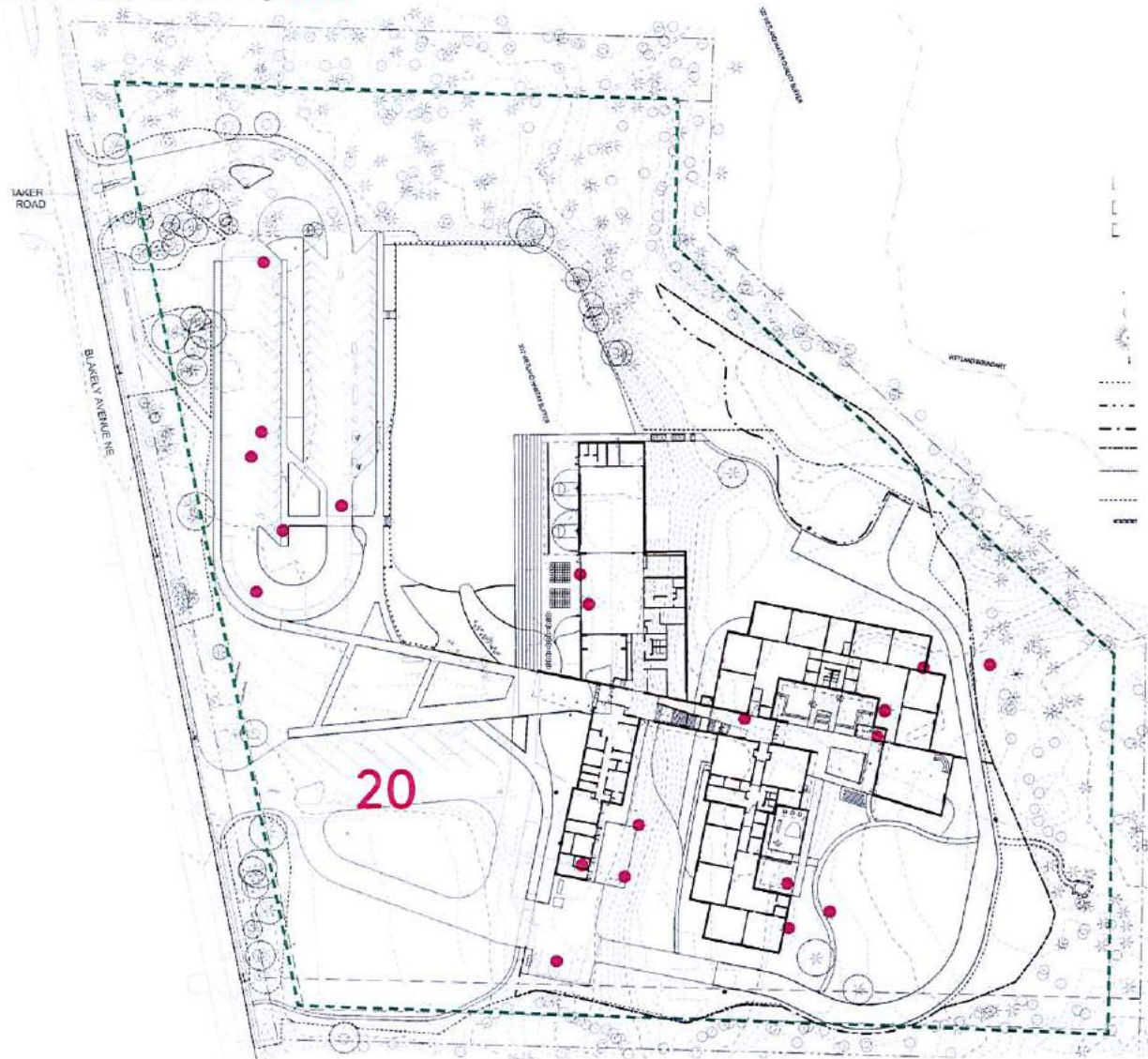
TREE REMOVAL- ENTRY DRIVE



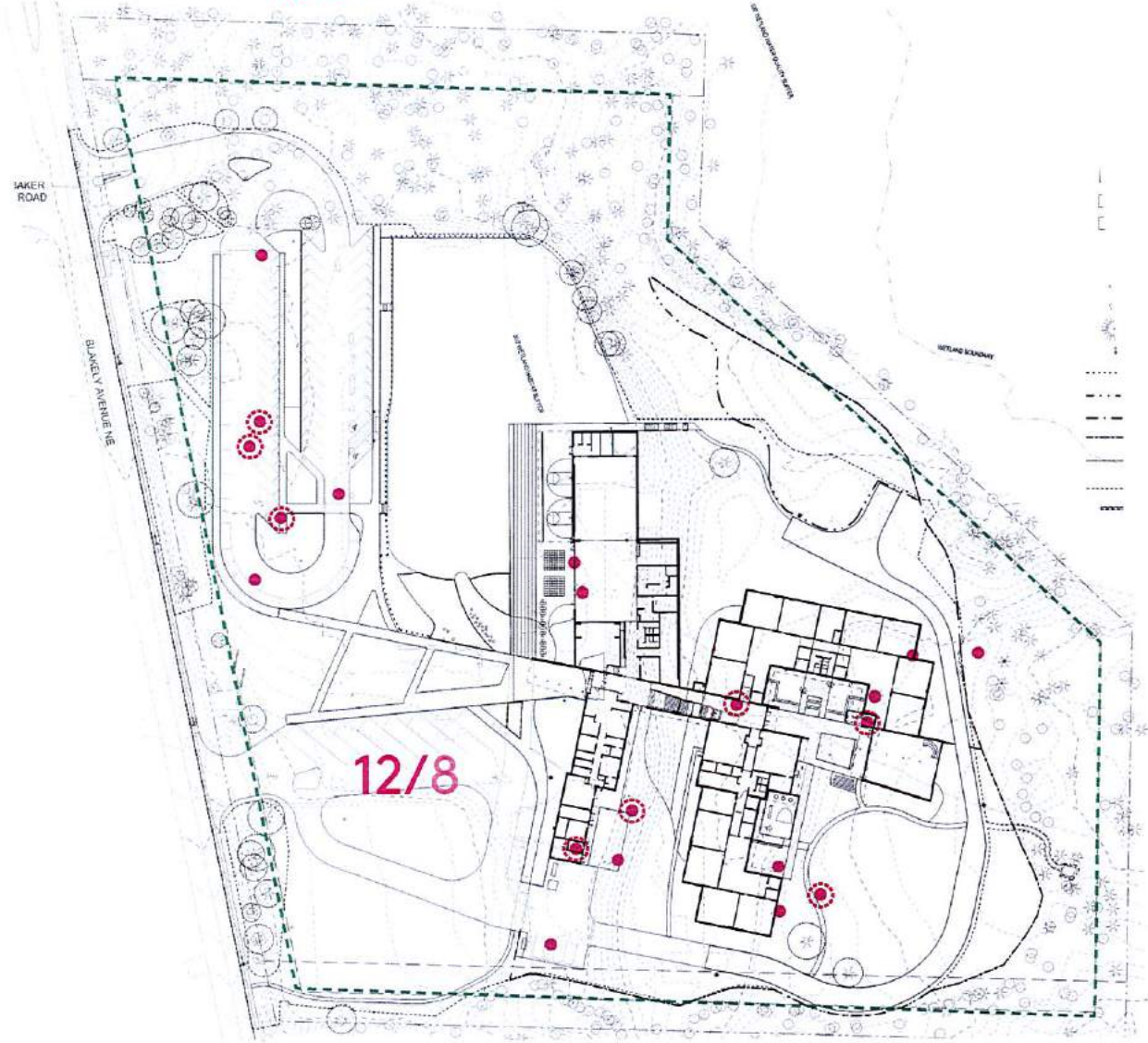
TREE REMOVAL | ENTRY DRIVE CANDIDATES FOR REMOVAL



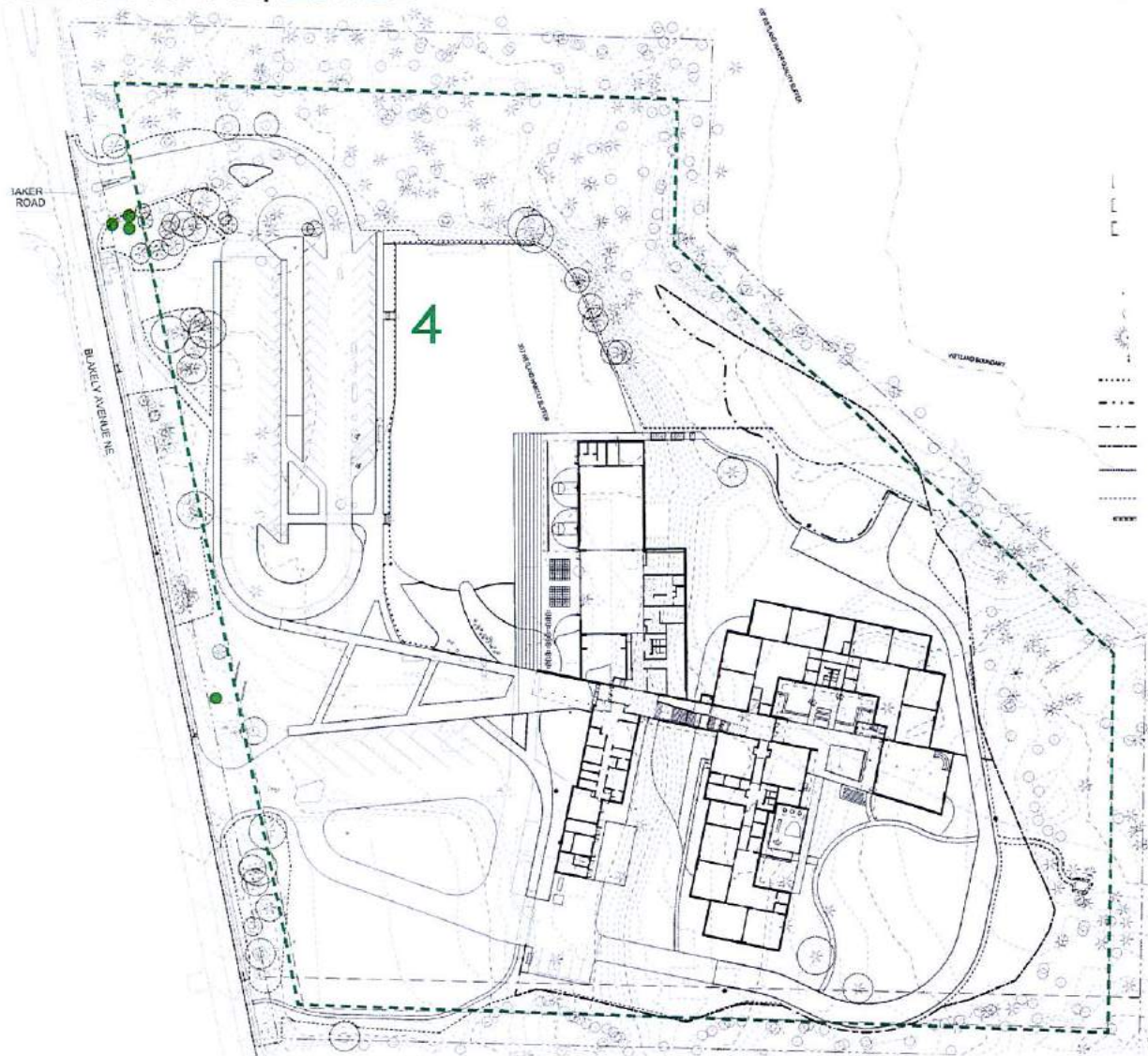
TREE REMOVAL | SITE



TREE REMOVAL | SITE CANDIDATES FOR REMOVAL



TREE REMOVAL | BUFFER



TREE REMOVAL | BUFFER CANDIDATES FOR REMOVAL



TREE REMOVAL PLAN



ENTRY DRIVE 22/2
BUFFER 3/1
SITE 12/8

TREE SIZE	#
<12"	23
12"-24"	16
24"+	8

TREE RETENTION | BUFFER



TREE RETENTION | BUFFER + SCREENING



BLAKELY ELEMENTARY SCHOOL / PLANNING COMMISSION / OCTOBER 18, 2017

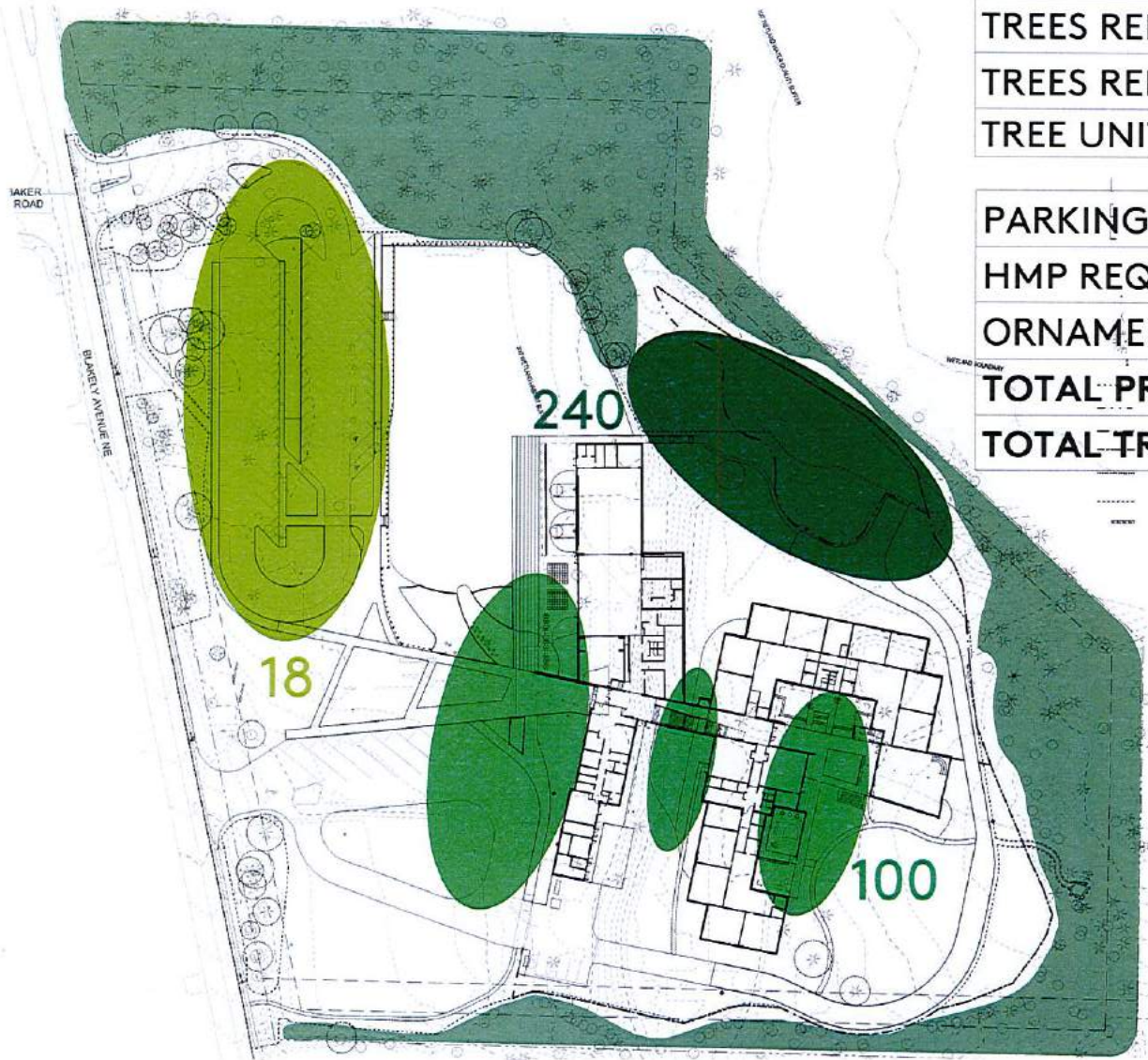
TREE RETENTION | BUFFER + SCREENING



TREE PLAN | OVERALL



TREE PLAN | REPLACEMENT



EXISTING TREES	521
TREES REMOVED	47
TREES REMAINING	474
TREE UNITS REQUIRED/ACRE	480 @ 40/ACRE

PARKING TREES REQUIRED	18 (2 CAL+)
HMP REQUIRED	~240 (2 GAL)
ORNAMENTAL	~100
TOTAL PROPOSED	378
TOTAL TREES ON SITE	852

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.

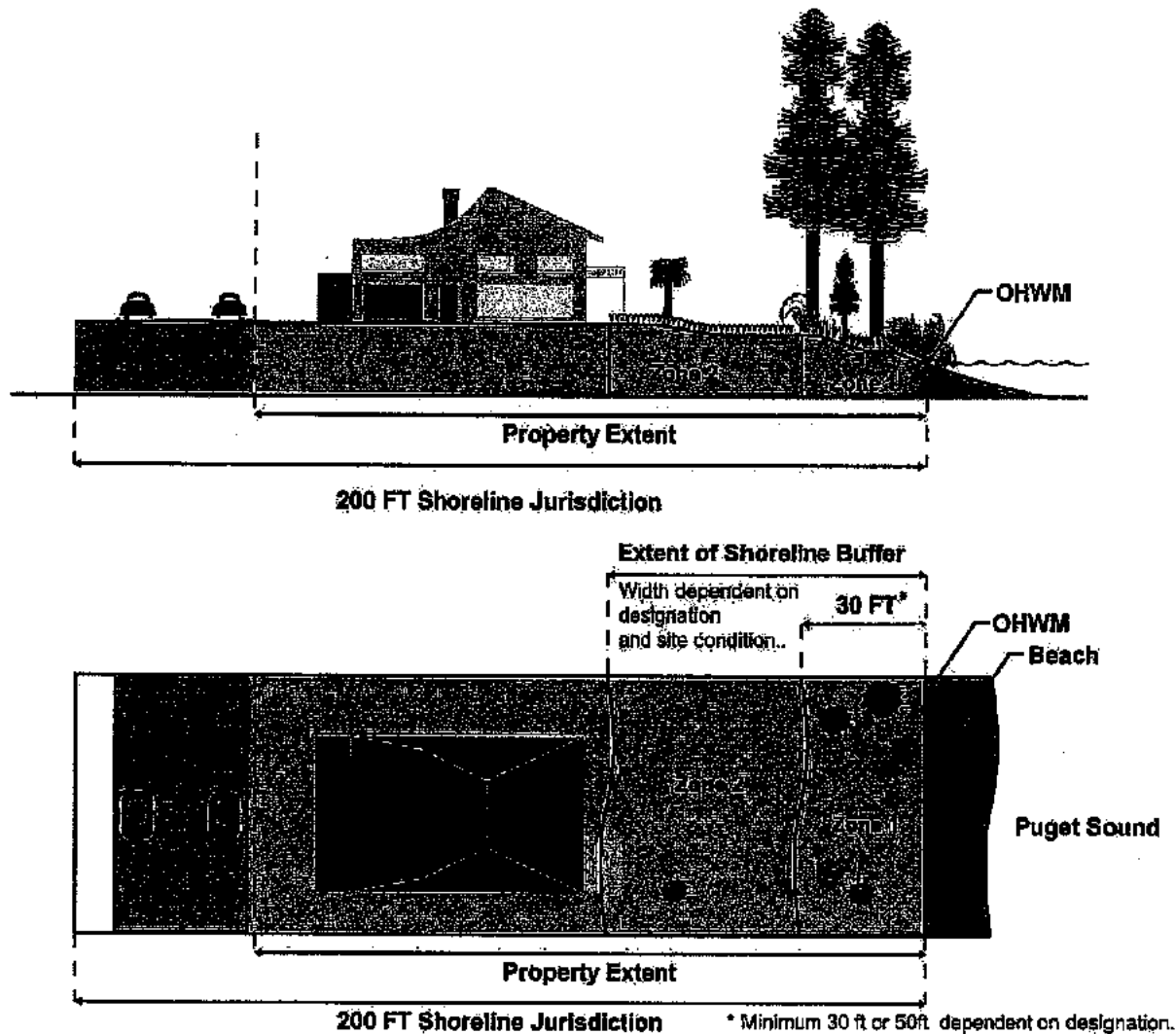


Figure 4-1 Dual Shoreline Buffer

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

~~The following activities do not require city review or plan 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 every 20 linear feet of shoreline and one shrub per every 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.~~

Chapter 16.20

CRITICAL AREAS

- 16.20.010 Purpose and intent**
 - 16.20.020 Applicability**
 - 16.20.030 Protection of critical areas**
 - 16.20.040 Exemptions**
 - 16.20.050 Standards for existing development**
 - 16.20.060 Administration**
 - 16.20.070 Review procedures**
 - 16.20.080 Reasonable use exceptions**
 - 16.20.090 Trees and vegetation**
 - 16.20.100 Aquifer recharge areas**
 - 16.20.110 Fish and wildlife habitat conservation areas**
 - 16.20.120 Frequently flooded areas**
 - 16.20.130 Geologically hazardous areas**
 - 16.20.140 Wetlands**
 - 16.20.150 The Winslow Ravine**
 - 16.20.160 Performance and maintenance surety**
 - 16.20.170 Compliance and enforcement**
 - 16.20.180 Critical area reports**
 - 16.20.190 Definitions**
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Notes:

1. **Yellow highlights** reflect changes based on input at October 3, 2017 City Council meeting.
2. Internal references will be updated and finalized prior to final adoption.

**CITY COUNCIL REVISED PUBLIC HEARING DRAFT
October 17, 2017**

16.20.010 Purpose and intent.

A. The purpose of this chapter is to designate and classify ecologically sensitive and hazardous areas as critical areas and to protect, maintain and restore these areas and achieve no net loss of their functions and values and allow for reasonable use of public and private property.

B. This chapter is intended to implement the goals, policies, guidelines, and requirements of the city comprehensive plan and the Growth Management Act (Chapter 36.70A RCW).

C. Critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents. Critical areas may also pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, wave attenuation, and protection from hazards and the impacts of climate change. Groundwater recharge is of particular concern for the city because the Island's drinking water is supplied solely by groundwater.

D. By limiting adverse impacts to and alteration of critical areas, this chapter seeks to accomplish the following goals:

1. To conserve the biodiversity of plant and animal species, protect, maintain and restore healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including, but not limited to, ground and surface waters, wetlands, fish and wildlife and their habitats;
2. Direct development, uses and activities to less environmentally sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;
3. Prevent cumulative adverse environmental impacts to water quality, water quantity, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, aquifer recharge, and habitat conservation areas;
4. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding; and
5. Alert owners, potential purchasers, real estate agents, appraisers, lenders, builders, developers and other members of the public to natural conditions that pose a hazard or otherwise limit development.

E. This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner

CITY COUNCIL REVISED PUBLIC HEARING DRAFT
October 17, 2017

reasonable use of the property or to prevent the provision of public facilities and services necessary to support existing development.

16.20.020 Applicability

This chapter applies to all development, uses and activities within areas or adjacent to areas designated as critical areas unless identified as exempt in BIMC 16.20.040. No action shall be taken by any person, company, agency, governmental body (including the city), or applicant, which results in any alteration of a critical area except as consistent with the purposes, intent, requirements, development standards and goals of this chapter.

16.20.030 Protection of Critical Areas

A. All proposed development, uses and activities subject to this chapter shall utilize mitigation sequencing as follows:

1. Avoid the impact altogether by not taking a certain action or parts of an action;
2. Minimize 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;
3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, and;
6. Monitor the impact and take appropriate corrective measures.

B. The precautionary principle shall be applied in the review of any action, taken or proposed, that does not conform to the requirements of this chapter. The burden of proof that the action will cause no net loss or harm to persons or property falls on the applicant or the property owner.

16.20.040 Exemptions

A. Exempt activities are those that will not have a significant impact on a critical area's structure and function and most are expected to be very short term. All exempt activities shall use reasonable methods to avoid potential impacts to critical areas. Exempt activities do not grant permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be considered a violation of this chapter and subject to enforcement and restoration under BIMC 16.20.170.

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The following activities are exempt from the requirements of this chapter and do not require a critical areas permit and are not subject to any review or approval process except where noted:

1. Emergency activities necessary to prevent an unanticipated and immediate threat to public health, safety or welfare or an immediate risk of danger to property which requires action within a time frame too short to allow compliance with this chapter. The person or agency undertaking such action shall notify the director within one working day following commencement of the emergency activity. Within 30 days, the director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of BIMC 16.20.XX shall apply.

After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical areas report and mitigation plan. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency and completed in a timely manner.

2. Existing and ongoing agricultural activities. For the purpose of this chapter, "existing and ongoing" means the activity has been conducted and/or maintained within the past five years under a farm management plan or other best management practices not resulting in a net loss of critical area functions and values.
3. Normal and routine repair and maintenance of existing structures that will not further impact or alter critical areas or buffers.
4. 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 critical areas or associated buffers, do not significantly alter topography, 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 critical area permit and city pre-approval.
5. Normal and routine repair, maintenance and operation of existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, and fish ponds; provided, that such activities shall not involve conversion of any wetland not currently being used for such activity. Any maintenance of ponds located in

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stream habitat areas shall require approval from the Washington Department of Fish and Wildlife.

6. Normal and routine repair and maintenance of existing utility structures within a right-of-way or existing utility corridor or easement, including the cutting, removal and/or mowing of vegetation above the ground that utilizes best management practices and does not expand the use, activity or structure further into any critical area.
 7. Class I, II and III forest practices regulated pursuant to Chapter 76.09 RCW.
 8. Minor site investigative work. Work necessary for land use review submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of clearing or excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored. Minor site investigative work may include educational and scientific research activities.
 9. Activities within the improved right-of-way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, when such facilities are located within the improved portion of the public right-of-way or easement of a private street, except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased storm water.
 10. The construction of low impact fencing within critical area buffers provided the location does not result in restricting wildlife movement, the location and installation is the least impactful to the critical area and buffer as possible, and there is no alternative to fencing to achieve the purpose of the fence.
 11. Signs for marking critical area boundaries, interpretive signs and survey markers or property boundaries.
- B. The following uses and activities qualify as exempt activities only after review and authorization by the city. These exempt activities do not require a critical areas permit. Review and authorization may occur over-the-counter and will require a written letter of approval.**
1. Activities within a portion of a wetland buffer or fish and wildlife habitat conservation area buffer separated from the critical area by an existing permanent substantial development, use or activity which serves to eliminate or greatly reduce the impact of the proposed activity on the critical area are exempt from establishing the full required buffer width; provided, that impacts to the critical area do not increase. The director shall review the proposal to determine the likelihood of associated impacts and may require the applicant to provide a critical areas report prepared by a qualified professional that demonstrates through a site assessment or functional analysis that the interrupted buffer

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area is functionally isolated from the critical area. The director shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the physical separation.

2. **Fish, Wildlife and Wetland Restoration Activities.** Fish, wildlife, and/or wetland restoration or enhancement activities not required as project mitigation; provided, that the project is approved by the jurisdictional agency (Washington State Department of Fish and Wildlife, U.S. Army Corps of Engineers, or other appropriate local, state, federal, or tribal jurisdiction).

16.20.050 Standards for existing development

A. **Existing structures and related improvements.** Structures and related improvements that were legally built or vested prior to the effective date of Ordinance No. 2017-17 that do not meet the requirements of this chapter may continue to exist in their present form, and may be altered, including remodeled, reconstructed, or expanded, if such alteration complies with the provisions of this Section and all other applicable sections of this Chapter.

B. **Existing structures that were legally built or vested prior to the effective date of Ordinance No. 2017-17 may be altered only one time within the lifetime of the structure and:**

1. The expansion of the footprint is outside a landslide hazard area or landslide hazard area setback unless required for safety or seismic upgrades;
2. Any expansion of the footprint is located only within a critical area buffer. No expansion of the footprint is allowed within a wetland or fish and wildlife habitat conservation area;
3. The expansion of the footprint at ground level does not exceed 500 square feet;
4. Any expansion of the footprint is used only as indoor living space or to accommodate accessibility;
5. Any expansion of the footprint is no closer to the critical area than the existing footprint; and
6. Reconstruction must comply with the requirements of BIMC 18.30.030, Nonconforming structures and buildings.

C. **Existing property improvements other than structures, including driveways, parking areas, yards and landscaped areas, play areas, storage areas, and similar improvements that were legally established or vested prior to the effective date of Ordinance No. 2017-XX may be altered if:**

1. There is no change in the location of the improvement;

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2. Any expansion of the footprint is located only within the required buffer. No expansion of the footprint is allowed within the critical area itself; and
 3. Any expansion of the footprint is no closer to the critical area than the existing footprint.
- D. Buffer modifications pursuant to BIMC 16.20.110 and 16.20.140 shall not be granted for existing development.
- E. Alterations permitted by this Section must comply with other applicable city code or land use review requirements and require submittal of a critical areas permit application in accordance with the permit and review procedures required for the affected critical area(s).

16.20.060 Administration

- A. Interpretation. The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.
- B. Procedures. The director is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter.
- C. Inventory of Critical Areas. This chapter shall apply to all critical areas located within the jurisdiction of the city. The approximate location and extent of these areas on Bainbridge Island is displayed on various inventory maps available at the city's Department of Planning and Community Development. Maps and inventory lists are guides to the general location and extent of critical areas. Critical areas not shown are presumed to exist on Bainbridge Island and are protected under all the provisions of this chapter. In the event that any of the designations shown on the maps or inventory lists conflict with the site-specific conditions, site-specific conditions shall control.
- D. Suspension – Revocation. In addition to other penalties provided for elsewhere, the director may suspend or revoke a permit if it is found that the applicant or permittee has not complied with any or all of the conditions or limitations set forth in accordance with this chapter, has exceeded the scope of work set forth in the permit, or has failed to undertake the project in the manner set forth in the approved application.
- E. Inadvertent discovery. Whenever a critical area or critical area buffer is discovered in the process of development, work on that portion of the development site shall be stopped immediately and the land owner shall report the discovery to the city as soon as possible. The city shall conduct a site investigation to verify the presence of a critical area or its buffer. Based upon the findings of the site investigation, the director may require submittal and approval of the applicable critical area permit, or may allow stopped work to resume. If required to approve the critical area permit, the landowner shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the development activity

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in accordance with an approved critical areas report and mitigation plan. Restoration and/or mitigation activities must be initiated within one year of the date of the discovery and completed in a timely manner.

F. Assessment relief. The City of Bainbridge Island, in imposing special assessments, shall take into account the easements or perpetual conservation restrictions in critical areas.

G. Other laws and regulations. No permit granted pursuant to this chapter shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other federal, state, or local law or regulation.

H. Conflict.

1. General. When any provision of any other chapter of the BIMC conflicts with this chapter (or any existing regulations, easements, covenants, or deed restrictions), that which provides more protection to critical areas shall apply.
2. Shoreline Master Program. In case of conflict between the provisions of this chapter and the provisions of the Shoreline Master Program, Chapter 16.12 BIMC, the provisions of the Shoreline Master Program, Chapter 16.12 BIMC, shall prevail unless the Critical Areas Ordinance provides greater protection for critical areas. However, the classification or designation of any of the shoreline of Bainbridge Island shall not change from what it is under the Shoreline Master Program as a result of any provisions of the Critical Areas Ordinance.

I. Severability. If any clause, sentence, paragraph, section or part of this chapter or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

16.20.070 Review procedures

A. Permit required. Any proposal to alter any critical area and/or required buffer including, but not limited to, earthwork including grade and fill activity, alteration of site hydrology including water temperature and characteristics of water sources, removal or alteration of vegetation, and construction or siting of buildings, structures, facilities, utilities, hard surfaces and other related infrastructure, shall require a critical area permit unless it qualifies as an exempt activity, as provided in BIMC 040.

B. Applications for critical area permits, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied pursuant to the administrative review procedures in BIMC 2.16.030 unless a Reasonable Use Exception is requested. Critical

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area permit applications shall be reviewed based on the proposal's ability to comply with all of the following criteria:

1. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing (BIMC 16.20.030.A);
2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
3. The proposal is consistent with the general purposes of this chapter and the public interest;
4. Any alterations permitted to the critical area are mitigated in accordance with mitigation requirements in BIMC 16.20.030.A;
5. The proposal protects the critical area functions and values consistent with best available science and results in no net loss of critical area functions and values;
6. The proposal addresses cumulative impacts of the action; and
7. The proposal is consistent with other applicable regulations and standards.

C. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this chapter.

D. Except as provided for by this chapter, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in BIMC 16.20.030.A shall be denied.

E. Application required. Any application for land use or development proposals within critical areas or their buffers, unless an exempt activity pursuant to BIMC 16.20.040, requires submittal of the city's Master Land Use Application (P100) to the Department of Planning and Community Development in accordance with the requirements outlined in the city's Administrative Manual for Land Use Permits. The applicant shall not be granted any approval or permission to conduct development or land use in a critical area or its buffer prior to fulfilling the requirements of this chapter.

F. Support Information Requirements. A critical area permit application shall include the following:

1. A site plan drawn to scale identifying locations of critical areas and their buffers, location of proposed development, uses and activities, location and estimated quantity of earthwork and vegetation clearing and location and type of drainage features or infrastructure.

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2. Any critical area report or study required by this chapter. Such reports or studies shall be prepared by qualified professionals in the area of concern as defined in BIMC 16.20.XX (Definitions), and in accordance with the requirements provided in BIMC 16.20.XX (Critical Areas Reports) as follows:
 - a. Aquifer recharge study: Hydrogeologist;
 - b. Geological hazard assessment: Engineering geologist; geotechnical engineer, provided that:
 - i. An engineering geologist may provide a study, including interpretation, evaluation, analysis, and application of geological information and data and may predict potential or likely changes in types and rates of surficial geologic processes due to proposed changes to a location, provided it does not contain recommended methods for mitigating identified impacts, other than avoidance, structural impacts to, or suitability of civil works; and
 - ii. Engineering geologists may not provide engineering recommendations or design recommendations, but may contribute to a complete geotechnical report that is co-sealed by a geotechnical engineer.
 - c. Stream buffer enhancement plan: Biologist with stream ecology expertise; fish or wildlife biologist; a civil engineer may provide studies for drainage, surface and subsurface hydrology, and water quality;
 - d. Wetland buffer enhancement plan, wetland critical area report, wetland mitigation plan: Wetlands specialist.
 - e. Habitat Management Plans: Wildlife biologist and/or fisheries biologist.
 - f. The director is authorized to retain experts at the applicant's expense and request review from other jurisdictional agencies to assist in the review of application materials; and
3. Any additional information determined as relevant by the director.

G. Notice on Title

1. 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 2 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 applicant shall submit proof that the notice has been filed for record before the city shall approve any development proposal

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for such site. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be in violation of this chapter.

2. Form of Notice.

**Critical Areas
and/or
Critical Areas Buffer Notice**

Legal Description: _____

Present owner: _____

NOTICE: This property contains critical areas or their buffers as defined by the City of Bainbridge Island Ordinance No. _____. The property _____

_____ was the subject of a development proposal for _____

(type of permit) application # _____ filed on ____ (date) _____. Restrictions on use or alteration of the critical areas or their buffers may exist due to natural conditions of the property and resulting regulations. Review of such application has provided information on the location of critical areas or critical area buffers and restrictions on their use through setback areas. A copy of the plan showing such setback areas and other restrictions or required enhancements is attached hereto.

Signature of owner _____

STATE OF WASHINGTON)

COUNTY OF _____)

On this day personally appeared before me to me known to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged that they signed the same as their free and voluntary act and deed for the uses and purposes therein stated.

Given under my hand and official seal this ____ day of _____, _____.

NOTARY PUBLIC in and for the state of Washington, residing at _____.

16.20.080 Reasonable use exceptions

A. Applicability and Intent. The purpose of the reasonable use exception (RUE) process is to allow reasonable use of property and explore alternatives to development that would be permitted in accordance with the underlying zoning designation and standards. An applicant may request an RUE pursuant to this Section when a site assessment review pursuant to BIMC 15.20 or a pre-application conference demonstrates that:

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1. The subject property is encumbered to such an extent by critical areas and/or critical area buffers that application of this chapter would deny all reasonable use of the subject property;
2. Reasonable use of the subject property cannot be achieved through Buffer Modification (BIMC 16.20.XX) or a Habitat Management Plan (BIMC 16.20.XX); and
3. Alternatives to development through an RUE are not available or acceptable.

B. During the pre-application process, the city may:

1. Determine whether the property qualifies for inclusion in any program that would eliminate the need for an RUE including, but not limited to, transfer or purchase of development rights, mitigation banking, and open space acquisition or other conservation mechanism. If the property qualifies for inclusion in one or more of such programs, the director shall notify the applicant in writing of such qualification and of the applicable rules and regulations, and shall send an application form for inclusion in such program(s). If the property is included in one or more of such programs, an RUE application is not required; or
2. Determine to offer to purchase the development rights rather than grant an RUE, and the applicant, at his/her sole discretion, may agree to sell said development rights rather than pursue an RUE.

C. RUE Request and Review Process. An application for an RUE shall include the city's Master Land Use Application; a critical area report or Habitat Management Plan, including mitigation plan, if necessary; and any other relevant information and reports that are necessary, as determined by the director, to process and prepare the recommendation on the application, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act, Chapter 43.21C RCW (SEPA documents).

D. The director shall prepare a recommendation to the Hearing Examiner based on review of the submitted information and reports, a site inspection, and the proposal's compliance with the criteria in Subsection (E), below.

E. Hearing Examiner Review. The hearing examiner shall review the RUE application and conduct a public hearing pursuant to the provisions of the BIMC 2.16.100. The Hearing Examiner shall approve, approve with conditions, or deny the request based on the proposal's compliance with all of the RUE review criteria in Subsection (F), below.

F. Reasonable Use Review Criteria. Criteria for review and approval of reasonable use exceptions are as follows:

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1. The application of this chapter would deny all reasonable use of the property;
2. There is no reasonable alternative to the proposal with less impact to the critical area or its required buffer;
3. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing (BIMC 16.20.XX);
4. The proposed impact to the critical area is the minimum necessary to allow reasonable use of the property;
5. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant, or of the applicant's predecessor, that occurred after February 20, 1992;
6. The proposed total lot coverage does not exceed 1,200 square feet for residential development;
7. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the property;
8. Any alterations permitted to the critical area are mitigated in accordance with mitigation requirements in BIMC 16.20.XX and 16.20.XX;
9. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values;
10. The proposal addresses cumulative impacts of the action; and
11. The proposal is consistent with other applicable regulations and standards.

G. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. The standard for the burden of proof shall be clear and convincing evidence.

16.20.090 Trees and vegetation

A primary goal of the city's comprehensive plan is protecting the Island's natural environment. The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level. Standards and review procedures for trees and vegetation within critical areas and their buffers are necessary to maintain or improve the functions and values of critical areas, implement the city's comprehensive plan, provide for reasonable maintenance or enhancement of views, and allow for

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appropriate vegetation maintenance and hazard tree removal. Tree or vegetation removal, coppicing or pruning is prohibited within critical areas and their buffers unless allowed pursuant to BIMC 16.20.090 (A) through (D) or approved by the director as provided in BIMC 16.20.0090.F.

A. Applicability.

1. This Section applies to any tree and vegetation activity development or redevelopment within geologically hazardous areas and their setbacks and wetlands and fish and wildlife habitat conservation areas and their buffers, and Native Vegetation Protection Areas as described in BIMC 16.20.100.E.

B. The following tree and vegetation activities do not require city review or pre-approval:

1. Pruning of trees and shrubs provided:
 - a. Pruning operations of trees do not remove more than 10 percent of living material (branches, stems and leaves) of an individual tree within any three-year period, provided that up to 25 percent may be removed with an ISA-certified arborist on site;
 - b. No portion of live branch or stem more than 6 inches in diameter is removed from any tree. No live branch or stem or portion of live branch or stem of a tree more than 6 inches in diameter is removed;
 - c. Within Native Vegetation Protection Areas delineated pursuant to BIMC 16.20.100.E, maintenance pruning of trees is allowed without the restrictions in a. and b. above, provided the structural integrity and long-term health of the trees is preserved. Maintenance pruning of trees within Native Vegetation Protection Areas delineated pursuant to BIMC 16.20.100.E without restriction on percentage of live canopy or branch or stem diameter pruned, provided pruning without regard to long-term vegetation health or structural integrity is prohibited.
 - d. Maintenance pruning of hedges and shrubs without the restrictions on in a. and b. above, percentage of live canopy or branch or stem diameter pruned, provided that structural integrity and the long-term health of the vegetation is preserved. pruning of hedges and shrubs without regard to long-term vegetation health or structural integrity is prohibited
 - e. Pruning activities conform to applicable practices of ANSI A300 (Part 1 – 2017) Tree, Shrub and Other Woody Plant Management – Standard Practices (Pruning), as amended, or City of Bainbridge Island pruning standards ([hyperlink](#)).
 - f. Trees and shrubs are not located in or overhanging a Type F stream;
 - g. The practice known as topping – the reduction of tree size by cutting live branches and leaders to stubs, without regard to long-term tree health or structural integrity is prohibited.
 - h. Pruning operations maintain natural form and characteristic growth pattern of trees and shrubs.

2. The removal of the following vegetation with hand labor or hand-held equipment provided: (a) the area of work is under 2,500 square feet in area and (b) 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:
 - a. Plants on the Kitsap County or Washington State Noxious Weed Control Board list of noxious weeds;
 - b. English ivy (*Hedera helix*) from tree trunks or ground surface;
 - c. Himalayan blackberry (*Rubus discolor*, *R. procerus*);
 - d. Evergreen blackberry (*Rubus laciniatus*);
 - e. English/Portuguese laurel (*Prunus laurocerasus/lusitanica*)
 - f. English holly (*Ilex aquifolium*);
 - g. Scotch broom (*Cytisus scoparius*);
 - h. English hawthorne (*Crataegus laevigata*); and
 - i. Poison oak (*Toxicodendron diversilobum*)

C. The following tree and vegetation activities require city review and pre-approval of a critical area permit:

1. Any tree or vegetation activity not included in BIMC 16.20.090.A.
2. Hazard trees.
 - a. Hazard tree removal or wildlife snag creation not within erosion and landslide hazard areas or a landslide hazard area setback at the top of slope is allowed provided that it shall comply with the following standards and submittal requirements:
 - i. A report from an International Society of Arboriculture (ISA) Tree Risk Assessment Qualified (TRAQ) arborist that documents the hazard and provides a replanting plan for replacement trees;
 - ii. Land owners are encouraged, but not required, to retain all or portions of removed hazard trees on site to provide wildlife habitat;
 - iii. The land owner shall replace any trees that are removed with new trees at a minimum ratio of two replacement trees for each tree removed (2:1) within the first appropriate growing season in accordance with an approved planting plan. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum size of six feet in height measured from top of root flare, with a minimum trunk diameter of one inch measured at four inches above top of root flare for both evergreen and deciduous trees. Smaller replacement trees are acceptable, at a minimum ratio

- of three replacement trees for each tree removed (3:1) and a minimum size of three feet (36 inches) in height measured from top of root flare.
 - iv. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and
 - v. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the land owner prior to receiving approval from the city; provided, that within 14 days following such action, the land owner shall submit the report required by Section (i) directly above and a planting plan that demonstrates compliance with the provisions of this title.
- b. Hazard tree removal within erosion and landslide hazard areas and their setbacks at the top of slope is allowed provided that it shall comply with the standards and submittal requirements of both BIMC 16.20.090.C.2.a and the following:
- i. No root disturbance or stump removal is permitted;
 - ii. Tree trunks, branches and stems may be left on a slope provided vegetative material does not result in a net increase in geological instability or create dangers to life or property.
 - iii. When removing more than one hazard tree, or more than two within a five-year period, the applicant shall demonstrate compliance with development standards in BIMC 16.20.130.D(1) as documented by a geotechnical engineer licensed in the State of Washington.

3. Coppicing Other tree or vegetation activities.

- a. The coppicing of big leaf maple (*Acer macrophyllum*), red alder (*Alnus rubra*) and any species listed in BIMC 16.20.090.A(2) is allowed, provided:
- i. No ground or root disturbance occurs as part of the cutting;
 - ii. Trees or shrubs are less than 6 inches in diameter at 4-1/2 feet high;
 - iii. Coppicing may only occur once every three years; and
 - iv. Coppicing of big leaf maple and red alder is not allowed in wetlands or fish and wildlife habitat conservation areas or their associated buffers.
- b. The coppicing or removal of any species listed in BIMC 16.20.090.A(2) and BIMC 16.20.090.C(3)(a) in an area greater than 2,500 square feet shall:
- i. Demonstrate compliance with development standards in BIMC 16.20.130.D(1) as documented by a geotechnical engineer licensed in the State of Washington if located within erosion and landslide hazard areas and their buffers at the top of the slope; and
 - ii. Include submittal of a replanting plan for city review and approval for any areas of bare ground.

c. Coppicing is not allowed in Native Vegetation Protection Areas.

D. Seasonal limitations. No vegetation removal, unless required to conduct a risk inspection by a certified arborist, is allowed in erosion and landslide hazard areas and their setbacks at the top of the slope between October 1 and April 1 unless (i) a waiver is granted by the director or (ii) it is required due to an emergency involving immediate danger to life or property.

E. Any tree or vegetation activity requiring a critical area permit pursuant to BIMC 16.20.090.C must:

1. Be performed by a licensed contractor, forester, or certified arborist in the State of Washington who has submitted a signed "Statement of Tree and Vegetation Standards and Requirements Acknowledgment" in accordance with BIMC 16.20.090.F prior to start of work; and
2. Conform to applicable practices of ANSI A300 (Part 1 – 2017) Tree, Shrub and Other Woody Plant Management – Standard Practices (Pruning), as amended, or City of Bainbridge Island pruning standards (hyperlink).

F. In order to assure compliance with the standards and requirements of this chapter, arborists, foresters and contractors or others involved in tree or vegetation operations in critical areas shall be required to sign and submit a "Statement of Tree and Vegetation Standards and Requirements Acknowledgment" to the city. This statement shall attest such professional's knowledge of the City of Bainbridge Island's tree and vegetation protection requirements. This statement shall be required in conjunction with normal city licensing requirements for persons performing work in the City of Bainbridge Island. The required statement shall be in substantially the following form:

"I, _____, a duly licensed professional contractor in the State of Washington, or forester or certified arborist, hereby attest that I have read and am knowledgeable of BIMC 16.20.090, "Trees and Vegetation", of the City of Bainbridge Island.

"I further attest that, as a professional doing tree and/or vegetation work in the City of Bainbridge Island, I am accountable for following the city's tree and vegetation standards and requirements, including obtaining a critical area permit, if required, prior to performing tree and/or vegetation work, as defined by BIMC 16.20.090, as well as following all conditions and requirements of said permit.

"I attest that if I fail to follow tree and vegetation requirements of BIMC 16.20.090, I will be in violation of BIMC 16.20.090 and thereby subject to a fine as specified in BIMC 16.20.170 and I will be held jointly responsible with the landowner for any restitution required as a result of environmental damage determined by the city to be the result of improper tree and/or vegetation

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activities at the site. This may result in monetary penalties as allowed by this chapter or State law.”

Private arborists, foresters and contractors or others involved in tree or vegetation operations who do not provide the above statement shall be prohibited from performing tree or vegetation services within critical areas and their buffers when a critical areas permit is required within the City of Bainbridge Island. Said professionals who do not provide this statement and perform tree or vegetation services in the City of Bainbridge Island shall be considered in violation of this chapter and will be prosecuted under this chapter, the city’s civil penalties ordinance, or as otherwise provided by law. All foresters, arborists, or contractors involved in tree or vegetation operations shall be jointly responsible with the landowner for any tree or vegetation violation and restitution required at a site as a result of tree or vegetation activity.

G. Permit and review procedures

~~1. Any tree or vegetation activity shall require a critical area permit unless it does not require city review and approval, as provided in BIMC 16.20.090.A or BIMC 16.20.090.C.~~

1. Applications for critical area permits for tree or vegetation activities shall include:
 - a. City of Bainbridge Island Master Land Use Application (hyperlink);
 - b. A letter or report from an International Society of Arboriculture (ISA) certified arborist for any tree removal or coppicing;
 - c. Documentation in letter format by a geotechnical engineer licensed in the State of Washington if required pursuant to BIMC 16.20.090.B.
 - d. A letter or report from an International Society of Arboriculture (ISA) Tree Risk Assessment Qualified (TRAQ) arborist for removal of any hazard tree;
 - e. A replanting plan if required pursuant to BIMC 16.20.090.C(2); and
 - f. Any additional information required by other sections of this Chapter.
2. ~~The director may not approve a~~ A critical area permit ~~if the~~ for tree or vegetation activity shall not be approved if it would create or results in a net loss to one or more critical area functions or values.
3. The city may request technical review from qualified professionals or other agencies at the applicant’s expense to ensure no net loss in critical area functions and values.

16.20.100 Aquifer recharge areas.

A. Applicability.

1. This Section applies to:

- a. Any development or redevelopment proposing activities with the potential to generate a pollutant identified by the U.S. EPA as a potential source of drinking water contamination (Appendix A – Washington State Critical Aquifer Recharge Area Guidance Document) or known to be deleterious to the environment or human health; and
 - b. Any development, use or activity within designated critical aquifer recharge areas, which include all parcels within the R-0.4, R-1 and R-2 zoning designations, the entirety of Bainbridge Island outside of Designated Centers, that qualifies as a regulated use or allowed activity pursuant to BIMC 15.20.040 in accordance with the thresholds in BIMC 15.20.060 – Table 1.
2. This Section does not apply to areas located within the city's shoreline jurisdiction, which are regulated by the city's shoreline master program (BIMC 16.12).

B. Permit review and procedures

1. Any development, use or activity described in BIMC 16.20.100.A.1 shall require a critical area permit. that qualifies as a regulated use or allowed activity pursuant to BIMC 15.20.040 in accordance with the thresholds in BIMC 15.20.060 – Table 1 shall require a critical area permit. unless this Section does not apply pursuant to BIMC 16.20.100.A.2, Applicability.
2. Critical area permits shall be reviewed pursuant to the criteria in BIMC 16.20.XX.
3. Applications for critical area permits for aquifer recharge areas shall include:
 - a. City of Bainbridge Island Master Land Use Application (hyperlink); and
 - b. For proposals as described in BIMC 16.20.100.A.1.a, Hydrogeological Site Assessment meeting the requirements of BIMC 16.20.XX, Critical area reports.
 - i. ~~All proposed new and redevelopment activities shall require a hydrogeological site assessment identifying all potential impacts of the proposed land use or activity to groundwater or surface water quality and quantity as described in 16.20.180.X.~~ If the applicant has completed a Site Assessment Review (SAR) in accordance with BIMC 15.19 that includes those elements listed in 16.20.180.X, the SAR will suffice to fulfill this requirement. Additional in-depth site assessment elements as detailed in 16.20.180.X may be required upon review of the SAR.
 - ii. All hydrogeological site assessments must be prepared and stamped by a professional hydrogeologist licensed in Washington State in accordance with RCW 18.220 and WAC 308-15. Affected public water purveyors (Group A & B), affected Tribes, and the Kitsap Public Health District will be notified and

invited to comment on all hydrogeological site assessments. The city will consider all recommendations submitted by these entities when considering permit conditions; and

- iii. An aquifer recharge mitigation plan, meeting the requirements of BIMC 16.20.180, critical area reports, is required if aquifer recharge impacts are identified in the hydrogeological site assessment.
- iv. The city may require third-party independent review by a professional hydrogeologist of any required application materials.

~~e. Aquifer recharge mitigation plan, meeting the requirements of BIMC 16.20.180, critical area reports, if aquifer recharge impacts are identified in the site assessment.~~

C. Prohibited Activities and Uses. The following activities and uses are prohibited within designated critical aquifer recharge areas due to the probability or potential magnitude of their adverse effects on groundwater:

- 1. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;
- 2. Underground Injection Wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;
- 3. Chemical wood preservation and/or treatment facilities;
- 4. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store (other than minor sources such as medicinal uses or industrial testing devices), process, or dispose of radioactive substances;
- 5. Hazardous liquid transmission pipelines;
- 6. Commercial mining and washing of metals, hard rock, sand, and gravel;
- 7. Hydrocarbon extraction, reprocessing, refinement, and storage;
- 8. Electroplating/metal finishing;
- 9. Facilities that treat, store, process, or dispose of hazardous waste; and
- 10. Other Prohibited Uses or Activities.
 - a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source; and
 - b. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a stream.

D. Development standards

1. All proposals for new development or redevelopment shall incorporate low impact development techniques or other best management practices into the site design in order to disperse and/or infiltrate stormwater runoff to ensure that there is no net loss of infiltration as a result of the development or redevelopment.
2. No development, use or activity may exceed water or sediment quality standards or otherwise violate the anti-degradation requirements specified in WAC Chapters 173-200, 173-201A, and 173-204.

E. Native Vegetation Protection Area (NVPA) requirements. Native vegetation retention is a fundamental method for critical aquifer recharge area protection. Sixty-five percent or more of the development site should be protected for the purposes of retaining or enhancing existing native forest and vegetation cover to maximize aquifer recharge opportunities.

1. NVPA requirements

- a. Designation of a NVPA is required for any development, use or activity in a critical aquifer recharge area that qualifies as a regulated use or allowed activity pursuant to BIMC 15.20.040 in accordance with the thresholds in BIMC 15.20.060 – Table 1.
- b. The location and configuration of the NVPA shall be determined through completion of a Site Assessment Review (SAR) in accordance with BIMC 15.19. The city may require a professional forester, ISA-certified arborist or landscape architect to determine the location and configuration of ~~prepare the NVPA portion of the SAR.~~
- c. The NVPA shall include all existing native vegetation on a site, up to a maximum of 65 percent of the total site area ~~shall be retained in native vegetation forested or native condition as a NVPA pursuant to BIMC 16.20.100.E.3~~ unless a lower percentage is allowed by this Chapter or other provisions of the city's municipal code.
- d. ~~Land disturbing activity shall be limited to 35 percent of the total site area or 12,500 square feet, whichever is greater.~~
- e. The maximum area of the required NVPA may be reduced to 50 percent for non-residential uses allowed in the underlying zoning designation.
- f. If the NVPA area is less than 65 percent of the total site area, no net loss of infiltration as a result of the development or redevelopment shall be demonstrated through the critical area permit review process. Replacement planting located in clusters or contiguous tracts may be required to maximize low impact development and aquifer recharge opportunities.

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- g. The total area required pursuant to c., above, shall be retained once established, although the location and configuration of the NVPA may change over time.

2. NVPA design and use standards

- a. Healthy, existing trees and vegetation should be retained to the maximum extent possible. Healthy significant trees shall be priority trees for retention. Trees shall be retained in stands or clusters.
- b. The NVPA shall be delineated to include:
 - i. A low perimeter-to-area ratio;
 - ii. A minimum width of 12 feet; and
 - iii. The critical root zone of all significant trees.
- c. The NVPA shall be contiguous with abutting, off-site areas of other NVPAs, open space or critical areas to the extent feasible.
- d. The NVPA may include landscaping or open space requirements pursuant to BIMC 18.15 and BIMC 17.12, respectively, and other critical areas and their buffers pursuant to other sections of this chapter if they contain native vegetation.
- e. The following uses and activities are allowed within the NVPA provided they do not result in an adverse impact to infiltration capacity or a net loss of critical area functions and values:
 - i. Tree and vegetation activities specified in BIMC 16.20.090.
 - ii. Installation of native plants.
 - iii. Passive recreation, including pervious trails.
 - iv. Potable water wells and well houses.
 - v. Low impact fencing or signs marking the NVPA boundary.
 - vi. On-site sewage facilities, if the applicant can demonstrate that (a) the proposed facility will not adversely affect the function or characteristics of the NVPA; and (b) construction of the system will not require the use of heavy equipment or removal of vegetation, including significant trees.
 - vii. Storm drainage facilities if the applicant can demonstrate that (a) the proposed use will not adversely affect the function or characteristics of the NVPA, (b) the system meets the low impact design (LID) standards of BIMC 15.20, and (c) construction of the system will not require the use of heavy equipment or removal of vegetation, including significant trees. ~~no above-ground retention or detention facilities are permitted.~~
 - viii. Accessory solar panels, small wind energy generators, composting bins, rainwater harvesting barrels, and cisterns, as defined in BIMC 18.36, may be allowed, provided the proposed feature will not result in the damage or removal of significant trees.

- ix. Other structures or hard surfaces with a total footprint of no greater than 200 square feet.
 - x. Other structures or activities may be allowed through review and approval of a NVPA stewardship plan prepared in accordance with BIMC 16.20.180.H.
3. NVPA permanent protection.
- a. The NVPA, including the critical root zone of significant trees, shall be protected during construction as provided in BIMC 18.15.010.C.4 or as specified by an ISA-certified arborist.
 - b. The NVPA shall be documented on a site plan included with require a notice to title in accordance with BIMC 16.20.070.G prior to building permit issuance.

16.20.110 Fish and wildlife habitat conservation areas

A. Applicability. This Section applies to all fish and wildlife habitat conservation areas as classified in BIMC 16.20.110.B except those located within the city's shoreline jurisdiction, which are regulated by the city's shoreline master program (BIMC 16.12).

B. Fish and Wildlife Habitat Conservation Areas include:

1. Streams. Within the city of Bainbridge Island, streams shall include those areas which meet the definitions in BIMC 16.20.XX (Definitions). Streams shall be classified in accordance with the Washington Department of Natural Resources water typing system (WAC 222-16-030), which is hereby adopted in its entirety by reference and summarized as follows:
 - a. Type F: streams which contain fish habitat pursuant to BIMC 16.20.XX (Definitions);
 - b. Type Np: perennial non-fish habitat streams; and
 - c. Type Ns: seasonal non-fish habitat streams.
2. Habitats recognized by federal or state agencies for federal- and/or state-listed endangered, threatened, sensitive and candidate/monitored species which presence is documented in maps or databases available to City of Bainbridge Island.
3. Areas that contain habitats and species of local importance. Any person may nominate for designation a species or habitat of local importance. Nominations will be processed pursuant to definitions in BIMC 16.20.180 and nomination criteria developed by the director.
4. Biodiversity areas and corridors as defined in the 2008 Washington Department of Fish and Wildlife Priority Habitat and Species List, or as amended.

5. All areas within the city of Bainbridge Island meeting one or more of the preceding criteria in this Section 16.20.110.B, regardless of any formal identification or mapping, are hereby designated critical areas and are subject to the provisions of this chapter and shall be managed consistent with the best available science, such as the Washington Department of Fish and Wildlife's most recent Management Recommendations for Priority Habitat and Species.

C. Mapping

The location and extent of all mapped critical areas shown on the city of Bainbridge Island critical area maps are approximate and shall be used as a general guide only. The type, extent and boundaries shall be determined in the field by a qualified professional according to the requirements of this chapter. The critical area maps (provide hyperlink) are adopted as part of this chapter and are incorporated herein by this reference. Washington Department of Natural Resource (DNR) and Washington Department of Fish and Wildlife maps are not the only source of data. Any request to change the city's existing map shall be accompanied by a report from a qualified professional that includes a description of the critical area and a summary of how it meets the definitions in BIMC 16.20.190. The inventory and cited resources are to be used as a guide for the city, project applicants, and/or property owners and may be continuously updated as new or altered critical areas are identified

D. Permit and review procedures

1. Any development, use or activity within any fish and wildlife habitat conservation area shall require a critical area permit unless it qualifies as an exempt activity, as provided in BIMC 16.20.040.
2. Critical area permits shall be reviewed pursuant to the criteria in BIMC 16.20.070 and any applicable state or federal management recommendations.
3. Applications for critical area permits for fish and wildlife habitat conservation areas shall include:
 - a. City of Bainbridge Island Master Land Use Application (hyperlink);
 - b. Habitat Management Plan (HMP), prepared in accordance with BIMC 16.20.180, if a fish and wildlife habitat area described in BIMC 16.20.110.B.2 through 4 occurs within or adjacent to the project site; and
 - c. Buffer enhancement plan, prepared in accordance with BIMC 16.20.180, if only stream buffer modification is requested.
4. The city may request technical review of a HMP from other agencies to ensure consistency with state, federal or tribal management recommendations.

E. Development Standards – Streams

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1. All designated streams require a buffer pursuant to Table X. Buffers shall remain as undisturbed native vegetation areas for the purpose of protecting the integrity, function, and value of stream resources. Any buffer modification proposed shall be through an approved Buffer Enhancement Plan. No uses or activities shall be allowed within the buffer unless allowed by this Section. If the buffer has previously been disturbed, the director may require the disturbed buffer area be revegetated pursuant to an approved Buffer Enhancement Plan meeting the requirements of BIMC 16.20.160.XX. No refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall be placed in the buffer.
2. The required minimum buffers listed in Table X are based on the assumption that the buffer is well vegetated with native species appropriate to the site. If the buffer does not consist of vegetation adequate to provide stream protection and buffer functions, the director may require that the buffer be planted to achieve such protection and function.

Table X. Stream Buffers

Stream Type	Buffer Width
F	200
Np	100
Ns (connected to F or Np)	75
Ns (not connected to F, Np)	50

3. Buffer distances shall be measured from the ordinary high water mark (OHWM) or from the top of each bank where the OHWM cannot be identified.
4. The buffer width shall be increased to include streamside wetlands which provide overflow storage for stormwater, feed water back to the stream during low flow, or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall be defined to include the entire stream feature.
5. Streams in Ravines - Buffers. For streams in ravines outside the Mixed Use Town Center with ravine sides 10 feet or greater in height, the buffer width shall be the greater of:
 - a. The buffer width required for the stream type; or
 - b. A buffer width which extends 25 feet beyond the top of the ravine.
6. Increased buffer provisions. The director may increase buffer widths, up to 50 percent greater than the applicable buffer set in this chapter for critical areas with known locations of endangered, threatened, or state monitor or priority species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species. Such determination shall be based on site-specific and project-related conditions.

7. **Structure or hard surface setback.** A structure or hard surface setback line of fifteen feet is required from the edge of any stream buffer. Minor structural or impervious surface intrusions into the areas of the setback, such as but not limited to fire escapes, open/uncovered porches, landing places, outside walkways, outside stairways, retaining walls, fences and patios, may be permitted if the department determines upon review of an analysis of buffer functions submitted by the applicant, that such intrusions will not adversely impact the stream. The functional analysis shall include a functional methodology supported by best available science. The setback shall be identified on a site plan and filed as an attachment to the notice on title as required by Section 16.20.XX (Notice on Title).
8. **Buffer Modification.** On each site, only one of the following modifications to buffer widths may be allowed provided the applicant demonstrates the need for modification through mitigation sequencing pursuant to BIMC 16.20.XX.
 - a. **Buffer Width Averaging.** The width of a required buffer may be averaged if the applicant can demonstrate that averaging can provide equal or greater functions and values as would be provided under the required buffer and all of the following conditions are met:
 - i. The total area of buffer after averaging is equal to the area required without averaging.
 - ii. Averaging cannot result in the any portion of the buffer being reduced more than 25 percent of its required width.
 - b. **Buffer Width Reduction.** The width of a required buffer may be reduced if the applicant can demonstrate that the reduction will provide equal or greater functions and values as would be provided under the required buffer and all of the following conditions are met:
 - i. The buffer may not be reduced more than 25 percent of its required width.
 - ii. Native vegetation on other portions of the site is retained in order to offset habitat loss from buffer reduction.
 - c. Any request for buffer modification outlined above (BIMC 16.20.160.XX-XX) shall be reviewed in conjunction with the underlying land use or construction permit. A critical area permit is not required. Requests for buffer averaging or buffer reduction shall include a buffer enhancement plan prepared by a qualified consultant that meets the requirements of BIMC 16.20.XX. Buffer enhancement plans shall be reviewed pursuant to the criteria in BIMC 16.20.XX.
 - d. The city may request technical review of a buffer enhancement plan from other agencies to ensure consistency with state, federal or tribal management recommendations.
 - e. Any other buffer modification, other than non-compensatory enhancement, requires a Reasonable Use Exception pursuant to BIMC 16.20.XX.

E. Development Standards – Other Fish and Wildlife Habitat Conservation Areas

1. All development, uses and activities within known fish and wildlife habitat conservation areas require submittal and approval of a Habitat Management Plan (HMP) as specified in BIMC 16.20.180, Critical area reports. The HMP shall consider measures to retain and protect the fish and wildlife habitat and shall consider the effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of existing native vegetation.
2. In the case of bald eagles, the HMP shall comply with the federal Bald and Golden Eagle Protection Act (16 USC 668) to avoid impacting eagles and their habitat.

F. Standards for specific development, uses and activities. The following development, uses and activities may be allowed within fish and wildlife habitat conservation areas and their buffers. Any proposal for the following development, uses and activities requires a critical area permit pursuant to BIMC 16.20.070 and shall comply with the standards of this Section and other applicable state, federal and local regulations. The director may waive the requirement for a HMP when project impacts are demonstrated to be de minimis through mitigation sequencing pursuant to BIMC 16.20.030.

1. **Stream Crossings. Any private or public road or driveway expansion or construction proposed to cross streams classified within this chapter shall comply with the following minimum development standards. All other state and local regulations regarding water crossing structures shall apply, and the use of the *Water Crossing Design Guidelines* (WDFW, 2013), or as amended, is encouraged.**
 - a. Bridges or bottomless culverts shall be required for all Type F streams. Other alternatives may be allowed upon (i) submittal of a Habitat Management Plan which demonstrates that other alternatives would not result in significant impacts to the fish and wildlife conservation area and (ii) as determined through the Hydraulic Project Approval (HPA) process administered by the Washington Department of Fish and Wildlife. The plan must demonstrate that fish habitat will not be reduced in area or function.
 - b. Crossings shall not occur in fish-bearing streams unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with Washington Department of Fish and Wildlife;
 - c. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
 - d. Crossings shall not diminish flood carrying capacity;
 - e. Crossings shall serve multiple properties whenever possible;

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- f. Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.
- 2. **Stream Relocations.** Stream relocations may be allowed only for the purpose of flood protection and/or fisheries restoration and only when consistent with a Washington Department of Fish and Wildlife Hydraulic Project Approval (HPA) process and the following minimum performance standards:
 - a. The channel, bank, and buffer areas are replanted with native or equivalent vegetation that replicates a natural, undisturbed riparian condition;
 - b. For those waters designated as Frequently Flooded Areas pursuant to BIMC 15.16, a professional engineer licensed in the State of Washington provides information demonstrating that the equivalent base flood storage volume and function will be maintained; and
 - c. Relocated stream channels are designed to meet or exceed the functions and values of the stream to be relocated.
- 3. **Pesticides, Fertilizers and Herbicides.** No pesticides, herbicides or fertilizers may be used in fish and wildlife conservation area or their buffers, except those approved by the U.S. Environmental Protection Agency (EPA) and approved under a Washington Department of Ecology Water Quality Modification Permit for use in fish and wildlife conservation area environments and applied by a licensed applicator in accordance with the safe application practices on the label.
- 4. **Land Divisions and Land Use Permits.** All land divisions and land uses proposed on a site that includes Fish and Wildlife Habitat Conservation Areas shall comply with the following procedures and development standards:
 - a. The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area.
 - b. Land division approvals shall be conditioned so that all required buffers are designated as an easement or covenant encumbering the buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.
 - c. In order to avoid the creation of non-conforming lots, each new lot shall contain at least one building site that meets the requirements of this chapter, including buffer requirements for fish and wildlife habitat conservation areas. Each lot must also have access and a sewage disposal system location that are suitable for development that do not adversely impact the fish and wildlife conservation area.
 - d. After preliminary approval and prior to final land division approval, the director may require that the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the director to provide adequate protection to the aquatic buffer.

5. **Agricultural Restrictions.** New agricultural activities and new structures accessory to agriculture use are prohibited in fish and wildlife habitat conservation areas and their buffers. Existing, ongoing agricultural activities shall utilize best management practices so as not to result in a net loss of the functions and values of wetlands. Existing, ongoing agriculture shall avoid impacts to streams by either:
 - a. Implementation of a farm resource conservation and management plan agreed upon by the Kitsap Conservation District and agriculture operator to protect and enhance water quality; or
 - b. Installation of fencing no closer to the stream than the outer edge of its required buffer.
6. **Trails and Trail-Related Facilities.** Construction of public and private trails and trail-related facilities, such as benches, interpretive centers, and viewing platforms, may be allowed in fish and wildlife conservation area or their buffers if there are no reasonable alternatives for meeting trail planning objectives and it is demonstrated through a Habitat Management Plan that the proposal will not result in a net loss of critical area functions and the following standards are met.
 - a. Trails and related facilities shall be placed on existing road grades, utility corridors, or any other previously disturbed areas if present at the site and consistent with trail planning objectives.
 - b. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat and disturbance to soil and existing hydrological characteristics;
 - c. Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area. Viewing platforms shall be limited to one hundred (100) square feet in size, unless demonstrated that a larger structure will not result in a net loss of fish and wildlife habitat functions;
 - d. Trail planning shall utilize mitigation sequencing in BIMC 16.20.XX to first avoid siting trail and trail-related facilities within fish and wildlife habitat conservation areas and their required buffers.
 - e. Trails shall be limited to non-motorized use. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the director. Trails shall be constructed with pervious materials unless otherwise approved by the director.
7. **Utilities.** Placement of utilities within designated fish and wildlife conservation area may be allowed pursuant to the following standards:
 - a. Construction of utilities may be permitted in fish and wildlife conservation area or their buffers, only when no practicable or reasonable alternative location is available

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and the utility meets the requirements for installation, replacement of vegetation and maintenance outlined below.

- b. Sewer or on-site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife conservation area or their buffers when the applicant demonstrates it is necessary to meet state and/or local health code requirements; there are no other practicable alternatives available; and construction meets the requirement of this Section. Joint use of the sewer utility may be allowed.
- c. New utilities shall not be allowed in fish and wildlife conservation area with known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidates except in those circumstances where an approved Habitat Management Plan indicates that the utility will not significantly impact the conservation area;
- d. New Utility Construction. Utility construction and maintenance shall protect the environment of fish and wildlife conservation area and their buffers.
 - i. New utilities shall be aligned whenever possible to avoid cutting or root damage to trees greater than 12 inches in diameter at breast height (four and one-half feet) measured on the uphill side.
 - ii. Any area of disturbance shall be revegetated with appropriate native or equivalent vegetation at not less than pre-construction vegetation densities or greater, immediately upon completion of construction or as soon thereafter as possible due to seasonal growing constraints. The utility or landowner responsible for installation shall ensure that such vegetation survives.
 - iii. Any additional access for maintenance shall be provided wherever possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the conservation area.
- e. Utility maintenance shall include the following measures to protect the environment of regulated fish and wildlife habitat conservation areas.
 - i. Utility towers shall not be sandblasted or spray-painted. Lead-based paint is prohibited.
 - ii. Pesticides, fertilizers and herbicides: No pesticides or fertilizers may be used in fish and wildlife habitat conservation areas or their buffers, except those applied by a licensed applicator in accordance with the safe application practices on the label.

8. Bank Stabilization.

- a. A stream channel and bank may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a building permit pursuant to the applicable building code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property,

- and, in the case of streams, when such stabilization results in maintenance of fish and wildlife habitat, flood control, and improved water quality.
- b. Where bank stabilization is determined to be necessary, bioengineering or other non-structural methods should be the first option for protection. Structural methods, or hard stabilization, may only be utilized where it can be demonstrated that an existing primary residential structure cannot be safely maintained without such measures, and that the resulting hard stabilization is the minimum length necessary to provide a stable building area for the structure. The director may require that bank stabilization be designed by a professional engineer licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require a City of Bainbridge Island clearing or grading permit and Hydraulic Project Approval from the Washington Department of Fish and Wildlife.
 - c. Nonstructural streambank protective techniques are preferred to bulkheads or other types of streambank armoring. Nonstructural techniques include but are not limited to vegetation plantings and bioengineering.
9. **Fencing and Signs.** Prior to approval or issuance of permits for land divisions or other new development, the director may require that the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer identification may be approved when such methods are determined by the director to provide adequate protection to for the buffer.
10. **Forest Practice, Class IV General and Conversion Option Harvest Plans (COHPs).** All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, and the Stormwater Management standards in Chapters 15.20 and 15.21 BIMC, including the maintenance of buffers, where required.
11. **Road/Street Repair and Construction.** Any private or public road or street expansion or construction which may be allowed in a Fish and Wildlife Habitat Conservation Area or its buffer shall comply with the following minimum development standards:
- a. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
 - b. Expansion or construction of any private or public road shall only be allowed when adverse impacts can be avoided;
 - c. Public and private roads should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and
 - d. The road or street construction is the minimum necessary, as required by the Department of Public Works, and shall comply with the Department of Public Works' guidelines to provide public safety and mitigated stormwater impacts.
 - e. Construction time limits shall be determined in consultation with Washington Department of Fish and Wildlife in order to ensure habitat protection.

16.20.120 Frequently flooded areas.

A. Designation and mapping. Frequently flooded areas include all areas of special flood hazard as mapped within the city, and other areas that could be threatened by flooding. The city uses Chapter 15.16, Flood Damage Prevention, adopted herein by reference, which provides the basis for establishing areas of special flood hazard.

B. Development in frequently flooded areas shall be subject to the provisions in Chapter 15.16, Flood Damage Prevention. Areas within the city's shoreline jurisdiction are regulated by the city's shoreline master program (Chapter 16.12).

16.20.130 Geologically hazardous areas.

A. Applicability.

1. This chapter applies to all geologically hazardous areas classified pursuant to BIMC 16.20.130.B except as specified in subsection (2) of this section.
2. This section does not apply to geologically hazardous areas located within the city's shoreline jurisdiction, which are regulated by the city's shoreline master program (BIMC 16.12).

B. Classification.

1. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas (including fault and liquefaction hazard areas). Zone of influence areas are not considered geologically hazardous areas.
2. Geologically hazardous areas shall be classified based upon landslide history and the presence of unstable soils, steepness of slopes, erosion potential, and seismic hazards. Areas in this category are a potential threat to public health, safety, and welfare when construction is allowed. While some potential risk due to construction can be reduced through engineering design, construction in these areas should be avoided when the potential risk cannot be reduced to a level comparable to the risk if the site were initially stable prior to construction. Classification and rating shall be based upon the risk to the environment and to development in geologically hazardous areas.

C. Permit and review procedures.

1. Any development, use or activity proposed on a site containing any geologically hazardous area or a landslide hazard area buffer shall require a critical area permit

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unless it qualifies as an exempt activity, as provided in BIMC 16.20.XX or is allowed without review pursuant to BIMC 16.20.090.

2. Critical area permits shall be reviewed pursuant to the criteria in BIMC 16.20.XX.
3. Applications for critical area permits for geologically hazardous areas shall include:
 - a. City of Bainbridge Island Master Land Use Application (hyperlink); and
 - b. Indemnification. An indemnification or hold harmless agreement shall be required for all projects in geologically hazardous areas, except erosion hazard areas and landslide hazard area setbacks. The form of the agreement shall be approved by the city and executed prior to the commencement of construction or any land disturbing activity.
 - c. Notice. A notice of intent to construct on a landslide hazard area or reduce the minimum buffer in a landslide hazard area shall be given pursuant to BIMC 2.16.085.C.2. The notice of intent shall be issued within 14 days of a complete application pursuant to BIMC 2.16.055. The notice shall include a 21-day comment period and no permits or approval of reduced buffers shall be issued before the end of the comment period.
 - d. Geological Hazards Assessment. A geological hazards assessment is required for all projects in geologically hazardous areas and landslide hazard area setbacks in accordance with BIMC 16.20.180, Critical area reports. To protect public health, safety and welfare, the director may require third party review of any geological hazards assessment or geotechnical report in cases where there may be potential for substantial damage to life, property or the environment should the proposed engineering solution fail. When a third-party review is required, costs incurred for a qualified third party geologist or geotechnical engineer to perform the review shall be borne by the applicant.

D. Development Standards – General. The following development standards apply to all activities within any geologically hazardous area or associated landslide hazard area buffer:

1. The proposed activity shall not create a net increase in geological instability, either on- or off-site, which is defined as follows:
 - a. The subject parcel shall not be less stable after the planned development than before; and
 - b. The adjacent parcels shall not have greater risk or be less stable after the planned development than before.
2. The proposed activity shall not increase the risk of life safety due to geological hazards above professionally acceptable levels.

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3. The proposed activity shall not increase the risk due to geological hazards above professionally acceptable levels for:
 - a. Property loss of any habitable structures or their necessary supporting infrastructure on-site or;
 - b. Risk to any off-site structures or property of any kind; and
4. Proposed buildings shall be constructed using appropriate engineering methods that respond to the geologic characteristics specific to the site in order to achieve a high standard of safety and meet professional practice standards and codes.
5. The proposed activity shall not further degrade the values and functions of the associated critical areas.
6. Unless allowed pursuant to BIMC 16.20.090 or as part of an approved building permit, removal of vegetation from an erosion or landslide hazard area or buffer is prohibited.

E. Development Standards -- Landslide Hazard Areas. The following requirements shall apply to any land disturbing activity or construction within a landslide hazard area or its setback as described herein:

1. Prohibited activities. Development of habitable structures and critical facilities is prohibited in landslide hazard areas and landslide hazard area setbacks.
2. Allowed activities. The following minor development may be allowed in landslide hazard areas on slopes forty (40) percent or greater and landslide hazard area setbacks if the development standards of this Section are met:
 - i. Surface water management, including outfalls
 - ii. Septic facilities, including drainfields
 - iii. Trails and stairs
 - iv. Cable lifts and trams
 - v. Public or private utilities or streets
 - vi. Seismic or other safety upgrades to existing habitable structures
 - vii. Other non-habitable structures
3. Any land disturbing activity or construction within a landslide hazard area or its setback shall meet the following requirements:
 - i. All development proposals shall be designed to avoid impacts to geologically hazardous areas. The development shall be designed to minimize the footprint of building in other disturbed areas, minimize removal of vegetation,

- minimize topographic change, and retain open space to the maximum extent practicable;
 - ii. Development design shall utilize clustering, under-structure parking, multi-level construction, and tiered foundations to the extent feasible to minimize impervious lot coverage, slope disturbance, and changes to the natural topography;
 - iii. Access shall be in the least sensitive part of the site, and common access drives and utility corridors are required to the extent feasible;
 - iv. Roads, walkways and parking areas shall be designed to parallel the natural contours to the extent feasible;
 - v. Cut and fill slopes shall be prepared and maintained to control against erosion and instability; and
 - vi. Drainage and stormwater designs in zones of influence shall incorporate elements of low impact design, add examples to the extent feasible, and shall be designed in such a manner that stormwater outlet discharges do not create additional impacts.
4. Factors of safety. Factors of safety in accordance with Table X are required. Analysis of dynamic conditions shall be based on the minimum horizontal acceleration for the probabilistic maximum considered earthquake as established by the currently adopted version of the International Building Code.

Table X. Factors of safety and standard setbacks

Structure, use or activity	Static factor of safety	Dynamic (seismic) factor of safety	Standard setback
Habitable structure	1.5	1.0	Top of slope: Height of slope up to maximum of 75 feet Bottom of slope: Height of slope
High-risk non-habitable structure	1.3	As determined by geological hazards assessment.	Top of slope: Height of slope up to maximum of 75 feet Bottom of slope: Height of slope
Lower-risk non-habitable structures	As determined by geological hazards assessment.	As determined by geological hazards assessment.	Height of slope up to 75 feet.
Other structure or use	As determined by geological hazards assessment.	As determined by geological hazards assessment.	Height of slope up to 75 feet.
Tree and vegetation activities in	n/a	n/a	25 feet only from top of slope.

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accordance with BIMC 16.20.090			
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5. Setback requirement. Setbacks from landslide hazard areas are required. A setback shall be established from all edges of a landslide hazard area as follows:
 - i. A standard setback in accordance with Table X; or
 - ii. A setback established by the findings of a geological hazards assessment prepared by a licensed geologist or geotechnical engineer that protects and minimizes the risk of property damage, death or injury resulting from a potential landslide impact. The geological hazards assessment shall require a third-party independent review by a qualified geologist or geotechnical engineer at the cost to the applicant;
 - iii. A setback less than 20 feet is prohibited for habitable structures;
 - iv. The setback for tree and vegetation activities in accordance with BIMC 16.20.090 is 25 feet only from the top of slope.
 - v. No setback is required for slopes forty (40) percent or greater with a vertical elevation change of up to twenty (20) feet, if compliance with development standards in BIMC 16.20.130.(D) and (E) is documented by a geotechnical engineer licensed in the State of Washington;
 - vi. The setback may be increased beyond that specified in subsection (i) above if the director determines a larger buffer is necessary to prevent risk of damage to proposed adjacent development and the associated critical areas.
6. For the purposes of establishing the factors of safety and setback using Table X, the following categories shall apply:
 - i. Habitable structure: residences, accessory dwelling units, garages;
 - ii. High-risk non-habitable structure: decks, patios, pool/hot tub, driveways, trams, cable lifts, carports;
 - iii. Lower-risk habitable structure: storage shed, boathouse, stairs, pathways, structures intended for short-term use;
 - iv. Other structures or uses: septic facilities including drainfields, drainage outfalls, bulkheads, landscape walls, other utilities; and
 - v. If a proposed structure, use or activity is not included in BIMC 16.20.130.E.6(i) through (iv), the category shall be determined by the City Engineer.
7. Zone of influence. A zone of influence shall be established 300 feet upslope from slopes greater than 40 percent and 200 feet upslope from slopes greater than 15 percent but less than 40 percent that are determined to be geologically hazardous areas to assess changes in land use and hydrology that may affect the stability of the geologically hazardous area.

- i. The applicant shall have the stormwater pollution prevention plan (erosion control plan) for the project reviewed by a geotechnical engineer to determine if there are any potentially adverse impacts to the landslide hazardous area. The report shall contain recommendations to avoid adverse impacts to the geologically hazardous area. Concentrated discharge of stormwater shall only be allowed where specifically recommended in the report and authorized by the City Engineer.
 - ii. If the geotechnical engineer or the City Engineer determines that there are potential adverse impacts, the applicant shall provide a geotechnical analysis containing information specified by the City Engineer which analyzes the potential impacts to the geological hazard from the proposed development in the zone of influence and meets the standards of this section.
8. Field marking requirements. Proposed clearing and work limit lines and landslide hazard buffers shall be marked in the field for inspection and approval by the city prior to start of any land disturbing activity. Field marking shall remain in place until construction is completed and final inspection is completed by the city.

16.20.140 Wetlands.

A. Applicability

1. This chapter applies to:
 - a. All wetlands designated pursuant to BIMC 16.20.140.B except as specified in subsection (2) of this Section.
 - b. All wetland buffers as shown in the tables in BIMC 16.20.140.XX.
2. This Section does not apply to wetlands located within the city's shoreline jurisdiction, which are regulated by the city's shoreline master program (BIMC 16.12).

B. Identification and designation.

1. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the federal wetland delineation manual and applicable regional supplements (as updated), as required by WAC 173-22-035. All areas within the city meeting the wetland designation criteria, regardless of any formal delineation, are hereby designated as wetlands and are subject to provisions of this chapter unless specified in BIMC 16.20.XX.

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2. A wetland delineation must be conducted by a qualified professional, in accordance with BIMC 16.20.XX.
3. The wetland boundary shall be marked in the field and surveyed by a licensed surveyor. The surveyed wetlands shall be sized and mapped on a scaled site plan. The director may require the wetland delineation to be verified in the field by the Army Corps of Engineers or the Washington State Department of Ecology when there is uncertainty in the wetland boundary or there was unauthorized wetland disturbance. The requirement for a licensed surveyor to survey the wetland boundaries may be waived in limited circumstances, such as when there is no access to the wetland property or there is no proposed impact to the wetland and wetland buffer, with authorization from the director.
4. Wetland delineations shall be valid for five years from the date of the delineation.

C. Wetland Categories. Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington – 2014 Update (Ecology Publication No. 14-06-029, October 2014), as revised. The wetland categories determined by the rating are as follows:

1. Category I wetlands are:
 - a. Relatively undisturbed estuarine wetlands larger than one acre;
 - b. Wetlands that are, or may be in the future, identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources as wetlands of high conservation value;
 - c. Bogs;
 - d. Mature forested wetlands larger than one acre;
 - e. Wetlands in coastal lagoons; and
 - f. Wetlands that perform many functions well and score 23 points or more in the wetland rating. These wetlands are those that represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, or are relatively undisturbed and contain ecological attributes that are impossible to replace within one human lifetime.
2. Category II wetlands are:
 - a. Wetlands with a moderately high level of functions and score 20 to 22 points in the wetland rating.
 - b. Estuarine wetlands smaller than one acre or disturbed estuarine wetlands larger than one acre.
3. Category III wetlands are:
 - a. Wetlands with a moderate level of functions and score between 16 to 19 points in the wetland rating.

4. Category IV wetlands are:

- a. Wetlands with a low level of functions, scoring less than 16 points in the wetland rating.

5. Date of Wetland Rating. The wetland rating categories in this Section shall be applied to wetland studies including but not limited to delineations, on or after the date of adoption of the ordinance codified in this chapter. The wetland rating shall be valid for five years unless the state rating system changes or the wetland and/or the wetland buffer have been altered since the rating.

6. Illegal modifications. Wetland rating categories shall not change due to illegal modifications.

D. Mapping

The location and extent of all mapped critical areas shown on the City of Bainbridge Island critical area maps are approximate and shall be used as a general guide only. The type, extent and boundaries shall be determined in the field by a qualified professional according to the requirements of this chapter. The critical area maps (provide hyperlink) are adopted as part of this chapter and are incorporated herein by this reference. In addition, the National Wetlands Inventory and Soil Maps produced by the U.S. Department of Agriculture, National Resources Conservation Service may be useful in helping to identify potential wetland areas. The inventory and cited resources are to be used as a guide for the city, project applicants, and property owners, and may be continuously updated as new or altered critical areas are identified.

E. Protection of Wetlands

1. Any action taken pursuant to this chapter shall result in equivalent or greater functions and values of the wetlands and wetland buffers associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with mitigation sequencing as described in BIMC 16.20.XX and WAC 197-11-768.
2. Applicants must first demonstrate an inability to avoid or reduce impacts, before compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.
3. Permanent protection of critical areas that are part of an approved mitigation plan or buffer enhancement plan shall be achieved through a Notice to Title recorded at the Kitsap County Auditor's Office, or similar means of protection in perpetuity.

F. Permit and review procedures

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1. Any development, use or activity within any wetland and/or its required buffer shall require a critical area permit unless it qualifies as an exempt activity, as provided in BIMC 16.20.XX.
2. Critical area permits shall be reviewed pursuant to the criteria in BIMC 16.20.XX.
3. Applications for critical area permits for wetlands shall include:
 - a. City of Bainbridge Island Master Land Use Application (hyperlink); and
 - b. Wetland critical areas report prepared in accordance with BIMC 16.20.XX if wetland or buffers occur within or adjacent to the project site; and
 - c. Wetland mitigation report, prepared in accordance with BIMC 16.20.XX, if wetland and buffer impacts are anticipated; or
 - d. Buffer enhancement plan, prepared in accordance with BIMC 16.20.XX, if only buffer modification is requested.

G. Prohibited activities

1. The following development, uses and activities are prohibited in all wetlands:
 - a. Draining, excavation, placement of fill material and flooding not associated with an exempt or regulated use
 - b. Forest Practices – Class IV General or Conversion Option Harvest Plan
 - c. New or expanded agriculture
 - d. On-site sewage facility
2. The following development, uses and activities are prohibited in Category I and II wetlands:
 - a. Fish hatchery
 - b. Golf course
 - c. Mineral extraction
 - d. Public facility
 - e. Public communications tower
 - f. New public road/street
 - g. New private access road or driveway
 - h. Stormwater retention/detention facility
 - i. Primary utility

H. Standards for specific development, uses and activities. The following development, uses and activities may be allowed within wetlands and their required buffers. Any proposal for the following development, uses and activities requires a critical area permit pursuant to BIMC

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16.20.140.F and shall comply with the standards of this Section and other applicable state, federal and local regulations.

1. **Agricultural restrictions.** New agricultural activities and new structures accessory to agriculture use are prohibited in wetlands and their buffers. Existing, ongoing agricultural activities shall utilize best management practices so as not to result in a net loss of the functions or values of wetlands. Existing, ongoing agriculture uses other than those occurring in grazed wet meadows shall avoid impacts to wetlands by either:
 - a. Implementation of a farm resource conservation and management plan agreed upon by the Kitsap Conservation District and agriculture operator to protect and enhance water quality; or
 - b. Installation of fencing no closer to the wetland than the outer edge of its required buffer.
2. **Road/street repair and construction:** Any private or public road or street repair, maintenance, expansion or construction may be allowed within a wetland or its required buffer only when all of the following conditions are met:
 - i. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
 - ii. Publicly owned or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and
 - iii. The road or street repair and construction are the minimum necessary to provide safe roads and streets.
 - iv. Mitigation shall be performed in accordance with specific project mitigation plan requirements.
3. **Land Divisions and Land Use Permits.** All land divisions and land uses proposed on a site that includes regulated wetlands shall comply with the procedures and standards listed below. When a parcel contains a wetland, city policy shall always be to primarily protect the functions and values of the wetland, while recognizing the value of the development rights provided to the property by its zoning.
 - i. **Density Calculation.**
 - i. The actual density that will allowed to be built upon a parcel containing a wetland shall ultimately be determined during the site specific review of the parcel's planned development.
 - i. In determining the actual density of a parcel based on a specific site plan, the site plan shall locate all buildings outside of any wetland and its required buffers;

- ii. The number of development rights allowed for any residentially-zoned parcel shall be its size in square feet divided by the number of square feet per home that is required by its zoning;
 - iii. If the land can be subdivided such that all setbacks, buffers, and other zoning requirements can be observed, and no zoning variances are requested, the density from the wetland, except the area with permanent open water, can be transferred within the property;
 - iv. To the extent that the number of allowable development rights cannot be used on-site, they may be sold, traded, or transferred by the property owner through the transfer of development rights program pursuant to Chapter 18.37 BIMC;
 - v. Property owners may voluntarily extinguish development rights that are provided by the underlying zoning, but the city shall not extinguish any of these rights outside the aforementioned transactions.
 - b. Land division approvals shall be conditioned to require that wetlands and wetland buffers be designated as an easement or covenant encumbering the wetland and wetland buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat or binding site plan, and title.
 - c. In order to implement the goals and policies of this chapter, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site.
4. **Surface Water Management.** Surface water structures or discharges from stormwater facilities may be allowed within wetlands and their required buffers only when the applicant has an approved Site Assessment Review (SAR) pursuant to the requirements of BIMC 15.20 and the proposal meets criteria in Appendix I-D, Guidelines for Wetlands when Managing Stormwater, from Washington State Department of Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in 2014.
5. **Trails and Trail-Related Facilities.** Construction of public and private trails and trail-related facilities, such as benches and viewing platforms, may be allowed in wetlands or wetland buffers only when the following standards are met:
- i. Trails and related facilities shall be placed on existing road grades, utility corridors, or any other previously disturbed areas if present at the site and consistent with trail planning objectives.
 - ii. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance, and maintain existing hydrological characteristics, shrubs, snags, and important wildlife habitat.
 - iii. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected

- wetland. Viewing platforms shall be limited to one hundred (100) square feet in size, unless demonstrated through a wetland critical areas report and mitigation plan that a larger structure will not result in a net loss of wetland functions.
- iv. Trail planning shall utilize mitigation sequencing in BIMC 16.20.XX to first avoid siting trail and trail-related facilities within wetlands and their required buffers. Trails and trail-related facilities may be allowed within wetlands or wetland buffers if there are no reasonable alternatives for meeting trail planning objectives and it is demonstrated through a wetland critical areas report and mitigation plan that the proposal will not result in a net loss of wetland functions.
 - v. Trails shall be limited to non-motorized use. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the director. Trails shall be constructed with pervious materials unless otherwise approved by the director.
6. Utilities. Installation of utilities within wetlands or their required buffers may be allowed when the following standards are met:
- i. Construction of new utilities outside the road right-of-way or an existing utility corridor may be permitted in wetlands or wetland buffers, only when no reasonable alternative location is available and the utility meets the requirements for installation, replacement of vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and special reports required by this chapter.
 - ii. Sewer or On-site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in wetland buffers only when:
 - i. The applicant demonstrates it is necessary to meet state and/or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation); and/or
 - ii. There are no other practicable or reasonable alternatives available and construction meets all other applicable requirements of this Section. Joint use of the sewer utility corridor by other utilities may be allowed.
 - c. New utilities shall not be allowed when the wetland or buffer has known locations of federal or state listed endangered, threatened, monitored or sensitive species, heron rookeries or nesting sites of raptors which are listed as species of concern, except in those circumstances where an approved Habitat Management Plan indicates that the utility corridor will not significantly impact the wetland or wetland buffer;
 - d. New utility construction and maintenance shall protect the wetland and buffer environment by utilizing the following methods:
 - iii. New utilities shall be aligned to avoid tree removal to the greatest extent practicable.
 - iv. Any area of disturbance resulting from installation of a utility shall be revegetated with appropriate native or equivalent vegetation at preconstruction densities or

greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility or landowner responsible for installation shall ensure that such vegetation survives.

- v. Any access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.
- vi. The director may require additional mitigation measures.
- vii. Utility maintenance shall include the following measures to protect the wetland and buffer environment:
 - A. Painting of utility equipment such as power towers shall not be sprayed or sandblasted. Lead-based paints are prohibited.
 - B. No pesticides, herbicides or fertilizers may be used in wetland areas or their buffers except those approved by the U.S. Environmental Protection Agency (EPA) and Washington Department of Ecology and applied by a licensed applicator in accordance with the safe application practices on the label.

- 7. Parks. Development of public park and recreation facilities may be allowed; provided, that no alteration of wetlands or wetland buffers is allowed except as allowed in BIMC 16.20.040 (Exemptions) and BIMC 16.20.140.H (Standards for specific development, uses and activities).

I. Wetland Buffers

- 1. Buffers shall remain as undisturbed native vegetation areas for the purpose of protecting the integrity, function, and value of wetland resources. Any buffer modification proposed shall be through an approved Buffer Enhancement Plan meeting the requirements of BIMC 16.20.180. No uses or activities shall be allowed within the buffer unless allowed by this Section. If a buffer on a site subject to land use review or a building permit application has previously been disturbed, the director may require the disturbed buffer area be revegetated pursuant to an approved Buffer Enhancement Plan meeting the requirements of BIMC 16.20.180. No refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall be placed in the buffer.
- b. All regulated wetlands shall be surrounded by a buffer, based upon *Appendix 8-C, Section 8C.2.3 of Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands* (Ecology Publication #05-06-008), as amended. Standard buffer widths are shown in Tables 1 through 4. If a wetland meets more than one of the criteria listed in each table, the buffer needed to protect the wetland is the widest one.

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- c. Standard buffer widths are based on impact of land use, which is categorized as follows:
- i. High impact land use includes commercial development, industrial development, institutional development, residential (all residential zoning classifications other than R-0.4, R-1 and R-2) development, new agriculture (high-intensity such as dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), forestry activities, and high-intensity recreation such as golf courses and ballfields.
 - ii. Moderate impact land use includes residential development (R-0.4, R-1 and R-2 residential zoning classifications), new agriculture (moderate-intensity such as orchard and hay fields), paved trails, and construction of temporary logging roads.
 - iii. Low impact land use includes low-intensity open space such as passive recreation, natural resources preservation, and unpaved trails.
- d. The required minimum buffers listed in Tables 1 through 4 are based on the assumption that the buffer is well vegetated with native species appropriate to the site. If the buffer does not consist of vegetation adequate to provide wetland protection and buffer functions, the director may require that the buffer be planted to achieve such protection and function.

Table 1: Category I Wetlands - Buffers

Wetland Characteristics	Impact of Land Use	Buffer Width	Other Protection
Natural Heritage Wetlands	Low Moderate High	125 ft 190 ft 250 ft	No additional discharge of surface water. No septic systems within 300 ft. Restore degraded parts of the buffer
Bogs	Low Moderate High	125 ft 190 ft 250 ft	No additional surface discharges. Restore degraded parts of the buffer.
Forested	Low Moderate High	125 ft 190 ft 250 ft	If forested wetland scores high for habitat, maintain connectivity to other natural areas.
Estuarine	Low Moderate High	100 ft 150 ft 200 ft	N/A
Wetlands in Coastal Lagoon	Low Moderate High	100 ft 150 ft 200 ft	N/A
High level of function for habitat (score for habitat is 8-9 pts.)	Low Moderate High	150 ft 225 ft 300 ft	Maintain connectivity to other natural areas. Restore degraded parts of the buffer.
Moderate level of	Low	75 ft	N/A

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Wetland Characteristics	Impact of Land Use	Buffer Width	Other Protection
function for habitat (score for habitat is 5-7pts.)	Moderate High	110 ft 150 ft	
High level of function for water quality improvement and low for habitat (score for water quality pts.; habitat less than 5 pts.)	Low Moderate High	50 ft 75 ft 100 ft	No additional discharges of untreated runoff.
Not meeting any of the above criteria.	Low Moderate High	50 ft 75 ft 100 ft	N/A

Table 2: Category II Wetlands - Buffers

Wetland Characteristics	Impact of Land Use	Buffer Width	Other Protection
High level of function for habitat (score for habitat is - 9 pts.)	Low Moderate High	150 ft 225 ft 300 ft	Maintain connectivity to other natural areas.
Moderate level of function for habitat (score for habitat is 5-7pts.)	Low Moderate High	75 ft 110 ft 150 ft	N/A
Estuarine	Low Moderate High	75 ft 110 ft 115 ft	N/A
Not meeting any of the above criteria	Low Moderate High	50 ft 75 ft 100 ft	N/A

Table 3: Category III Wetlands - Buffers

Wetland Characteristics	Impact of Land Use	Buffer Width	Other Protection
Moderate level of function for habitat (score for habitat is 5-7pts.)	Low Moderate High	75 ft 110 ft 150 ft	N/A
Not meeting above criterion	Low Moderate	40 ft 60 ft	N/A

	High	80 ft	
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Table 4: Category IV Wetlands - Buffers

Wetland Characteristics	Impact of Land Use	Buffer Width	Other Protection
All	Low Moderate High	25 ft 40 ft 50 ft	N/A

- e. **Buffer Measurement.** All buffers shall be measured on a horizontal plane from the delineated wetland edge as marked in the field a qualified professional.
- f. **Fencing and Signs.** This section applies to those wetlands and their buffers that are within 200 feet of regulated development activities.
 - i. Wetland buffers shall be temporarily fenced or otherwise suitably marked 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.
 - ii. 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.
- g. **Structure or hard surface setback.** A structure or hard surface setback line of fifteen feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback, such as but not limited to fire escapes, open/uncovered porches, landing places, outside walkways, outside stairways, retaining walls, fences and patios, may be permitted if the department determines upon review of an analysis of buffer functions submitted by the applicant, that such intrusions will not adversely impact the wetland. The functional analysis shall include a functional methodology supported by best available science. The setback shall be identified on a site plan and filed as an attachment to the notice on title as required by Section 16.20.XX (Notice on Title).
8. **Buffer Modification.** On each site, only one of the following modifications to buffer widths may be allowed provided the applicant demonstrates the need for modification through mitigation sequencing pursuant to BIMC 16.20.XX.

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- a. **Buffer Width Averaging.** The width of a required buffer may be averaged if the applicant can demonstrate that averaging can provide equal or greater functions and values as would be provided under the required buffer and all of the following conditions are met:
 - i. The total area of buffer after averaging is equal to the area required without averaging.
 - ii. Averaging cannot result in the any portion of the buffer being reduced more than 25 percent of its required width.
- b. **Buffer Width Reduction.** The width of a required buffer may be reduced if the applicant can demonstrate that the reduction will provide equal or greater functions and values as would be provided under the required buffer this will improve the protection of wetland functions and all of the following conditions are met:
 - i. The buffer may not be reduced more than 25 percent of its required width.
 - ii. Native vegetation on other portions of the site is retained in order to offset habitat loss from buffer reduction.
- c. The required buffer widths for proposed land uses with high-intensity impacts to wetlands may be reduced to those required for moderate-intensity impacts under the following conditions:
 - i. For wetlands that score moderate or high for habitat (5 points or more for the habitat function), the width of the buffer may be reduced if both of the following criteria are met:
 - ii. A relatively undisturbed, vegetated corridor at least 100-feet wide is provided if the wetland contains any priority habitats as defined by the Washington Department of Fish and Wildlife. "Relatively undisturbed" and "vegetated corridor" are defined in the Western Washington Wetland Rating System. The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection, such as a Notice to Title.
 - iii. Measures to minimize the impacts of different land uses on wetlands, such as the examples in Table 5, are applied.
 - iv. For wetlands that score less than 5 points for habitat, the buffer width may be reduced to that required for moderate land use impacts by applying measures to minimize the impacts of different land uses on wetlands, such as the examples in Table 5.
- d. Any request for buffer modification outlined above (BIMC 16.20.XX-XX) shall be reviewed in conjunction with the underlying land use or construction permit. A critical area permit is not required. Requests for buffer averaging or buffer reduction shall include a Buffer Enhancement Plan prepared by a qualified professional that meets the

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requirements of BIMC 16.20.XX. Buffer enhancement plans shall be reviewed pursuant to the criteria in BIMC 16.20.XX.

- e. Any other buffer modification resulting in a reduced buffer area, other than non-compensatory enhancement, requires a Reasonable Use Exception pursuant to BIMC 16.20.080.

Table 5: Examples of measures to minimize impacts to wetlands from different types of activities.

Examples of Disturbance	Examples of Measures to Minimize Impacts	Activities that Cause the Disturbance
Lights	• Direct lights away from wetland.	Parking lots, warehouses, manufacturing, residential
Noise	• Locate activity that generates noise away from wetland. • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source. • For activities that generate relatively continuous, potentially disruptive noise, such as heavy industry or manufacturing, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.	Manufacturing, residential
Toxic runoff*	• Route all new runoff away from wetland. • Establish covenants limiting use of pesticides within 150 feet of wetland. • Apply integrated pest management.	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development. • Prevent channelized flow from lawns that directly enters the buffer. • Use Low Impact Development	Parking lots, roads, manufacturing, residential areas, landscaping

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	techniques consistent with BIMC 15.20.	
Change in water regime	Infiltrate or treat, detain, and disperse new runoff into buffer.	Impermeable surfaces, lawns, tilling
Pets and human disturbance	• Plant buffer with dense, impenetrable native vegetation appropriate for region. • Install low impact fencing at buffer perimeter. • Place wetland and its buffer in separate open space tract or protect with conservation easement.	Residential areas
Dust	Utilize best management practices to control dust.	Tilled fields
* These examples are not necessarily adequate to meet the rules for minimizing toxic runoff if threatened or endangered species are present at the site.		

J. Wetland mitigation requirements.

1. Mitigation sequencing. All development, uses and activities proposed to impact wetlands shall be mitigated according to this Section and the mitigation sequencing steps outlined in BIMC 16.20.010.XX. The applicant shall demonstrate to the satisfaction of the director that each step of mitigation sequencing has been adequately addressed prior to approval of impacts to wetlands.
2. Compensatory mitigation shall be required for development, uses or activities that result in the loss of wetland acreage or in the reduction of wetland functions or values.
3. Mitigation report. Where mitigation is required under the sequencing in subsection (1), a mitigation plan is a required component of a critical areas report meeting the requirements in BIMC 16.20.XX, Critical area reports.
4. Wetland replacement.
 - a. The ratios shown in Table X shall be used to determine the required amount of wetland mitigation. The first number specifies the amount of wetland area to be restored, rehabilitated, created or enhanced, and the second number specifies the amount of wetland area lost. The director may decrease these ratios when there are findings of special studies coordinated with agencies with expertise which demonstrate that no net loss of wetland function or value is attained under the decreased ratio.
 - b. Mitigation requirements may also be determined using the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of

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Western Washington: Final Report (Ecology Publication #10-06-011, March 2012), or as revised) consistent with Table X.

Table X: Replacement Ratios for Wetlands

Category and Type	Re-establishment or Creation	Rehabilitation	1:1 Re-establishment or Creation (R/C) and Enhancement (E)	Enhancement Only
I – Mature Forested	6:1	12:1	1:1 R/C and 10:1 E	24:1
I – Highly functioning	4:1	8:1	1:1 R/C and 6:1 E	16:1
I – Bog	Not possible	6:1 of a Bog	Case by Case	Case by Case
I – Estuarine	Case by Case	6:1 - Estuarine	Case by Case	Case by Case
II - Estuarine	Case by Case	4:1 - Estuarine	Case by Case	Case by Case
II - Others	3:1	8:1	1:1 R/C and 4:1 E	12:1
III	2:1	4:1	1:1 R/C and 2:1 E	8:1
IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1

5. Approaches to compensatory mitigation.

- a. Compensatory mitigation may occur at the site of the allowed impacts or at an off-site location. Considerations for determining whether off-site mitigation is preferable include, but are not limited to one or more of the following:
 - i. On-site conditions do not favor mitigation success due to soil conditions, hydrology or adverse impacts of adjacent land uses;
 - ii. On-site conditions are isolated from other aquatic or riparian habitats;
 - iii. An off-site location is beneficial to larger ecosystem or watershed functions;
 - iv. An off-site location has greater likelihood of success or will provide greater functional benefits;
 - v. The proposal for an off-site location uses a watershed approach consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Ecology Publication #09-06-32, December 2009).

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- b. Off-site compensatory mitigation may include the use of a wetland mitigation bank or an in-lieu fee program, if such instruments are available within the city limits.
 - c. Advanced mitigation. Compensatory mitigation in advance of proposed impacts may be allowed on a case-by-case basis for projects with pre-identified impacts consistent with Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation (Ecology Publication #12-06-015, December 2012).
6. Monitoring requirements. The city shall require monitoring reports on an annual basis for a minimum of five years and up to ten years, or until the director determines the mitigation project has met the performance standards specified in the wetland mitigation plan. The wetland mitigation plan shall provide specific performance standards for monitoring the mitigation project. Performance standards shall be project-specific and use best available science to aid the director in evaluating whether or not the project has achieved success.

16.20.150 The Winslow Ravine – Special Rules in Mixed Use Town Center.

A portion of the “Winslow Ravine” which contains a ravine, a Type F stream, and several wetlands, is located in the Mixed Use Town Center (MUTC) zoning designation. In order to accommodate more dense development within the MUTC, and recognizing the significant distance from the top of the ravine to the stream and its adjacent wetlands, in lieu of the buffer and setback rules provided for streams (BIMC 16.20.100) and wetlands (BIMC 16.20.130), an applicant may select the prescriptive option or the mitigated option with respect to the Winslow Ravine within the MUTC as described below:

A. “Option A” - Prescriptive Standards.

CATEGORIES	BUFFER WIDTH STANDARD	MINIMUM STRUCTURE AND HARD SURFACE SETBACK	OTHER DEVELOPMENT STANDARDS
Streams and wetlands associated with the Winslow Ravine within the MUTC	50 feet measured from the top of the Winslow Ravine	15 feet beyond the buffer	No development, uses or activities are allowed within the buffer. Refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall not be located in the buffer and shall be removed if present.

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B. "Option B" - Mitigated Standards. The applicant shall demonstrate by submittal of necessary studies and proposed mitigation, that measures can and will be taken to ensure that the functions and values provided by the buffers prescribed under "Option A" are retained or improved.

CATEGORIES	BUFFER WIDTH STANDARD	MINIMUM STRUCTURE AND HARD SURFACE SETBACK	OTHER DEVELOPMENT STANDARDS
Streams and wetlands associated with the Winslow Ravine within the MUTC	25 feet measured from the top of the Winslow Ravine	15 feet beyond the buffer	No development, uses or activities are allowed within the buffer. If the buffer has previously been disturbed, the disturbed buffer area shall be revegetated pursuant to an approved Buffer Enhancement Plan meeting the requirements of BIMC 16.20.XX. Refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall not be located in the buffer and shall be removed if present.

C. Permit and review procedures

1. Any development, use or activity within the Winslow Ravine shall require a critical area permit unless it qualifies as an exempt activity, as provided in BIMC 16.20.XX.
2. Critical area permits shall be reviewed pursuant to the criteria in BIMC 16.20.XX.
3. Applications for critical area permits for the Winslow Ravine shall include:
 - a. City of Bainbridge Island Master Land Use Application (hyperlink); and
 - b. Buffer enhancement plan, prepared in accordance with BIMC 16.20.XX, if Option B pursuant to BIMC 16.20.XX is proposed.

16.20.160 Performance and maintenance surety.

A. Performance Surety. The director shall decide when a performance surety is required of an applicant, and the acceptable form of such surety. The amount and the conditions of the surety shall be consistent with the purposes of this chapter; provided, that the minimum amount of the

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surety, when required, shall be 125% of the estimated cost of performance. A performance surety shall not be required when the actual cost of performance, as documented in a form acceptable to the director, is less than \$1,000. The director shall release the surety upon determining that:

1. All activities, including any required compensatory mitigation, have been completed in compliance with the terms and conditions of the permit and the requirements of this chapter;
2. A maintenance surety has been posted by the applicant, where deemed appropriate by the director.
3. Until such written release of the surety, the principal or surety cannot be terminated or canceled.

B. Maintenance Surety. When a maintenance surety is required, the holder of a development permit issued pursuant to this chapter shall post a surety for an amount and in a form acceptable to the director, with conditions sufficient to guarantee that maintenance of structures, improvements, and mitigation required by the permit or by this chapter perform satisfactorily for a minimum of two years after they have been completed. The director shall release the maintenance surety upon determining that performance standards established for evaluating the effectiveness and success of the structures, improvements, and/or compensatory mitigation have been satisfactorily met for the required period. For compensation projects, the performance standards shall be those contained in the mitigation plan developed and approved during the review process. The maintenance surety applicable to a compensation project shall not be released until the director determines that performance standards established for evaluating the effect and success of the project have been met.

C. Deposit Instruments. The deposit instrument for the performance or warranty deposit shall be cash, a non-revocable letter of credit, an assignment of funds, bond or other readily accessible source of funds approved by the director. The deposit instruments shall be on a form acceptable to the director. Any issuer of a deposit instrument shall pay invoices presented by the city pursuant to this chapter within 45 days. A bond will be accepted only for amounts over \$1,000.00 or when State Law requires a bond. Interest on deposited funds will accrue to the benefit of the depositor, except that any interest earned on a cash deposit will be retained by the city for account administration.

D. Default on deposit.

1. If the work covered by the deposit is not completed within the time specified in the notice given under this chapter, the city shall obtain the proceeds of the deposit and do the work covered by the deposit. The city may either have its employees or a contractor do the work.
2. If, at any time, the director determines that actions or inactions associated with permit work have created an emergency situation endangering public health, safety, or welfare, creating a

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potential liability for the city, or such an emergency precludes the notification of applicants as provided in this chapter while still minimizing or avoiding the effects of the emergency, the city may use the deposit to cover costs incurred by the city to correct the emergency situation. The city may either have employees of the city or a contractor do the work. If the city uses the deposit as provided by this Section, the applicant shall be notified in writing within four working days of the commencement of emergency work. The notice must state the work that was completed and the nature or timing of the emergency that necessitated the use of the deposit without prior notification.

3. The permittee is responsible for all costs incurred by the city in doing the work covered by the deposit. The city shall release or refund any proceeds of a deposit remaining after subtracting all costs incurred. The permittee shall reimburse the city for any amount expended by the city that exceeds the deposit.
4. If the city uses any of the deposit it shall, within 30 days, provide the owner of the permit an itemized statement of all proceeds and funds used.

16.20.170 Compliance and enforcement.

A. It is a violation of this chapter for any person to fail to comply with a requirement of this chapter. It is further a violation of this chapter for any person to:

1. Initiate or maintain, or cause to be initiated or maintained, the use, construction, placement, alteration, or demolition of any structure, land, or property within the city without first obtaining permits or authorizations required by this chapter, or in a manner that violates the terms or conditions of such permits or authorizations;
2. Misrepresent any material fact in any application, plans or other information submitted to obtain permits or authorizations under this chapter; or
3. Remove or deface any sign, notice, complaint, or order required by or posted in accordance with this chapter.

B. When a critical area or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this chapter.

C. Restoration plan required. All development work shall remain stopped until a restoration plan is prepared and approved by the director. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in Subsection (D) below. The director shall, at the

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violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

D. Minimum performance standard for restoration.

1. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater critical area function or values can be obtained through the application of different standards, these standards may be modified:
 - a. The historic structural and functional values shall be restored, including water quality and habitat functions;
 - b. The historic soil types and configuration shall be replicated;
 - c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and
 - d. Information demonstrating compliance with the requirements in Section BIMC 16.20.110 shall be submitted to the director.
2. For alterations to flood and geological hazard areas, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
 - a. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;
 - b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and
 - c. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.
3. All restoration plans shall include a detailed estimate of the cost for implementation of the restoration plan.

E. Site investigations. The director is authorized to make site inspections and take such actions as are necessary to enforce this chapter. The director shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

F. Penalties. Any development carried out contrary to the provisions of this chapter shall constitute a public nuisance and may be enjoined as provided by the statutes of the State of Washington. Enforcement of this chapter and the imposition of penalties for violations of this chapter shall be as provided for in Chapter 1.26 BIMC; provided, that in addition to the civil penalties provided for in BIMC 1.26.090, an additional penalty shall be imposed on any person, party, firm, corporation, property owner, or other legal entity who fails to complete a required

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restoration plan, who conducts any disturbance (including cutting vegetation) of a critical area or its associated buffer in violation of this chapter, or who is otherwise in violation of this chapter, including a violation of BIMC 16.20.090.E. For such violations, the additional penalty shall be in the amount equal to 200% of the cost of restoration as approved under a restoration plan pursuant to Subsections (C) and (D) above; provided that the minimum amount of the additional penalty shall be \$2,500. Any person, party, firm, corporation, or other legal entity who knowingly and willfully refuses to complete a required restoration pursuant to Subsections (C) and (D) above shall be guilty of a misdemeanor punishable by not more than 30 days in jail and/or not more than a \$1,000 fine.

16.20.180 Critical area reports.

A. Aquifer recharge areas site assessment.

1. The site assessment shall include:

- a. A site map drawn to scale which indicates the location of known or geologically representative wells (abandoned and active), springs, and surface water features within 1,000 feet of the project property boundary;
- b. A description of the site-specific hydrogeological characteristics. At a minimum this will include a description of the lithology, depth and static water level of known underlying aquifer(s) and depiction of groundwater flow direction and patterns on the site map;
- c. A description of the proposed land use and activities specifically detailing water consumption; an inventory of all chemical use, storage, transportation, production (including process wastewater), and disposal; and any potential pollutant identified by the U.S. EPA as a potential source of drinking water contamination (Appendix A of the Washington State Critical Aquifer Recharge Area Guidance Document) or known to be deleterious to the environment or human health; and
- d. A general discussion of surface and groundwater quality and quantity in the area and the identification of the potential adverse quality and quantity impacts to groundwater and surface water features within 1,000 feet of the project.

2. In-depth Site Assessment Elements. The required elements of the in-depth site assessment for a given development or re-development will be based on the initial site assessment review by the city, the Kitsap Public Health District, affected Tribes, and affected public water purveyors.

One or more of the elements listed below may be required based upon the proposed project activity, complexity of underlying hydrogeological conditions, and the perceived potential to adversely impact groundwater or surface water quality or quantity. One or more of these elements may also be required if the applicant chooses to demonstrate that mitigation measures are not necessary to protect the quantity or quality of groundwater or surface water

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or that the project does not pose a risk of detriment to groundwater or surface water.
Additional in-depth site assessment elements include:

- a. Lithologic characteristics and stratigraphic relationships of the affected aquifer(s) and overlying geologic units and soil types including thickness, horizontal and vertical extent, permeability, and infiltration rates of surface soils.
- b. Delineation of identified structural features such as faults, fractures, and fissures.
- c. Aquifer characteristics including determination of recharge and discharge areas, transmissivity, storage coefficient, hydraulic conductivity, porosity, and estimate of groundwater flow direction, velocity and patterns for the affected aquifer(s).
- d. Estimate of precipitation and evapotranspiration rates for the project area.
- e. Preparation of appropriate hydrogeological cross sections depicting underlying lithology and stratigraphy, aquifer(s), and potential or probable contaminant pathways to both surface and groundwater from a chemical release.
- f. Determination of background or existing groundwater quality underlying the project area and water quality of surface water bodies.
- g. Contaminant fate and transport including probable migration pathways and travel time of potential contaminant release(s) from the site through the unsaturated zone to the aquifer(s) and through the aquifer(s), and how the contaminant(s) may be attenuated within the unsaturated zone and the aquifer(s) with consideration to advection, dispersion, and diffusion of contaminants in the groundwater.
- h. Delineation of areas potentially affected by contaminant migration on the ground surface and/or through potentially affected aquifer(s).
- i. Determination of the degree of continuity between groundwater and nearby surface water including potential impacts to baseflow in streams from proposed groundwater withdrawals, and potential impacts to surface water quality from site runoff or contaminated groundwater discharge.
- j. Assessment of the potential for pumping-induced seawater intrusion.
- k. Nitrate Loading Assessment. For projects that have the potential to adversely impact groundwater quality by nitrate loading, the applicant shall test existing wells and/or required test wells for nitrate as nitrogen and calculate the current and projected future groundwater nitrate concentrations at full project build-out, at appropriate point(s) of compliance, as determined by project characteristics, and in a methodology approved by the city. If the calculated nitrate loading in the intended water supply equals or exceeds 5 milligrams per liter nitrate as nitrogen, the applicant shall develop a mitigation plan with the point(s) of compliance determined based on project characteristics.
- l. Multiple-stage (or phased) development must consider impacts of the total build-out of the project to allow for an assessment of the cumulative impacts of the entire development on critical aquifer recharge areas.

B. Aquifer Recharge Mitigation Plan.

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For proposals requiring aquifer recharge area impact mitigations, the applicant shall develop for approval by the city a mitigation plan for the proposed development. Affected public water purveyors (Group A & B), affected Tribes, and the Kitsap Public Health District will be notified and invited to comment on all mitigation plans. The city will consider all recommendations submitted by these entities when developing appropriate permit conditions.

The city may, based on performance criteria and monitoring results, require additional amendments to the plan. The city reserves the right to submit mitigation plans for a third-party review at the applicant's expense and to reject any proposed land use or activity that poses significant risk to groundwater or surface water quality or quantity that cannot be satisfactorily mitigated.

1. The mitigation plan shall contain the project's permit conditions and, as applicable:
 - a. A description of the mitigation measures to be taken, how they will be implemented, and performance criteria.
 - b. A groundwater and surface water monitoring program to measure potential impacts of the development to underlying aquifer(s) and surface water. The monitoring plan will describe monitoring, maintenance, and reporting requirements.
 - c. A contingency plan describing spill response and corrective actions to be taken if a release of a pollutant occurs or monitoring results indicate that mitigation measures are not effectively protecting groundwater and surface water resources and human health. The city shall have the authority to impose additional required corrective actions where such measures are necessary to protect groundwater and surface water resources or human health. Where appropriate contingencies are not feasible and result in an activity posing unacceptable risk to groundwater or surface water resources or human health, the city shall deny the proposal.
 - d. Multiple-stage (or phased) development must consider mitigation for each phase of development as well as the total build-out of the project to allow for an assessment of the cumulative impacts of the entire development on critical aquifer recharge areas.
 - e. Conditions that would arise that warrant ceasing the project operation altogether.
 - f. Wellhead Protection Mitigation. Where a wellhead protection plan addressing the project area exists, the city shall use the recommendations contained in the wellhead protection plan as a basis for formulating required mitigation measures. In the absence of such a mitigation plan, the city shall contact the owner of the public water system (Group A and B) impacted by the proposed project and jointly develop mitigation measures, a summary of which shall be signed by the applicant and recorded with the applicant's property title.
 - g. Nitrate Loading Mitigation.
 - i. General Requirements. If a calculated nitrate loading concentration for a project at the designated point(s) of compliance per BIMC 16.20 170.X is equal to or greater than 5 milligrams per liter nitrate as nitrogen, then the applicant shall be

required to place a notification on the documents of title for the property affected. A monitoring plan shall be developed to monitor the nitrate level and include a contingency plan to be implemented if the nitrate level exceeds 10 milligrams per liter nitrate as nitrogen.

- ii. Land Divisions. If the calculated nitrate loading concentration for a land division at the designated point(s) of compliance per BIMC 16.20 170.X is equal to or greater than 5 milligrams per liter nitrate as nitrogen, then the applicant shall:
 - (A) Develop a mitigation plan to minimize the nitrate loading rate; and
 - (B) Develop a contingency plan to be implemented if the nitrate concentration exceeds 10 milligrams per liter nitrate as nitrogen; and
 - (C) Submit the contingency plan with the final plat application. The contingency plan must be approved by the city, and then recorded with the Kitsap County Auditor as part of the final plat. Conditions of the contingency plan shall be listed on the face of the plat.
- iii. Mitigation of nitrate in groundwater from on-site septic systems may include decreasing the density of septic system drainfields.

2. Recording of Mitigation Plan Summaries.

- a. General Requirements. The city may require that the applicant record a city-approved summary of the mitigation plan on the property title. A copy of the recorded summary shall be provided to the city in hard copy and electronic format. If a property owner can demonstrate, to the satisfaction of the city, that mitigation measures are no longer necessary, the city shall approve the addition of language on the title for the property nullifying the mitigation requirements.
- b. Land Divisions. The mitigation plan must be approved by the city, and then recorded with the Kitsap County Auditor as part of the final plat. Conditions of the mitigation plan shall be listed on the face of the plat.

C. Habitat management plan.

1. A habitat management plan (HMP) is a detailed report that outlines and documents the location of fish and wildlife conservation areas, any planned incursions or habitat impacts and a strategy for limiting impacts.
2. HMP review. All HMPs shall be submitted to the Washington State Department of Fish and Wildlife habitat biologist and to the Suquamish Tribe for review and comment within 14 days of a complete application pursuant to BIMC 2.16.055. 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. Within that same time frame, the city's Environmental Technical Advisory Committee shall be asked to review the HMP and provide comments.

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3. Map. The HMP shall contain a map prepared at an easily readable scale, showing:
 - a. The location of the proposed development site;
 - b. Property boundaries;
 - c. The relationship of the site to surrounding topographic and aquatic features and any connectivity to other wildlife habitat and corridors;
 - d. Proposed building locations;
 - e. A legend which includes acreage of the parcel, scale, north arrow, and date of map revision.
4. Report. The HMP shall contain a report that includes:
 - a. A description of the nature and intensity of the proposed development
 - b. Identification of existing habitat functions and values;
 - c. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat features and processes identified for protection;
 - d. Any review comments received from a habitat biologist from the Washington State Department of Fish and Wildlife, and the Suquamish Tribe and U.S. Fish and Wildlife Service;
 - e. Demonstration of consistency with current Washington State Department of Fish and Wildlife Habitat Management Recommendations for the applicable habitat or species. If the recommendations are not followed, the HMP report should identify the best available science guidance that is being followed or applied;
 - f. A description of proposed seasonal activity restrictions in accordance with the Washington State Department of Fish and Wildlife Habitat Management Recommendations;
 - g. An analysis of the feasibility to maintain wildlife corridors and connectivity, if applicable;
 - h. A plan identifying proposed measures to mitigate any adverse impacts to wildlife habitats created by the proposed development. Proposed mitigation measures shall be specific to the affected habitat or species; and
 - i. A schedule for periodic monitoring, and a contingency plan with corrective actions if conservation or mitigation actions do not lead to the desired outcome.
5. HMP adequacy. 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. If the Washington Department of Fish and Wildlife is not available to review the HMP in a timely manner, the applicant may choose to have the city refer the HMP 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.

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6. **Timing.** An HMP must be developed and approved prior to issuance of a building permit or underlying land use application and must be implemented before the city grants a certificate of occupancy, as applicable.
7. **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.XX.

D. Buffer Enhancement Plan

1. As part of a buffer modification request, the applicant shall submit a buffer enhancement plan that assesses the functions and values of the buffer and the effects of the proposed modification on those functions and values.
2. The buffer enhancement plan shall clearly demonstrate that equal or greater protection of the functions and values of critical areas and their buffers can be achieved through the buffer modification than could be achieved through providing the required buffer using an appropriate function assessment methodology.
3. The buffer enhancement plan shall identify how the applicant proposes to mitigate any adverse impacts to the critical area or buffer created by the proposed development.
4. The buffer enhancement plan shall be prepared in accordance with the applicable requirements of BIMC 16.20.170.XX, Wetland mitigation plans.

E. Geological Hazards Assessment

1. A geological hazards assessment shall contain the following site- and proposal-related information at a minimum:
 - a. **Site and Construction Plans.** The report shall include a copy of the site plans for the proposal showing:
 - i. The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, or within a zone or distance of potential significant influence as determined by a professional engineer/ geologist;
 - ii. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;
 - iii. The topography, as determined by a professional engineer or geologist, of the project area and all hazard areas addressed in the report; and
 - iv. Clearing limits.

- b. **Assessment of Geological Characteristics.** The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:
 - i. A description of the surface and subsurface geology, including complexes, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
 - ii. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and
 - iii. A description of the vulnerability of the site to seismic and other geologic events.
 - c. **Analysis of Proposal.** The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.
 - d. **Minimum Buffer and Building Setback.** The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis. Where the recommended buffers are less than the standard buffers set forth in BIMC 16.20.XX, the rationale and basis for the reduced buffer shall be clearly articulated and demonstrate that the protection standard set forth in that section has been met.
2. **Landslide Hazard and Erosion Hazard Areas.** In addition to the basic geologic hazards assessment, an assessment for an erosion hazard or landslide hazard area shall include the following information at a minimum:
- a. **Erosion Control.** An erosion control plan prepared by a civil engineer shall be submitted to the city prior to the issuance of a building permit.
 - b. The applicant shall provide a geotechnical analysis containing the following information:
 - i. **Site Plan.** The critical area report shall include a copy of the site plan for the proposal showing:
 - A. The height of slope, slope gradient, and cross-section of the project area;
 - B. The location of springs, seeps, or other surface expressions of ground water on or a zone or distance of potential significant influence as determined by a professional engineer/ geologist; and
 - C. The location and description of surface water run-off features.

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- ii. **Hazards Analysis.** The hazards analysis component of the critical areas report shall specifically include:
 - A. A description of the extent and type of vegetative cover;
 - B. A description of subsurface conditions based on data from site-specific explorations;
 - C. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - D. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
 - E. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;
 - F. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;
 - G. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - H. Recommendations for building siting limitations; and
 - I. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion; and
 - J. A description of the potential modes of failure.
- 3. **Geotechnical Engineering Report.** The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:
 - a. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - b. Recommendations for drainage and subdrainage improvements;
 - c. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
 - d. Mitigation of adverse site conditions including slope stabilization measures for seismically unstable soils, surface water management, location and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability if appropriate.
- 4. **Seismic Hazards Areas.** In addition basic geologic hazards assessment, an assessment for a seismic hazard area shall also meet the following requirements:
 - a. **Fault Hazard.** The applicant shall provide a geologic/geotechnical analysis containing information specified by the City Engineer that documents the presence or absence of

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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.

- b. **Liquefaction Hazard.** The applicant shall provide a geotechnical analysis containing information specified by the City Engineer that meets the standards of this section (as mitigated).
 - c. **Seismic Landslide Hazard.** The applicant shall provide the same analysis and plan as required for landslide hazard areas.
5. **Tsunami Hazards.** The city shall provide applicants for development in low lying shoreline areas and other areas where flood elevation is controlled by tide level with information on tsunami hazards.

F. Wetland critical areas report.

A wetland critical areas report shall include, but not necessarily be limited to, the following:

1. A site plan showing the following:

- a. Surveyed wetland boundaries based upon a delineation by a wetland specialist or wetland boundaries recorded using a differential global positioning system, based upon a delineation by a wetland specialist.
- b. Location of required buffers pursuant to BMC 16.20.130.XX or as proposed through buffer modification pursuant to BMC 16.20.130.XX.
- c. Site boundary property lines and roads;
- d. Internal property lines, rights-of-way and easements;
- e. Existing physical conditions of the site, including buildings, fences and other structures, existing hard surfaces, utilities, etc.
- f. Contours at the smallest readily available intervals;
- g. Hydrologic mapping showing patterns of surface water movement and known subsurface water movement into, through, and out of the site;
- h. Location of all test holes and vegetation sample sites, numbered to correspond with flagging in the field and field data sheets; and
- i. An aerial photograph with overlays displaying the site boundaries and wetland delineation.

2. A report including the following:

- a. Vicinity map
- b. Location information (parcel number and address)
- c. General site conditions including topography, size and surface area of all wetlands identified and water bodies within one-quarter mile of the site
- d. Analysis of functional values of existing wetlands

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- e. Summary of proposed development, use or activities and potential impacts to wetlands
- a. f. Copies of rating forms and maps from the Wetland Rating System for Western Washington – Revised (2014) or as amended.
- f. Required buffers pursuant to BIMC 16.20.130.XX.
- g. Complete U.S. Army Corps of Engineers wetland determination data forms
- j. National Wetland Inventory map
- k. Wetland mitigation plan, if compensatory mitigation is required.

G. Wetland mitigation plan.

1. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans – Version 1 (Ecology Publication #06-06-011b, March 2006), as revised, and, if applicable, Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)(Ecology Publication 09-06-032, December 2009) and meet the following standards:
 - a. All critical area restoration, creation and/or enhancement projects required pursuant to this chapter either as a permit condition or as a result of an enforcement action shall follow a mitigation plan prepared by an expert approved by the director. The applicant or violator shall receive written approval of the mitigation plan by the director prior to commencement. Compensatory mitigation is not required for allowed activities which utilize best management practices to protect the functions and values of regulated critical areas.
 - b. Purpose of Mitigation Plan. The mitigation plan shall provide information on land acquisition, construction, maintenance and monitoring of the replaced critical area. The mitigation plan shall recreate as nearly as possible the original critical area in terms of its acreage, function, geographic location and setting.
 - c. Mitigation Plan Submittal Requirements. A complete mitigation plan shall consist of plot plans, a written report, and performance bonds, as required below. The plot plans and written report shall be prepared by qualified professionals approved by the director.
2. Plot Plan Requirements. The following information shall be submitted on one or more plot plans (as determined by the director):
 - a. A legal description and a survey (boundary and topography) prepared by a licensed surveyor of the proposed development site, compensation site, and location of existing critical area(s) on each. This shall include wetland delineation and existing wetland acreage.
 - b. Scaled plot plan(s) indicating:
 - i. Proposed construction;
 - a. Zoning setback and critical area buffer requirements;
 - b. Construction phasing and sequence of construction;

- c. Site cross-sections, percent slope, existing and finished grade elevations;
 - d. Soil and substrate conditions;
 - e. Grading and excavation plan, including erosion and sediment control plans needed for construction and long-term survival; substrate stockpiling locations and techniques, and source controls needed for critical area construction and maintenance;
 - f. Landscape plans indicating species, types, quantities, locations, size, spacing or density of planting; planting season or timing; planting instructions, watering schedule and nutrient requirements; source of plant materials or seeds; and, where appropriate, measures to protect plants from destruction or predation; and
 - g. Water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics, etc.
- 3. **Written Report Requirements.** A written report shall accompany the plot plan(s) and shall provide the additional information required below. In addition, the report should be used as needed to clarify or explain elements of the plot plan(s).
 - a. **Baseline Information.**
 - i. Wetland delineation and existing wetland acreage;
 - a. Vegetative, faunal and hydrologic characteristics;
 - b. Soil and substrate conditions;
 - c. Relationship within watershed and to existing streams, wetlands, ponds, or saltwater;
 - d. Existing and proposed adjacent site conditions; and
 - e. Existing and proposed ownership.
 - b. **Environmental Goals and Objectives.** The report shall contain a description of the environmental goals and objectives to be met by the compensation plan. The goals and objectives shall be related to the functions and values of the original critical area or, if out-of-kind wetland mitigation, the type of wetland to be emulated. This analysis shall include, but is not limited to the following:
 - c. **Site selection criteria;**
 - a. Identification of compensation goals;
 - b. Identification of functions and values;
 - c. Dates for beginning and completion of the project and compensation plan;
 - d. A complete description of the relationship between and among structures and functions sought;
 - e. Review of available literature and/or known like-projects to date in restoring or creating the type of critical area proposed;
 - f. Likelihood of success of the proposed compensation project at duplicating the original critical area. This shall be based on experiences of comparable projects identified in the literature review or existing projects, if any; and

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- g. Likelihood of the ability of the created or restored critical area to provide the functions and values of the original critical area. This shall be based on such factors as surface water and groundwater supply and flow patterns; dynamics of the ecosystem; sediment or pollutant influx and/or erosion, periodic flooding and drought, etc.; presence of invasive flora or fauna; potential human or animal disturbance; and previous comparable projects, if any.
- d. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the project are met and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance, and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.
- e. Detailed Specifications. Written specifications and descriptions of compensation techniques shall be provided. These shall include, but not be limited to, items in Subsection C.2 of this Section.
- f. Monitoring Program. A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:
 - a. Establishing vegetation plots to track changes in plant species composition and density over time;
 - b. Using photo stations to evaluate vegetation community response;
 - c. Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
 - d. Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;
 - e. Measuring sedimentation rates, if applicable; and
 - f. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.
- c. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than seven years.
- d. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.
 - A. Performance and Maintenance Surety and Demonstration of Competence. A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise to successfully execute the compensation project shall be provided. A compensation project manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project

shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, a surety ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted pursuant to BIMC 16.20.180.

4. **City Consultation.** The city may consult with and solicit comments from any federal, state, regional, or local agency, including tribes, having any special expertise with respect to any environmental impact prior to approving a mitigation proposal which includes critical areas compensation. The compensation project proponents should provide sufficient information on plan design and implementation in order for such agencies to comment on the overall adequacy of the mitigation proposal.
5. **Permit Conditions.** Any compensation project prepared pursuant to this section and approved by the director shall become part of the application for the permit.

H. Native Vegetation Protection Area (NVPA) Stewardship Plan

1. **The basic components of a NVPA stewardship plan are a site plan and narrative report:**
 - a. **The site plan shall include:**
 - i. **Location and dimensions of proposed development within NVPA**
 - ii. **Limits of construction and existing and proposed grade changes**
 - iii. **Location of trees and critical root zones of all trees within the limits of construction and area of grade changes**
 - iv. **Location and species of tree(s) proposed for removal and replanting, if required.**
 - b. **The narrative report shall include:**
 - i. **Project narrative (Step 2 from the SAR Guidesheet, revised as needed)**
 - ii. **Description of measures taken to avoid, minimize and reduce adverse impacts to the NVPA**
 - iii. **Description of proposed development within NVPA including any decrease in native vegetative area and increase in hard surfaces**
 - iv. **Assessment of any potential damage to tree(s) whose critical root zone is within the limits of construction and area of grade changes (e.g., windthrow, root damage)**
 - v. **Description of tree(s) and vegetation proposed for removal and replanting, if required, including size, species and condition**
 - vi. **Description of protection measures for trees and vegetation to be retained**
 - vii. **Description of measures to preserve forest litter and surface topography to most closely mimic natural hydrology**
 - viii. **Planting plan including location, species and size of trees and vegetation to be replanted, if required.**

16.20.180 Definitions.

A. For the purposes of this chapter, the following definitions shall apply:

1. "Accessibility" means the that a building or structure can be independently used by people with a variety of disabilities.
2. "Adverse impact" means a condition that creates, imposes, aggravates, or leads to inadequate, unsafe, or unhealthy conditions on a site.
3. "Agricultural activities" means the normal actions associated with the production of crops such as plowing, cultivating, minor drainage, and harvesting; and/or raising or keeping of livestock, including operation and maintenance, and repair of farm and stock ponds, drainage ditches, irrigation systems, and normal operation, maintenance, and repair of existing serviceable agricultural structures, facilities, or improved areas.
4. "Alteration" means a human-induced action that changes the existing conditions of a critical area or its buffer and results in the modification of the existing topography, stability, vegetation, hydrology, wildlife or wildlife habitat.
4. "Alteration, structure" means a change, modification or adjustment.
5. "Anadromous fish" means fish whose life cycle includes time spent in both salt and fresh water.
6. "Applicant" means a person, corporation, or organization that files an application for a land use or development permit with the city and that is either the owner of the land on which that proposed activity would be located, or the authorized agent of such a person.
7. "Arborist" means an individual engaged in the profession of arboriculture who, through experience, education, and related training, possesses the competence to provide for or supervise the management of trees and other woody plants. Must be concurrently an International Society of Arboriculture (ISA) Certified Arborist to perform any role required of a Certified Arborist.
8. "Arborist, ISA Certified" means an arborist holding a current International Society of Arboriculture (ISA) Certified Arborist credential.
9. "Arborist, Tree Risk Assessment Qualified (TRAQ)" means an arborist who has successfully completed the International Society of Arboriculture (ISA) TRAQ training course and assessment and holds a valid ISA TRAQ credential.
10. "Bank stabilization" means modification used for the purpose of preventing erosion, protecting channels, and retaining uplands.
11. "Biodiversity areas and corridors" means areas of habitat that are relatively important to various species of native fish and wildlife.
 - a. Biodiversity areas.
 - i. The area has been identified as biologically diverse through a scientifically based assessment conducted over a landscape scale (e.g., ecoregion, county- or city-wide, watershed, etc.). Examples include but are not limited to WDFW Local Habitat Assessments, Pierce County Biodiversity Network, and Spokane County's Wildlife Corridors and Landscape Linkages; or

- ii. The area is within a city or an urban growth area (UGA) and contains valuable fish or wildlife habitat and is mostly comprised of native vegetation. Relative to other vegetated areas in the same city or UGA, the mapped area is vertically diverse (e.g., multiple canopy layers, snags, or downed wood), horizontally diverse (e.g., contains a mosaic of native habitats), or supports a diverse community of species as identified by a qualified professional who has a degree in biology or closely related field and professional experience related to the habitats or species occurring in the biodiversity area. These areas may have more limited wildlife functions than other priority habitat areas due to the general nature and constraints of these sites in that they are often isolated or surrounded by highly urbanized lands.
- b. Corridors. Corridors are areas of relatively undisturbed and unbroken tracts of vegetation that connect fish and wildlife habitat conservation areas, priority habitats, areas identified as biologically diverse, or valuable habitats within the city.
- 12. "Best available science" (BAS) means scientifically valid information derived in accordance with WAC 365-195-9050 through 925, or as amended, that is used to develop and implement critical areas policies or regulations.
- 13. "Best management practices" (BMPs) means conservation practices or systems of practices and management measures that:
 - a. Control soil loss and protect water quality from degradation caused by nutrients, animal waste, toxins, and sediment;
 - b. Minimize adverse impacts to surface water and groundwater flow, and to the chemical, physical, and biological characteristics of critical areas;
 - c. Protect trees, vegetation and soils designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and
 - d. Provide standards for proper use of chemical herbicides within critical areas.
 - e. BMPs are defined by the United States Department of Agriculture, the State of Washington Department of Agriculture, the Washington State Department of Ecology, Washington State Department of Health, Kitsap Conservation District, and other professional organizations.
- 14. "Bog" means a low-nutrient, acidic wetland with organic soils and characteristic bog plants, as described in Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-29, October 2014).
- 15. "Buffer" means a designated area contiguous to a wetland or stream intended to protect the wetland or stream and be an integral part of the wetland or stream ecosystem.
- 16. "Coppicing" means cutting trees close to ground level with the intention of encouraging regrowth of multiple shoots primarily for invasive or weedy species management.
- 17. "Critical aquifer recharge area" means areas with a critical recharging affect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.
- 18. "Critical areas" means aquifer recharge areas, fish and wildlife habitat-conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands.

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19. "Critical facilities" means facilities that are essential to the health and welfare of the community, including services that protect life and property. Such facilities include, but are not limited to, hospitals, emergency clinics, police and fire stations, emergency vehicle and equipment storage facilities, emergency operations centers, aviation control centers, and utility facilities such as sewage treatment plants and electric transmission substations.
20. "Critical habitat" means a habitat identified by US Fish and Wildlife Service or the National Marine Fisheries Service as habitat necessary for survival of endangered or threatened species.
21. "Cutting, vegetation" means the removal of the main trunk or stem of a small tree for the purposes of controlling aggressive or weedy species.
22. "Designated Centers" means those areas of the Island referred to as Winslow, Lynwood Center, Island Center, Rolling Bay, Day Road and Sportsman Triangle and shown on Figure LU-3 in the City's 2017 Comprehensive Plan.
23. "Development" means any action that would require review land use review or other approval from the city or other local, state or federal jurisdiction. Development includes, but is not limited to: land division; construction, reconstruction, structural alteration, relocation, or enlargement of any structure; clearing or grading; and changes to surface or ground waters.
24. "Director" means the director of the city's Planning and Community Development Department or his/her designee.
25. "Educational or scientific activities" means controlled and/or supervised scientific activities or educational activities that are associated with an educational or scientific program that result in no adverse impacts to critical areas or their buffers.
26. "Engineering geologist" means a practicing engineering geologist who has at least four years of professional employment as an engineering geologist with experience in landslide evaluation, and a Washington State specialty license in engineering geology as specified in Chapter 18.220 RCW.
27. "Erosion hazard area" means those areas containing soils which, according to the United States Department of Agriculture Natural Resource Conservation Service Soil Survey Program, may experience significant erosion. Erosion hazard areas also include coastal erosion-prone areas and channel migration areas.
28. "Estuarine, wetland" means a vegetated wetland that is predominantly tidal, as described in Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-29, October 2014).
29. "Existing development" means a development that was lawfully constructed, approved or established prior to the effective date of the ordinance codified in this chapter.
30. "Fish" means species of the vertebrate taxonomic groups *Cephalospidomorphi* and *Osteichthyes*.
31. "Fish and wildlife habitat conservation areas" means areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges,

breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.

32. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.
33. "Fish habitat" means habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat.
34. "Fisheries biologist" means a person with experience and training in fisheries who is able to submit substantially correct reports on fish population surveys, stream surveys and other related data analyses of fisheries resources. "Substantially correct" means that technical or scientific errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a fisheries biologist include:
 1. Either:
 - a. Certification by the American Fisheries Society, or;
 - b. Bachelor of Science degree in fisheries or the biological sciences from an accredited institution and five years of professional fisheries experience; and
 2. The prior successful completion of at least three habitat management plans.
31. "Frequently flooded areas" means lands subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high ground water. These areas include, but are not limited to, streams, lakes, coastal areas, wetlands and areas where high ground water forms ponds on the ground surface. (See Chapter 15.16 BIMC, Flood Damage Prevention.)
32. "Functions and values" means the natural processes and beneficial roles performed or provided by critical areas including, but not limited to, water quality and quantity protection and enhancement, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, providing flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, protecting aesthetic value, and providing recreational and educational opportunities. These roles are not listed in order of priority.
33. "Geologically hazardous areas" means areas susceptible to significant erosion, sliding, or other geological events. They pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas.
34. "Geotechnical engineer" means a practicing geotechnical/civil engineer who has a valid Washington engineering license and a valid certificate of registration in civil engineering, at least four years of professional employment as a geotechnical engineer with experience in landslide evaluation, and appropriate training and experience as specified in Chapter 18.43 RCW.
35. "Habitat Management Plan" (HMP) means a report prepared by a professional wildlife biologist or fisheries biologist which discusses and evaluates critical fish and wildlife

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- habitat functions and identifies and evaluates measures necessary to maintain, enhance and improve terrestrial and/or aquatic habitat on a proposed development site.
36. "Habitat of local importance" means an area representing either high quality habitat for native terrestrial or aquatic species or habitat which is of limited availability, highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape and which is not adequately protected by other city, state or federal policies, laws, regulations, or non-regulatory tools that prevent degradation of the habitat or its associated species. These may include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors such as breeding areas or human-made ponds.
 37. "Hazard tree" means a tree that has significant structural defects that are likely to lead to failure and possibly cause injury or damage as identified in a report from an International Society of Arboriculture (ISA) Tree Risk Assessment Qualified (TRAQ) arborist. In the case of steep slopes, a hazard tree can also be a tree that is a hazard to stability of the slope, as determined by a geotechnical engineer.
 38. "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as specified in RCW 70.105.010. (Also see BIMC 18.06.450 through 18.06.510).
 39. "Hedge" means a line of closely-spaced trees and/or shrubs intentionally planted and/or maintained along a property boundary or landscape border for privacy, screening, safety, or similar function, which typically requires ongoing pruning or shearing to maintain its intended function and/or reasonable use of nearby developed areas.
 40. "Hydric soil" means soil which is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
 41. "Hydrogeologist" means a practicing hydrogeologist who has at least four years of professional employment as a hydrogeologist with experience in the specific subject area in which they are providing a report, and a Washington specialty license in hydrogeology as specified in RCW Chapter 18.220.
 42. "Hydrophyte or hydrophytic vegetation" means plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
 43. "Invasive/exotic species" means opportunistic plant species (either native or nonnative) that colonize disturbed ecosystems and come to dominate the plant community in ways that are seen by us as reducing the values provided by the previous plant community.
 44. "Land disturbing activity" means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

45. "Land divisions" means any division of land subject to the city's subdivision design standards (BIMC Chapter 17.12).
46. "Landslide hazard areas" means areas which are at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. Landslide hazard areas include the following:
- a. Areas characterized by slopes greater than 15 percent having springs or groundwater seepage and having impermeable soils (typically silt and clay) overlain or frequently interbedded with permeable granular soils (predominantly sand and gravel);
 - b. Any area potentially unstable due to rapid stream incision or stream bank erosion;
 - c. Any area located on an alluvial fan, debris flow deposit, or in a debris flowpath, presently or potentially subject to impacts or inundation by debris flows or deposition of stream-transported sediments;
 - d. Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of competent consolidated rock;
 - e. Any area designated or mapped as class U, UOS, or URS by the Department of Ecology Coastal Zone Atlas and/or mapped as a landslide or scarp on the USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001).
47. "Landslide hazard area buffer" means an area contiguous to a landslide hazard area sufficient in depth to meet the development standards set forth in BIMC 16.20.xx as determined by a geological hazards assessment prepared in accordance with BIMC 16.20.XX, Critical area reports.
48. "Liquefaction" means a process in which a water-saturated soil, upon shaking, suddenly loses strength and behaves as a fluid.
49. "Low impact development (LID)" means a stormwater and land use management strategy that strives to mimic predisturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.
50. "Low impact development best management practices (LID BMPs)" mean distributed stormwater management practices, integrated into a project design, that emphasize predisturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water reuse.
51. "Native or equivalent vegetation" means species which are indigenous to the Puget Sound lowlands ecoregion; or a species that is equivalent in providing the same site-specific functional arrays as would the native species. Functional arrays may include forage, floodwater restraint, hiding habitat, or other physical or biologic roles in the ecosystem, that singly or in combinations correspond to those of the native species. As with natives, the role of an equivalent species may vary depending on the site and its surrounding ecosystem. Invasive/exotic species shall not be considered equivalent species.
52. ~~"Native condition" means undisturbed natural grade and soil which remain in predevelopment condition and configuration.~~

53. "Native vegetation protection area (NVPA)" means a portion of a development site comprised of ~~forested or native condition~~ native vegetation in which existing vegetation, topography and supporting soils ~~are~~ free of development, uses or activities detrimental to the infiltration capacity and critical area functions and values of the total site area.
54. "No net loss" means the maintenance of the aggregate total of the city's critical areas functions and values over time. The no net loss standard requires that the impacts of a proposed use and/or development, whether permitted or exempt from permit requirements, be identified and mitigated on a project-by project basis, so that as development occurs critical areas functions and values stay the same.
55. "Normal maintenance" means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal maintenance does *not* include:
- a. Use of fertilizer or pesticide application in wetlands, fish and wildlife habitat conservation areas, or their buffers;
 - b. Re-digging ditches in wetlands or their buffers to expand the depth or width beyond the original ditch dimensions;
 - c. Re-digging existing drainage ditches to drain wetlands on lands not classified as existing and ongoing agriculture under BIMC 16.20.XX (Exemptions).
56. "Normal repair" means activities to restore a structure or use to a state comparable to original condition, including but not limited to size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction.
57. "Ordinary high water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation; provided, that in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.
58. "Pruning" means the selective removal of plant parts to achieve defined objectives.
59. "Pruning amount" means the quantity of plant parts removed at one pruning, expressed in terms of a number of branches or other parts removed, and/or percentage of the crown or buds removed on an entire tree or specific branches.
60. "Ravine" means a V-shaped landform generally having little to no floodplain and normally containing steep slopes, which is deeper than 10 vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are typically created by the wearing action of streams. The top of the slope is determined where there is a significant change in the slope to generally less than a 15 percent slope.
61. "Reasonable alternative" means an activity that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.
62. "Reasonable use exception (RUE)" is a means of relief that is available for a property that is encumbered to such an extent by critical areas and/or critical area buffers that application of this chapter would deny all reasonable use of the subject property, as further defined by the decision criteria of BIMC 16.20.080.

63. "Redevelopment" means, on a site that is already substantially developed (i.e., has 35 percent or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.
64. "Removal, vegetation" means to eliminate the presence or hazard of unwanted vegetation.
65. "Seismic hazard areas" means areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, or tsunamis. The following areas are considered seismic hazard areas:
- a. Seismic Landslide Hazard Areas - Slopes which are stable in non-earthquake periods, but fail and slide during ground shaking;
 - b. Liquefaction Hazard Areas - Areas of cohesionless, loose or soft, saturated soils of low density in association with a shallow groundwater table that are subject to settlement and/or liquefaction from ground shaking, or;
 - c. 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.
66. "Shrub" means a woody perennial plant, usually with several stems that may be erect or close to the ground, generally smaller than a tree.
67. "Significant tree" means a deciduous tree greater than 12 inches in diameter at four feet high and an evergreen tree greater than 10 inches in diameter at four feet high.
68. "Site" means the entire lot, series of lots, or parcels on which a development is located or proposed to be located, including all contiguous undeveloped lots or parcels under common ownership.
69. "Species of local importance" means those species that are of local concern due to their population status or their sensitivity to habitat alteration."
70. "Streams" means those areas in the City of Bainbridge Island where the surface water flows are sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices, or other artificial watercourses unless they are used by fish or used to convey streams naturally occurring prior to construction.
71. "Stream Types" means a streams classification system based on fish usage and perennial or seasonal water regime as found in WAC 222-16-030 and meeting the standards listed below.
- a. "Type F Stream" means a stream that has fish habitat. If fish usage has not been determined, water having the following characteristics are presumed to have fish use: Stream segments having a defined channel of 2 feet or greater within the bankfull and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size based on hydrographic boundaries. Determination of fish usage shall use the methodology found in

Washington Department of Natural Resource's Forest Practice Board Manual, Section 13, including the use of the default physical criteria upstream of manmade barriers to fish passage.

- b. "Type Np" means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
 - c. "Type Ns" means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to marine waters, Type F, or Np Waters.
72. "Tree" means a woody perennial plant with a single or multiple trunks, which typically develop a mature size of over several inches diameter, and ten (10) or more feet in height.
73. "Wetland" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, estuaries, marshes, bogs, ponds less than twenty acres, including their submerged aquatic beds and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, stormwater facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands include those legally established artificial wetlands intentionally created from non-wetland areas to mitigated the conversion of wetlands.
74. "Wetland boundary" means the boundary or outer edge of a wetland as delineated in accordance with the federal wetland delineation manual and applicable regional supplements (as updated), as required by WAC 173-22-035.
75. "Wetland category" means category as defined in Washington State Wetland Rating System for Western Washington – 2014 Update (Ecology Publication No. 14-06-029, October 2014), or as revised and adopted by the department.
76. "Wetlands specialist" means a person with experience and training in wetland issues who is able to submit substantially correct reports on wetland delineations, classifications, functional assessments and mitigation plans. "Substantially correct" means that errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a wetlands specialist include:
- a. Either:
 - i. Certification as a Professional Wetland Scientist (PWS) or Wetland Professional in Training (WPIT) through the Society of Wetland Scientists, or;
 - ii. Bachelor of science degree in the biological sciences from an accredited institution and five years of professional field experience; and

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- b. The prior successful completion of at least three wetland reports.
- 77. "Wildlife biologist" means a person with experience and training in the principles of wildlife management and with practical knowledge in the habits, distribution and environmental management of wildlife. Qualifications include:
 - a. Either:
 - ii. Certification as a professional wildlife biologist through The Wildlife Society, or;
 - iii. Bachelor of science or bachelor of arts degree in wildlife management, wildlife biology, ecology, zoology, or a related field, from an accredited institution and five years of professional field experience; and
 - b. The prior successful completion of at least three habitat managements plans.
- 71. "Wildlife habitat" means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs, streams and wetlands.
- 72. "Zone of Influence" means an area, usually upslope from a geologically hazardous area, where changes in land use and hydrology can affect the stability of the geologically hazardous area. The zone of influence is defined as 300 feet upslope from slopes greater than 40 percent, and 200 feet upslope from slopes greater than 15 percent but less than 40 percent that are determined to be geologically hazardous areas.

Appendix B

Critical Areas

B-1. Definitions

For the purposes of this subsection, the following definitions shall apply:

- ✓ 1. "Aquifer recharge area" means the surface area of any geological formation sufficiently pervious to provide fresh water to an aquifer through the process of infiltration and percolation.
- ✓ 2. "Base flood" means a general and temporary condition of partial or complete inundation of normally dry land areas having a one percent chance of being equaled or exceeded in any given year. Base flood elevation data is commonly displayed as an elevation line on flood insurance maps, showing the location of the expected whole-foot water-surface elevation of the base (100-year) flood.
- ✓ 3. "Best management practices" (BMPs) means conservation practices or systems of practices and management measures that:
 - a. Control soil loss and protect water quality from degradation caused by nutrients, animal waste, toxins, and sediment; and
 - b. Minimize adverse impacts to surface water and groundwater flow, and to the chemical, physical, and biological characteristics of critical areas.BMPs are defined by the United States Department of Agriculture, the State of Washington Department of Agriculture, the Washington State Department of Ecology, Washington State Department of Health, Kitsap Conservation District, and other professional organizations.
- ✓ 4. "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.
- ✓ 5. "Category I, II, III, IV wetlands": see "Wetland category".
- ✓ 6. "Critical areas" means aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands.
- ✓ 7. "Critical habitat" means a habitat identified by US Fish and Wildlife Service or the National Marine Fisheries Service as habitat necessary for survival of endangered or threatened species.
- ✓ 8. "Educational or scientific activities" means controlled and/or supervised scientific activities or educational activities that are associated with an educational program that is approved through a conditional use permit.
- ✓ 9. "Engineering geologist" means a practicing engineering geologist who has at least four years of professional employment as an engineering geologist with experience in landslide evaluation, and a Washington State specialty license in engineering geology as specified in Chapter 18.220 RCW.

- ✓10. "Erosion hazard area" means a landform or soil type subject to being worn away by the action of water, wind, freeze-thaw, or ice, and which are:
- a. Rated in the Soil Survey of Kitsap County Area, Washington, USDA (1980), as having severe hazard of water erosion, including:
 - i. Indianola-Kitsap Complex, 45 to 70 percent slope;
 - ii. Kitsap Silt Loam, 15 to 30 percent slope, 30 to 45 percent slope;
 - iii. Ragnar Fine Sandy Loam, 15 to 30 percent slope; and
 - iv. Schneider very gravelly loam, 45 to 70 percent slope;
 - b. Classified in the Department of Ecology Coast Zone Atlas as:
 - i. Class 3, class U (unstable) includes severe erosion hazards and rapid surface runoff areas;
 - ii. Class 4, class UOS (unstable old slides) includes areas having severe limitations due to slope; and
 - iii. Class 5, class URS (unstable recent slides); and
 - c. Identified by the USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001) as rilled slopes/scarps.
- ✓11. "Existing development" means a development that was lawfully constructed, approved or established prior to the effective date of the ordinance codified in this chapter. ?
- ✓12. "Fish" means species of the vertebrate taxonomic groups Cephalospidomorphi and Osteichthyes. Pacific lamprey
- ✓13. "Fish and wildlife habitat" means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs, streams and wetlands.
- ✓14. "Fisheries biologist" means a person with experience and training in fisheries who is able to submit substantially correct reports on fish population surveys, stream surveys and other related data analyses of fisheries resources. "Substantially correct" means that technical or scientific errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a fisheries biologist include:
- a. Either:
 - i. Certification by the American Fisheries Society, or;
 - ii. Bachelor of Science degree in fisheries or the biological sciences from an accredited institution and five years of professional fisheries experience; and
 - b. The prior successful completion of at least three habitat management plans; and
 - c. The biologist is listed on a roster of qualified professionals prepared by the Director.
- ✓15. "Frequently flooded areas" means lands subject to a one percent or greater chance of flooding in any given year, as determined by the Federal Emergency Management Agency. These areas include, but are not limited to, floodplains adjacent to streams, lakes, coastal areas, and wetlands. (Also see Chapter 15.16 BIMC, Flood Damage Prevention.)
- ✓16. "Functions" means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge,

erosion control, wave attenuation, aesthetic value protection, and recreation. These roles are not listed in order of priority.

- ✓17. "Geologically hazardous areas" means areas susceptible to significant erosion, sliding, or other geological events. They pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas.
- ✓18. "Geotechnical engineer" means a practicing geotechnical/civil engineer who has a valid Washington ^{State} engineering license and a valid certificate of registration in civil engineering, at least four years of professional employment as a geotechnical engineer with experience in landslide evaluation, and appropriate training and experience as specified in Chapter 18.43 RCW.
- ✓19. "Habitat Management Plan" (HMP) means a report prepared by a professional wildlife biologist or fisheries biologist which discusses and evaluates critical fish and wildlife habitat functions and identifies and evaluates measures necessary to enhance and improve habitat conservation on a proposed development site.
- ✓20. "Habitat of local importance" means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain their population and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or areas of high vulnerability to alteration, such as cliffs and wetlands.
- ✓21. "Hazard tree" means a tree with structural defects likely to cause failure of all or part of the tree, which could strike a "target." A target can be a building or a place where people gather such as a park bench, picnic table, street, or backyard. In the case of steep slopes, a hazard tree can also be a tree that is a hazard to stability of the slope, as determined by a geotechnical engineer.
- ✓22. "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as specified in RCW 70.105.010. (Also see BIMC 18.06.450 through 18.06.510).
- ✓23. "Hydric soil" means soil which is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
- ✓24. "Hydrogeologist" means a practicing hydrogeologist who has at least four years of professional employment as a hydrogeologist with experience in the specific subject area in which they are providing a report, and a Washington ^{State} specialty license in hydrogeology as specified in RCW Chapter 18.220.
- 25. "Hydrophyte or hydrophytic vegetation" means plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the "Within the Federal delineation manual and Regional supplement or its successor."
- ✓26. "Impact of land use" means the relative measure of the intensity of land use used to determine the appropriate buffer widths for wetlands and streams which is categorized as follows:

- ✓a. High impact land use includes commercial development, industrial development, institutional development, residential (more than one unit per acre) development, new agriculture (high-intensity such as dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), and high-intensity recreation such as golf courses and ballfields.
- ✓b. Moderate impact land use includes residential development (1 unit/acre or less), new agriculture (moderate-intensity such as orchard and hay fields), paved trails, and building of logging roads.
- ✓c. Low impact land use includes low-intensity open space such as passive recreation, natural resources preservation, and unpaved trails.
- ✓27. "Invasive/exotic species" means plants and animals that are not native to the Puget Sound lowlands and are recognized by wetland professionals or biologists to be highly competitive with native vegetation and animals. Invasive/exotic plant species include those listed on the noxious weed list developed by the Washington State Noxious Weed Board, nonnative blackberries and English ivy. Invasive/exotic animal species include any species, such as rats, bullfrogs, zebra mussels and green crabs, considered by resource professionals to be damaging to the native animal populations.
- ✓28. "Landslide hazard areas" means areas which are potentially subject to risk of mass movement due to a combination of factors, including historic failures, geologic, topographic, and hydrologic features. Some of these areas are identified in the Department of Ecology Coastal Zone Atlas and USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001). The presence of these factors shall be determined through assessment, by the least intrusive means, by the City Engineer or at the City Engineer's request by a third party geoenvironmental or geotechnical expert, prior to issuance of any permit. Landslide hazard areas include the following:
 - a. Areas characterized by slopes greater than 15 percent having springs or groundwater seepage and having impermeable soils (typically silt and clay) overlain or frequently interbedded with permeable granular soils (predominantly sand and gravel);
 - b. Any area potentially unstable due to rapid stream incision or stream bank erosion;
 - c. Any area located on an alluvial fan, debris flow deposit, or in a debris flowpath, presently or potentially subject to impacts or inundation by debris flows or deposition of stream-transported sediments;
 - d. Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of competent consolidated rock; = bedrock; not landslide *
 - e. Any area designated or mapped as class U, UOS, or URS by the Department of Ecology Coastal Zone Atlas and/or mapped as a landslide or scarp on the USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001); or
- ✓29. "Liquefaction" means a process in which a water-saturated soil, upon shaking, suddenly loses strength and behaves as a fluid.
- ✓30. "Mitigation categories" means
 - a. The following specific categories: (need for mitigation ratios)
 - i. Mitigation, Compensatory: replacing project-induced critical area losses or impacts, including, but not limited to, establishment, re-establishment, rehabilitation or enhancement.

- ii. Mitigation, Establishment: Mitigation performed to intentionally establish a critical area (e.g., wetland) at a site where it does not currently exist.
 - iii. Mitigation, Re-Establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former critical area.
 - iv. Mitigation, Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes to a degraded critical area.
 - v. Mitigation, Enhancement: The manipulation of the physical, chemical, or biological characteristics of a biological wetland to heighten, intensify or improve specific function(s) or to change for specific purposes such as water quality improvement, flood water retention, or wildlife habitat.
31. "Normal maintenance" means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal maintenance includes removing debris from and cutting or manual removal of vegetation in crossing and bridge areas. Normal maintenance does not include:
- a. Use of fertilizer or pesticide application in wetlands, Fish and Wildlife Habitat Conservation Areas, or their buffers;
 - b. Re-digging ditches in wetlands or their buffers to expand the depth and width beyond the original ditch dimensions;
 - c. Re-digging existing drainage ditches in order to drain wetlands on lands not classified as existing and ongoing agriculture under Section B-2(C) (Exemptions), as not included in exemptions of SMP
- ✓ 32. "Open space" means undeveloped areas of varied size. Open space often contains distinctive geologic, botanic, zoologic, historic, scenic or other critical area, or natural resource land features.
- ✓ 33. "Ravine" means a V-shaped landform generally having little to no floodplain and normally containing steep slopes, which is deeper than 10 vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are typically created by the wearing action of streams. The top of the slope is determined where there is a significant change in the slope to generally less than a 15 percent slope.
- ✓ 34. "Reasonable alternative" means an activity that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.
- ✓ 35. "Repair" means activities that restore the character, size, or scope of a project only to the previously authorized condition.
- ✓ 36. "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:
- a. Seismic Landslide Hazard Areas - Slopes which are stable in non-earthquake periods, but fail and slide during ground shaking;

- b. Liquefaction Hazard Areas - Areas of cohesionless, loose or soft, saturated soils of low density in association with a shallow groundwater table that are subject to settlement and/or liquefaction from ground shaking, or;
- c. 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.
- ✓ 37. "Site" means the entire lot, series of lots, or parcels on which a development is located or proposed to be located, including all contiguous undeveloped lots or parcels under common ownership.
- ✓ 38. "Streams" means those areas in the City of Bainbridge Island where the surface water flows are sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices, or other artificial watercourses unless they are used by fish or used to convey streams naturally occurring prior to construction of the water course.
- ✓ 39. "Stream Types" means a streams classification system based on fish usage and perennial or seasonal water regime as found in WAC 222-16-030 and meeting the standards listed below.
 - a. "Type F Stream" means a stream that has suitable fish habitat. If fish usage has not been determined, water having the following characteristics are presumed to have fish use: Streams segments having a defined channel of 2 feet or greater within the bankfull width and having a gradient of 16 percent or less. Determination of fish usage shall use the methodology found in Washington Department of Natural Resource's Forest Practice Board Manual, Section 13.
 - b. "Type Np" means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
 - c. "Type Ns" means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to marine waters, Type F, or Np Waters.
- 40. "Wetland or wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, estuaries, marshes, bogs, and similar areas. ~~Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as result of the construction of a road, street, or highway.~~ BIMC 16.20.030.55
wetlands, regulate

different language

Wetland may include those artificial wetland intentionally created from nonwetland areas to mitigate the conversion of wetlands. B1MC 16.20.030.55.ii (wetlands created as mitigation...) regulated wetlands

- ✓41. "Wetland boundary" means the boundary or edge of a wetland as delineated using the methodology found in Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region (Version 2.0). (Per WAC173-22-035, or its successor.)
- ✓42. "Wetland category" means category as defined in "Washington State Wetland Rating System for Western Washington, Revised," Department of Ecology publication #04-06-025, or as revised and adopted by the department.
- ✓43. "Wetland classes" means the classification system of the U.S. Fish and Wildlife Service (Cowardin, et al. 1979).
- ✓44. Wetland Mitigation.
 - a. In-kind: To replace wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement "in-category."
 - b. Off-site: To replace wetlands away from the site on which a wetland has been impacted by a regulated activity.
 - c. On-site: To replace wetlands at or adjacent to the site on which a wetland has been impacted by a regulated activity.
 - d. Out-of-kind: To replace wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. It does not refer to replacement "out-of-category."
- ✓45. Wetlands, Regulated.
 - a. "Regulated wetlands" means:
 - i. All Category I and II wetlands;
 - ii. All Category III and Category IV wetlands (that are greater than 1000 sf). B1MC 16.20.030.55.ii
 - ✓b. Category I, II, III and IV wetlands include:
 - i. Lands defined as wetlands shall be those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
 - ii. Wetlands created as mitigation and wetlands modified for approved land use activities.
 - ✓c. Regulated wetlands do not include artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street, or highway.
- ✓46. "Wetlands specialist" means a person with experience and training in wetland issues who is able to submit substantially correct reports on wetland delineations, classifications, functional assessments and mitigation plans. "Substantially correct" means that errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a wetlands specialist include:
 - a. Either:

- i. Certification as a Professional Wetland Scientist (PWS) or Wetland Professional in Training (WPIT) through the Society of Wetland Scientists, or;
 - ii. Bachelor of science degree in the biological sciences from an accredited institution and five years of professional field experience; and
 - b. The prior successful completion of at least three wetland reports; and
 - c. The specialist is listed on a roster of qualified professionals prepared by the Director.
- ✓ 47. "Wildlife biologist" means a person with experience and training in the principles of wildlife management and with practical knowledge in the habits, distribution and environmental management of wildlife. Qualifications include:
- a. Either:
 - i. Certification as a professional wildlife biologist through The Wildlife Society, or;
 - ii. Bachelor of science or bachelor of arts degree in wildlife management, wildlife biology, ecology, zoology, or a related field, from an accredited institution and five years of professional field experience; and
 - b. The prior successful completion of at least three habitat managements plans; and
 - c. The biologist is listed on a roster of qualified professionals prepared by the Director.
- ✓ 46. "Zone of Influence" means an area, usually upslope from a geologically hazardous area, where changes in land use and hydrology can affect the stability of the geologically hazardous area. The zone of influence is defined as 300 feet upslope from slopes greater than 40 percent, and 200 feet upslope from slopes greater than 15 percent but less than 40 percent that are determined to be geologically hazardous areas. (~~Ordinance & reference omitted in Smp~~)

B-2. Applicability, exemptions, and prior development activity.

- ✓ A. Applicability. This appendix establishes regulations for the protection of sites which contain critical areas or are adjacent to sites which contain critical areas in the shoreline jurisdiction. Development and land use activities proposed on critical area sites shall comply with the provisions of this Appendix. No action shall be taken by any person, company, agency, governmental body (including the City), or applicant, which results in any alteration of a critical area except as consistent with the purposes, requirements, objectives, and goals of this (~~chapter~~) ^{should say Appendix}
- ✓ B. Inventory of Critical Areas. This appendix shall apply to all critical areas located within the shoreline jurisdiction of the city. The approximate location and extent of these areas on Bainbridge Island is displayed on various inventory maps available at the city's Department of Planning and Community Development. Maps and inventory lists are guides to the general location and extent of critical areas. Critical areas not shown are presumed to exist on Bainbridge Island and are protected under all the provisions of this (~~chapter~~). In the event that any of the designations shown on the maps or inventory lists conflict with the site-specific conditions, site-specific conditions shall control.
- ✓ C. Exemptions. The following activities are exempt from the requirements of this (~~chapter~~)
 - ✓ 1. Emergencies that threaten the public health, safety and welfare. An "emergency" is an unanticipated and immediate threat to public health, safety, or the environment which requires action within a time too short to allow compliance with this chapter, [further definition of "emergency" is in Section 8.0 of the Shoreline Master Program] Restoration or mitigation of critical areas and buffers impacted by emergency action shall be required in a timely matter.

Ongoing agricultural activities...

included in 16.20
omitted in SMP

- ✓2. Normal and routine maintenance of structures, landscaping and vegetation that will not further impact or alter critical areas or buffers.
- ✓3. Normal and routine maintenance and operation of pre-existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, and fish ponds; provided, that such activities shall not involve conversion of any wetland not currently being used for such activity. Any maintenance of ponds located in stream habitat areas shall require appropriate approval from the Washington Department of Fish and Wildlife.
- ✓4. Structural alterations to buildings that do not increase the structural footprint or introduce new adverse impacts to an adjacent critical area, except for structures located on geologically hazardous areas which are not exempt.
- ✓5. Normal and routine maintenance or repair of existing utility structures within a right-of-way or existing utility corridor or easements, including the cutting, removal and/or mowing of vegetation.
- ✓6. Forest practices conducted pursuant to Chapter 76.09 RCW, except Class IV (general conversions) and Conversion Option Harvest Plans (COHP).
- ✓7. Activities within a portion of a wetland buffer or fish and wildlife habitat area buffer located landward of an existing, substantially developed area, such as a paved area, or permanent structure, which eliminates or greatly reduces the impact of the proposed activities on the wetland or fish and wildlife habitat area. The Director shall review the proposal to determine the likelihood of associated impacts.
- ✓8. Hazard Tree Removal. Where a threat to human life, property, or slope stability is demonstrated, the Director may allow removal of danger or hazard trees subject to the following criteria:
 - a. Tree removal is the minimum necessary to balance protection of the critical area and its buffer with protection of life and property; and
 - b. The critical area or its buffer shall be replanted as determined by the Director. "Director shall coord. review w/ WDFW as determined necessary to assure habitat protection." omitted in SMP
The Director may require the applicant to consult with a professional forester or a certified arborist prior to tree removal. Hazard tree abatement can sometimes be achieved by felling the tree or trimming the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump for wildlife habitat.
9. Aquifer recharge areas. A person, or property, shall be exempt from the provisions of this chapter unless either of the following is true:
 - a. The property is located in a fish and wildlife habitat conservation area, frequently flooded area, geologically hazardous area, and/or wetland; or
 - b. One of more of the uses identified in Section B-F are proposed.
- D. Standards for existing development. L no section B-F?
 1. Existing structures and related improvements. Structures and related improvements that were legally built or vested prior to the effective date of Ordinance No. 2012-4 that do not meet the setback or buffer requirements of this appendix may continue to exist in their present form, and may be altered, including remodeled, reconstructed, or expanded, if such alteration complies with the provisions of this (Section) and will result in no net loss of ecological function. 2005-03 in B1MC
appends L not in B1MC
 2. Existing structures, not located in a geologically hazardous area, that were legally built or vested prior to the effective date of Ordinance No. 2012-4 2005-03 in B1MC

may be altered if:

- a. There is no change in the footprint of the building;
- b. The remodel is entirely inside the existing building;
- c. There is no further encroachment into the buffers required pursuant to this (chapter) unless a Variance is first approved
3. Existing property improvements other than structures, including driveways, parking areas, yards, play areas, storage areas, and similar improvements that were legally established or vested prior to the effective date of Ordinance No. 2012-4 may be altered if:
 - a. There is no change in the location of the improvement;
 - b. Any alteration of the improvement is entirely inside of the existing boundaries of the improvement;
 - c. There is no further encroachment into the buffers unless a Variance is first approved.
4. Alterations permitted by this (Section) shall not be exempt from applicable City review or permit requirements or other applicable City codes.

includ. in BMLC:

* d. Any expansion of the building footprint is exclusively on the sides that do not touch the buffers.

includ. in BMLC
d. see above

E. Conservation Agreements omitted in strip

B-3. Prescriptive buffers variations.

- ✓A. Intent. The City recognizes that in some cases it may not be possible to provide a critical area buffer that meets the dimensions prescribed by this (ordinance) due to land area or other constraints. The City further recognizes that in some cases the desired or better critical area protection can be achieved through alternative approaches.

This section provides alternatives that can be pursued in lieu of the prescribed buffers when warranted by site-specific conditions. In considering an application for any of these alternatives, it shall always be the primary intent of the City to protect the functions and values of the critical areas. It is further the intent of the City to ensure that the application of the provisions of this chapter does not deprive an owner from reasonable use of their property.

Any proposed use of the following alternatives shall be supported by analysis utilizing appropriate science to determine and minimize the impacts of the alternative:

- ✓B. Buffer Averaging. If characteristics of the property do not allow reasonable use with prescribed buffers, the Director may allow wetland and/or fish and wildlife conservation area buffer widths to be averaged. It is intended that the process for reviewing a buffer averaging proposal be as simple as possible, while ensuring that the following criteria are met:
1. The total area contained within the buffer after averaging shall be no less than that contained within the standard buffer prior to averaging;
 2. The applicant demonstrates that such averaging will clearly provide greater protection of the functions and values of critical areas than would be provided by the prescribed habitat buffers;
 3. The averaging will not result in reduced buffers next to highly sensitive habitat areas; and
 4. The applicant demonstrates one or more of the following:
 - a. That the wetland contains variations in sensitivity due to existing physical characteristics;
 - b. That only low intensity uses would be located within 200 feet of areas where the buffer width is reduced, and that such low intensity uses restrictions are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism; or
 - c. That buffer averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property.

D. VARIANCES

E. RULES

F. Pilot Projects

omitted in SMP

C. Habitat Management Plan. A Habitat Management Plan may be prepared pursuant to subsection B-4 when it can clearly be demonstrated 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. A Habitat Management Plan may be used as a means to protect wetland and/or fish and wildlife habitat conservation area buffers. Habitat Management Plans may not be used to reduce the water quality buffers for wetlands and/or fish and wildlife habitat conservation areas.

D. Public notice. Appropriate notice of, and opportunity to comment on, the proposed use of any of the foregoing alternatives shall be given to surrounding property owners and the general public, in a manner to be established by the Director. (Dra. 2005-03 reference omitted in SMP)

B-4. Habitat management plan.

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 B-8 and B-10 under any circumstance. *

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.

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 #99-116 shall be used for guidance in determining function equivalency. All Habitat Management Plans shall be reviewed by a qualified third party selected by the City. The applicant will be responsible for the cost of the review. NOT IN B1MC

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;
 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); and ** use credit-debit methodology?*
 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, Section 16.20.110). *wrong reference - WDFW to be ref. in BLMC*
 4. All review comments received from outside reviewers. 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. ** see Section 5 of BLMC*
 5. 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;
 - d. Retention of existing native or equivalent vegetation on other portions of the site in order to offset habitat loss from buffer reduction; and
 - e. The need for fencing and signage along the buffer edge.
 - 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. *typo* Monitoring plan for a period necessary to establish that performance standards have been met. Generally this will be for a period of seven to ten years.
 - 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.

- 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.
- 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 Section B-4.

B-5. Application requirements. *not in time*

- A. Submittal Requirements. *Don't need from SMP* *{ 16.20.070 Variances 16.20.080 Rules*
[In addition to the general submittal requirements for all applications in the Administration Handbook] applications for land use or development proposals within critical areas or their buffers shall be filed with the information requested on the application forms available from the Department of Planning and Community Development. The applicant shall not be granted any approval or permission to conduct development or land use in a critical area and/or its buffer prior to fulfilling the requirements of this *chapter*.

- B. Support Information Requirements. When support information is required by the Director it shall contain the following and be prepared by one or more of the experts listed in *Subsection B.4 of this section* *more reference*

1. A description of the critical areas on or adjoining the site and how the proposed development will or will not impact critical areas, their buffers, and adjoining properties, including:
 - a. Drainage, surface and subsurface hydrology, and water quality;
 - b. Existing vegetation as it relates to wetlands, steep slopes, soil stability, and fish and wildlife habitat value; and
 - c. Other critical area characteristics and functions.
2. Recommended methods for mitigating impacts and a description of how these methods may impact adjacent properties;
3. Any additional information determined as relevant by the Director;
4. Such studies shall be prepared by experts in the area of concern, who shall be selected from a list of approved consultants prepared by the Director, as follows:
 - a. Aquifer recharge study: Hydrogeologist;
 - b. Flood hazard area study: Professional civil engineer; hydro-geologist;
 - c. Geologically hazardous area study: Engineering geologist; geotechnical engineer, provided that:
 - i. An engineering geologist may provide a study, including interpretation, evaluation, analysis, and application of geological information and data and may predict potential or likely changes in types and rates of surficial geologic processes due to proposed changes to a location, provided it does not contain recommended methods for mitigating identified impacts, other than avoidance, structural impacts to, or suitability of civil works; and

- ii. Engineering geologists may not provide engineering recommendations or design recommendations, but may contribute to a complete geotechnical report that is co-sealed by a geotechnical engineer.
- d. Stream, riparian area, drainage corridor study: Biologist with stream ecology expertise; fish or wildlife biologist; a civil engineer may provide studies for drainage, surface and subsurface hydrology, and water quality;
- e. Wetland study: Wetlands specialist.
- f. Habitat Management Plans: Wildlife biologist and/or fisheries biologist.
5. The Director may in some cases retain experts at the applicant's expense to assist in the review of studies; and
6. Such studies shall be prepared in accordance with procedures established by the Director or City Engineer as specified.

B-6. Mitigation plan requirements.

- A. All critical area restoration, creation and/or enhancement projects required pursuant to this appendix either as a permit condition or as a result of an enforcement action shall follow a mitigation plan prepared by an expert approved by the Director. The applicant or violator shall receive written approval of the mitigation plan by the Director prior to commencement. Compensatory mitigation is not required for allowed activities which utilize best management practices to protect the functions and values of regulated critical areas.
- B. Purpose of Mitigation Plan. The mitigation plan shall provide information on land acquisition, construction, maintenance and monitoring of the replaced critical area. The mitigation plan shall recreate as nearly as possible the original critical area in terms of its acreage, function, geographic location and setting.
- C. Mitigation Plan Submittal Requirements. A complete mitigation plan shall consist of plot plans, a written report, and performance bonds, as required below. The plot plans and written report shall be prepared by qualified professionals approved by the Director.
 1. Plot Plan Requirements. The following information shall be submitted on one or more plot plans (as determined by the Director):
 - a. A legal description and a survey (boundary and topography) prepared by a licensed surveyor of the proposed development site, compensation site, and location of existing critical area(s) on each. This shall include wetland delineation and existing wetland acreage.
 - b. Scaled plot plan(s) indicating:
 - i. Proposed construction;
 - ii. Zoning setback and critical area buffer requirements;
 - iii. Construction phasing and sequence of construction;
 - iv. Site cross-sections, percent slope, existing and finished grade elevations;
 - v. Soil and substrate conditions;
 - vi. Grading and excavation plan, including erosion and sediment control plans needed for construction and long-term survival; substrate stockpiling locations and techniques, and source controls needed for critical area construction and maintenance;
 - vii. Landscape plans indicating species, types, quantities, locations, size, spacing or density of planting; planting season or timing; planting instructions, watering schedule and

Not permitted from SMP ← 16.20.100 Minimizing impacts to critical areas

- nutrient requirements; source of plant materials or seeds; and, where appropriate, measures to protect plants from destruction or predation; and
- viii. Water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics, etc.
2. Written Report Requirements. A written report shall accompany the plot plan(s) and shall provide the additional information required below. In addition, the report should be used as needed to clarify or explain elements of the plot plan(s).
- a. Baseline Information.
- i. Wetland delineation and existing wetland acreage;
 - ii. Vegetative, faunal and hydrologic characteristics;
 - iii. Soil and substrate conditions;
 - iv. Relationship within watershed and to existing streams, wetlands, ponds, or saltwater;
 - v. Existing and proposed adjacent site conditions; and
 - vi. Existing and proposed ownership.
- b. Environmental Goals and Objectives. The report shall contain a description of the environmental goals and objectives to be met by the compensation plan. The goals and objectives shall be related to the functions and values of the original critical area or, if out-of-kind wetland mitigation, the type of wetland to be emulated. This analysis shall include, but is not limited to the following:
- i. Site selection criteria;
 - ii. Identification of compensation goals;
 - iii. Identification of functions and values;
 - iv. Dates for beginning and completion of the project and compensation plan;
 - v. A complete description of the relationship between and among structures and functions sought;
 - vi. Review of available literature and/or known like-projects to date in restoring or creating the type of critical area proposed;
 - vii. Likelihood of success of the proposed compensation project at duplicating the original critical area. This shall be based on experiences of comparable projects identified in the literature review or existing projects, if any; and
 - viii. Likelihood of the ability of the created or restored critical area to provide the functions and values of the original critical area. This shall be based on such factors as surface water and groundwater supply and flow patterns; dynamics of the ecosystem; sediment or pollutant influx and/or erosion, periodic flooding and drought, etc.; presence of invasive flora or fauna; potential human or animal disturbance; and previous comparable projects, if any.
- c. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the project are met and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance, and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.
- d. Detailed Specifications. Written specifications and descriptions of compensation techniques shall be provided. These shall include, but not be limited to, items in Subsection C.2 of this Section.

wrong
reference

- e. **Monitoring Program.** A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:
 - i. Establishing vegetation plots to track changes in plant species composition and density over time;
 - ii. Using photo stations to evaluate vegetation community response;
 - iii. Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
 - iv. Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;
 - v. Measuring sedimentation rates, if applicable; and
 - vi. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.
- f. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than seven years.
- g. **Contingency Plan.** Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.
- D. **Performance and Maintenance Surety and Demonstration of Competence.** A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise to successfully execute the compensation project shall be provided. A compensation project manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, a surety ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted.
- E. **City Consultation.** The City may consult with and solicit comments from any federal, state, regional, or local agency, including tribes, having any special expertise with respect to any environmental impact prior to approving a mitigation proposal which includes critical areas compensation. The compensation project proponents should provide sufficient information on plan design and implementation in order for such agencies to comment on the overall adequacy of the mitigation proposal.
- F. **Permit Conditions.** Any compensation project prepared pursuant to this (section) and approved by the Director shall become part of the application for the permit.

B-7. Aquifer recharge areas.

- A. **Classification.** The entirety of Bainbridge Island is the recharge area for the island aquifers. Certain uses must be carefully evaluated before being approved, and others must be prohibited, in order to protect the city's aquifers, due to the following:

1. Bainbridge Island is dependent upon its aquifers as the sole and essential source for drinking water. Critical recharge areas have the potential to affect potable water where an essential source of drinking water is vulnerable to contamination.
2. The island aquifers are vulnerable to pollution that has the potential to create a significant public health hazard. High vulnerability is indicative of land uses which produce contaminants that may degrade groundwater and low vulnerability is indicative of land uses which will not.
3. Susceptibility to pollution is a function of depth of groundwater, permeability of soils, soil types, presence of potential sources of contamination and any other relevant factors.
4. Soil types that transfer water to the aquifer are rated in terms of infiltration rate. Soil types with the high infiltration rates are associated with areas of high aquifer recharge. The rates and soil types are defined by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Kitsap County.
5. The island aquifers are vulnerable to a reduction in recharge from activities that reduce the infiltration rate on a site.
- B. Hydrogeologic Assessment. The following proposed activities will require the preparation of a hydrogeologic assessment:
 1. The use of hazardous substances, other than household chemicals used according to the directions specified on the packaging for domestic applications;
 2. The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than 14,500 gallons of effluent per day; or
 3. Any other activity determined by the Director likely to have an adverse impact on ground water quality or quantity or on the recharge of the aquifer.
- C. Hydrogeologic Assessment Requirements. A hydrogeologic assessment shall include, at a minimum, the following site and proposal-related information:
 1. Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;
 2. Ground water depth, flow direction, and gradient based on available information;
 3. Currently available data on wells and springs within 1,300 feet of the project area;
 4. Location of other critical areas, including surface waters, within 1,300 feet of the project area;
 5. Available historic water quality data for the area to be affected by the proposed activity;
 6. Best management practices proposed to be utilized to protect groundwater quality; and
 7. Low impact development practices designed to maintain infiltration rates to the underlying aquifers.
- D. Performance Standards – Specific Uses.
 1. Storage Tanks. All storage tanks proposed in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:
 - a. Underground Tanks. All new underground storage facilities proposed for the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - i. Prevent releases due to corrosion or structural failure for the operational life of the tank;
 - ii. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and

- iii. Use material in the construction or lining of the tank that is compatible with the substance to be stored.
- b. Aboveground Tanks. All new aboveground storage facilities proposed for the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - i. Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;
 - ii. Have a primary containment area enclosing or underlying the tank or part thereof; and
 - iii. A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.
- 2. Vehicle Repair and Servicing
 - a. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
 - b. No dry wells shall be allowed on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.
- 3. Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.
- 4. Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state departments of Ecology and Health.
 - a. Use of reclaimed water for surface percolation must meet the ground water recharge criteria given in Chapter 90.46.080(1) and Chapter 90.46.010(10) RCW. The state Department of Ecology may establish additional discharge limits in accordance with Chapter 90.46.080(2) RCW.
 - b. Direct injection must be in accordance with the standards developed by authority of Chapter 90.46.042 RCW.
- 5. State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

Table 1: Statutes, Regulations, and Guidance Pertaining to
Ground Water Impacting Activities

Activity	Statute – Regulation – Guidance
Above Ground Storage Tanks	Chapter 173-303-640 WAC
Animal Feedlots	Chapter 173-216 WAC, Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Washington Department of

Activity	Statute – Regulation – Guidance
	Ecology WQ-R-95-56)
Below Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303-182 WAC
Hazardous Waste Generator (<i>Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.</i>)	Chapter 173-303 WAC
Injection Wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (Washington State Department of Ecology 94- 146)
Oil and Gas Drilling	Chapter 332-12-450 WAC, Chapter 173-218 WAC
On-Site Sewage Systems (Large Scale)	Chapter 173-240 WAC
On-Site Sewage Systems (< 14,500 gal/day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (Washington State Department of Ecology, 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 332-18-015 WAC
Wastewater Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, Washington State Department of Ecology Land

Activity	Statute – Regulation – Guidance
	Application Guidelines, Best Management Practices for Irrigated Agriculture

- E. Prohibited Uses. Uses Prohibited In Aquifer Recharge Areas. The following activities and uses are prohibited in Aquifer Recharge Areas:
1. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;
 2. Underground Injection Wells. Class I, III, and IV wells and subclasses of Class V wells;
 3. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
 4. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store (other than minor sources such as medicinal uses or industrial testing devices) process, or dispose of radioactive substances; and
 5. Other Prohibited Uses or Activities:
 - a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source; and
 - b. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream.

B-8. Fish and wildlife habitat conservation areas.

- A. Purpose. This section applies to all Fish and Wildlife Habitat Conservation Areas, as categorized in Subsection B-8 (B) below. The intent of this Section is to:
1. Preserve natural flood control, stormwater storage, and drainage or stream flow patterns;
 2. Control siltation, protect nutrient reserves, and maintain stream flows and stream quality for fish and marine shellfish;
 3. Prevent turbidity and pollution of streams and fish or shellfish bearing waters;
 4. Preserve and protect habitat adequate to support viable populations of native wildlife and fish on Bainbridge Island; and,
 5. Encourage non-regulatory methods of habitat retention whenever practical, through education and the Open Space Tax Program.
- B. Fish and Wildlife Habitat Conservation Areas Categories.
1. Classification. The following categories shall be used in classifying Fish and Wildlife Habitat Conservation Areas:
 - a. Marine Critical Areas. Commercial and recreational shellfish areas; kelp and eelgrass beds; marine and estuarine waters of the state and herring, sand lance and smelt spawning areas.
 - b. Streams: All streams which meet the criteria for Type F, Np and Ns waters as set forth in WAC 222-16-030 of the Department of Natural Resources Water Typing System and as further modified by the definitions in this appendix. Once a stream has been classified, the City must document the reasons for changes in the classification.
 - c. Fish and Wildlife Conservation Areas:
 - i. Class I Fish and Wildlife Conservation Areas: Habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened, and sensitive species

- documented in maps or data bases available to the City of Bainbridge Island and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
- ii. Class II Fish and Wildlife Conservation Areas. Habitats for State listed candidate, monitor, or priority species documented in maps or data bases available to City of Bainbridge Island and its citizens, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
 - d. Habitats and Species of Local Importance. This section provides for the designation and protection of habitats and species of local importance.
 - i. Designation of species of habitat of local importance can be based on any of the following circumstances:
 - (a) Local populations of native species are in danger of extirpation based on existing trends.
 - (b) Local populations of native species are likely to become threatened or endangered under state of federal law.
 - (c) Local populations of native species are vulnerable or declining.
 - (d) The species or habitat has recreation, commercial, game, tribal, or other special value.
 - (e) Long-term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat.
 - (f) Protection by other county, state, or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat in the city.
 - (g) Without protection, there is likelihood that the species or habitat will be diminished over the long term.
 - ii. Nomination.
 - (a) Any person may nominate habitats and species for designation.
 - (b) The nomination should indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries), or whether the habitat or ecosystem is being nominated in its entirety.
 - (c) Where the nomination is a specific habitat site, the nomination shall include the name and address of all property owners of record of all assessor parcels within the area potentially affected by the management recommendations. The list shall at a minimum include all properties within 300 feet from the edge of all property identified for special designation.
 - (d) The nomination shall include recommended management strategies for the species or habitats. Management strategies must be supported by the best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination.
 - iii. Nomination processing and approval. The decision whether to designate a nominated species or habitat as one of local importance shall be made by the City Council. If approved, the City Council shall pass an ordinance establishing the designation.
 - iv. Establishment of specific rules for protection. Within 120 days of the effective date of an ordinance designating a species or habitat of local importance, the Director shall develop an administrative rule addressing protection in compliance with this section.
 - C. Development Standards. Regulated uses in designated Fish and Wildlife Habitat Conservation Areas and/or buffers shall comply with the performance standards outlined in this Section.

numbering off

1. Development standards – streams:
 - a. Water quality buffers – An applicant shall provide the prescribed water quality buffers in Table 2 unless relief is granted through SMP Section 4.2.1.7 nonconforming lot or through a shoreline variance.
 - b. Habitat buffers – An applicant shall provide either:
 - i. The prescribed habitat buffers in Table 2; or
 - ii. An approved Habitat Management Plan, pursuant to Section B-4, that clearly provides greater habitat functions and values in perpetuity than the prescribed habitat buffers in Table 2.
 - c. Buffer distances shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. Buffers shall be retained in their natural condition. It is acceptable, however, to enhance the buffer by planting native or equivalent vegetation as approved by the Director.
 - d. The buffer width shall be increased to include streamside wetlands which provide overflow storage for stormwater, feed water back to the stream during low flow, or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall be defined so as to include the entire stream feature.
 - e. Refuse and landscaping debris shall not be placed in buffers.
 - f. Streams in Ravines - Buffers. For streams in ravines outside the Mixed Use Town Center with ravine sides 10 feet or greater in height, the buffer width shall be the greater of:
 - i. The buffer width required for the stream type; or
 - ii. A buffer width which extends 25 feet beyond the top of the ravine.
 - h. Building Setback Line. A building surface setback line of 15 feet is required from the edge of any fish and wildlife habitat conservation area buffer except as provided for in Section B-11. Minor structures such as decks or impervious surfaces such as driveways may be permitted if the Director determines that such intrusions will not adversely impact the fish and wildlife habitat conservation area. The setback shall be identified on the site plan and filed as an attachment to the notice on title.

Table 2: Stream Buffers

Stream Category	Water Quality Buffer	Habitat Buffer	Total Buffer
Fish Bearing (F)	100 ft	50 ft	150 ft
Non-Fish Perennial (Np)	40 ft	10 ft	50 ft
Non-Fish Seasonal (Ns)	40 ft	10 ft	50 ft

3. Class I Fish and Wildlife Conservation Areas Development Standards. All development as described within this chapter or within 200 feet of designated Class I Wildlife Conservation Areas shall adhere to the following standards:
 - a. The applicant shall submit a Habitat Management Plan as specified in Section B- 4 for approval by the Director. If a wildlife conservation area designation is based on the presence of bald eagles, a Bald Eagle Management Plan, approved by the Washington State Department of Fish and Wildlife and meeting the requirements and guidelines of the bald eagle protection rules, WAC 232-12-292(or its successor), as now or hereafter amended, shall satisfy the requirements for a Habitat Management Plan (HMP).

- b. All new development within ranges and habitat elements with which Class I Fish and Wildlife have a significant relationship may require the submittal of a Habitat Management Plan (HMP) as specified in Section B- 4. The requirement for an HMP shall be determined during the SEPA/Critical Areas review on the project.
- c. An HMP required pursuant to this section shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of native or equivalent vegetation.
- d. Increased Buffer Provisions. The Director may increase buffer widths, up to 50% greater than the applicable buffer set in this chapter for critical areas with known locations of endangered, threatened, or state monitor or priority species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species. Such determination shall be based on site-specific and project-related conditions.

3 4. Class II Fish and Wildlife Conservation Area Development Standards. All development within designated Class II Wildlife Conservation Areas shall adhere to the following standards:

- a. An HMP may be required for any proposed development within designated Class II Fish and Wildlife Conservation Areas. The HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of native or equivalent vegetation. The requirement for an HMP shall be determined during the SEPA/Critical Areas review on the project.
- b. Increased Buffer Provisions. The Director may increase buffer widths, up to 50% greater than the applicable buffer set in this chapter for critical areas with known locations of endangered, threatened, or state monitor or priority species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species. Such determination shall be based on site-specific and project-related conditions.

5. Stream Crossings. Any private or public road expansion or construction which is allowed and must cross streams classified within this chapter, shall comply with the following minimum development standards:

- a. Bridges or bottomless culverts shall be required for all streams which have Salmonid breeding habitat. Other alternatives may be allowed upon submittal of a Habitat Management Plan which demonstrates that other alternatives would not result in significant impacts to the Fish and Wildlife Conservation Area, as determined appropriate through the Washington State Department of Fish and Wildlife, Hydraulics Project Approval process. The plan must demonstrate that salmon habitat will be replaced on a 1:1 ratio.
- b. Crossings shall not occur in Salmonid spawning areas unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Washington State Department of Fish and Wildlife;
- c. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary, high water marks unless no other feasible alternative placement exists;

- NO DIFFERENCE
- d. Crossings shall not diminish flood carrying capacity;
 - e. Crossings shall serve multiple properties whenever possible;
 - f. Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.
 - 6. Stream Relocations. Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be permitted when adhering to the following minimum performance standards and when consistent with Washington State Department of Fish and Wildlife Hydraulic Project Approval:
 - a. The channel, bank, and buffer areas should be replanted with native or equivalent vegetation that replicates a natural, undisturbed riparian condition;
 - b. For those shorelands and waters designated as Frequently Flooded Areas pursuant to Section B-1, a professional engineer licensed in the State of Washington shall provide information demonstrating that the equivalent base flood storage volume and function will be maintained; and
 - c. Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated.
 - 7. Pesticides, Fertilizers and Herbicides. Use of pesticides, fertilizers, herbicides are regulated by Section 4.1.7 of the Shoreline Master Program
 - 8. Land Divisions and Land Use Permits. All land divisions and land uses proposed on a site that includes Fish and Wildlife Habitat Conservation Areas shall comply with the following procedures and development standards:
 - a. The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area.
 - b. Land division approvals shall be conditioned so that all required buffers are designated as an easement or covenant encumbering the buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.
 - c. In order to avoid the creation of nonconforming lots, each new lot shall contain at least one building site that meets the requirements of this chapter, including buffer requirements for habitat conservation areas. Each lot must also have access and a sewage disposal system location that are suitable for development which do not adversely impact the Fish and Wildlife Conservation Area.
 - d. After preliminary approval and prior to final land division approval, the Director may require that the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the Director to provide adequate protection to the aquatic buffer.
 - 10. Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as benches, interpretive centers, and viewing platforms, may be allowed in Fish and Wildlife Habitat Conservation Areas or their buffers pursuant to the following standards:
 - a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas which do not provide ecological functions.;

- b. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;
- c. Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;
- d. Trails, in general, shall be set back from streams so that there will be no or minimal impact to the stream from trail use or maintenance. Elevated trails which protect or enhance ecological functions shall be used to the maximum extent feasible. Trails shall be constructed with pervious surfaces when feasible.

12. Stream Bank Stabilization.

- a. A stream channel and bank may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a Building Permit pursuant to the applicable building code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of Fish and Wildlife Habitat, flood control, and improved water quality.
- b. Where bank stabilization is determined to be necessary, bioengineering or other non-structural methods should be the first option for protection. Bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated that an existing residential structure cannot be safely maintained without such measures, and that the resulting retaining wall is the minimum length necessary to provide a stable building area for the structure. The Director may require that bank stabilization be designed by a professional engineer licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require a City of Bainbridge Island clearing or grading permit and Hydraulic Project Approval from the Washington Department of Fish and Wildlife.
- c. Nonstructural streambank protective techniques are preferred to bulkheads or other types of streambank armoring. Nonstructural techniques include but are not limited to vegetation plantings and bioengineering.

- 13. Fencing and Signs. Prior to approval or issuance of permits for land divisions or other new development, the Director may require that the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer identification may be approved when such methods are determined by the Director to provide adequate protection to the buffer.

B-9. Geologically hazardous areas.

A. General. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas. Zone of influence areas are not considered geologically hazardous areas.

B. Purpose. The intent of this section is to prevent the potential for personal injury or loss of life or property due to flooding, erosion, landslides, seismic events, or soil subsidence. Development must not increase slope instability, and must avoid on-site and off-site impacts, as well as potential risk to structures. Preserving the existing vegetation may be an important part of minimizing those risks.

C. Classification. Geologically hazardous areas shall be classified based upon landslide history and the presence of unstable soils, steepness of slopes, erosion potential, and seismic hazards. Areas in this category are a potential threat to public health, safety, and welfare when construction is allowed. While some potential risk due to construction can be reduced through structural engineering design, construction in these areas should be avoided when the potential risk cannot be reduced to a level comparable to the risk if the site were initially stable prior to construction. Classification and rating shall be based upon the risk to the environment and to development in geologically hazardous areas.

D. Minimum Submittal Requirements.

1. All geologically hazardous areas and buffers.

*...except erosion hazard areas & tsunami area in 16.20-

a. Indemnification. An indemnification or hold harmless agreement shall be required for all projects in geologically hazardous areas and buffers. The form of the agreement shall be approved by the City and executed prior to the commencement of construction or site alteration.

* BIMC refs. different

b. Notice A notice of intent to construct on a landslide hazard area or reduce the minimum buffer in a landslide hazard area shall be given pursuant to BIMC 2.16. 20. The notice of intent shall be issued within 14 days of a completed application pursuant to BIMC 2.16.020(5). The notice shall include a 21-day comment period and no permits or approval of reduced buffers shall be issued before the end of the comment period.

c. All reports or analyses required or prepared pursuant to this Section shall be prepared pursuant to Section B-5, B-9 and/or any other applicable provisions of this appendix, and shall meet the satisfaction of, and be approved by, the City Engineer prior to the commencement of any development activity.

d. To protect public health, safety and welfare, the City Engineer may call for a third party review of any geotechnical report in cases where there may be potential for substantial damage to life, property or the environment should the proposed engineering solution fail. When a third party review is required, costs incurred for a qualified third party geotechnical engineer to perform the review shall be borne by the applicant.

e. Geological Hazards Assessment. A Critical Area report is required for all projects in geologically hazardous areas and buffers and shall contain an assessment of geological hazards including the following site- and proposal-related information at a minimum:

i. Site and Construction Plans. The report shall include a copy of the site plans for the proposal showing:

A. The type and extent of geologic hazard areas, any other Critical Areas, and buffers on, adjacent to, or within a zone or distance of potential significant influence as determined by a professional engineer/ geologist;

- B. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;
- C. The topography, as determined by a professional engineer or geologist, of the project area and all hazard areas addressed in the report; and
- D. Clearing limits.
- ii. Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:
 - A. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
 - B. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and
 - C. A description of the vulnerability of the site to seismic and other geologic events.
- iii. Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.
- iv. Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis. Where the recommended buffers are less than the standard buffers set forth in section Section B-9(E)(2)(a) the rationale and basis for the reduced buffer shall be clearly articulated and demonstrate that the protection standard set forth in that section has been met.
- f. Incorporation of Previous Study. Where a valid Critical Areas report has been prepared for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required Critical Area report, if deemed still valid and appropriate by a professional engineer or geologist. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site based on best professional judgment of the engineer/ geologist.
- g. Mitigation of Long-Term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected life span of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.
- h. In addition to the general Critical Area report requirements of section B-9(D) Critical Area reports for geologically hazardous areas must meet requirements of this section. Critical

Exhibit 1

Area reports for two or more types of Critical Areas must meet the report requirements for each relevant type of Critical Area.

2. Landslide Hazard and Erosion Hazard Areas. In addition to the basic Critical Areas report, a Critical Area report for an erosion hazard or landslide hazard area shall include the following information at a minimum:
 - a. Erosion Control. An erosion control plan prepared by a civil engineer shall be submitted to the City prior to the issuance of a clearing or grading permit, in accordance with BIMC 15.20.
 - b. The applicant shall provide a geotechnical analysis containing the following information:
 - i. Site Plan. The Critical Area report shall include a copy of the site plan for the proposal showing:
 - A. The height of slope, slope gradient, and cross-section of the project area;
 - B. The location of springs, seeps, or other surface expressions of ground water on or a zone or distance of potential significant influence as determined by a professional engineer/geologist; and
 - C. The location and description of surface water run-off features.
 - ii. Hazards Analysis. The hazards analysis component of the Critical Areas report shall specifically include:
 - A. A description of the extent and type of vegetative cover;
 - B. A description of subsurface conditions based on data from site-specific explorations;
 - C. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - D. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
 - E. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;
 - F. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;
 - G. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - H. Recommendations for building siting limitations; and
 - I. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.
 - iii. Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:
 - A. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - B. Recommendations for drainage and subdrainage improvements;
 - C. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and

- D. Mitigation of adverse site conditions including slope stabilization measures for seismically unstable soils, surface water management, location and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability if appropriate.
3. Seismic Hazards Areas. In addition to the basic report requirements, a Critical Area report for a seismic hazard area shall also meet the following requirements:
- a. 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.
 - b. Liquefaction Hazard. The applicant shall provide a geotechnical analysis containing information specified by the City Engineer that meets the standards of this section (as mitigated).
 - c. Seismic Landslide Hazard. The applicant shall provide the same analysis and plan as required for landslide hazard areas, pursuant to Section B-9(D).
 - 4. Tsunami Hazards. The City shall provide applicants for development in low lying shoreline areas and other areas where flood elevation is controlled by tide level with information on tsunami hazards.(may need revision)
 - 5. Zone of Influence Areas beyond the established buffer. The applicant shall have the surface and storm water management plan (See BIMC 15.20) for the project reviewed by a geotechnical engineer to determine if there is any potentially adverse impacts to the landslide hazardous area. If the geotechnical engineer or the City Engineer determines that there are potential adverse impacts, the applicant shall provide a geotechnical analysis containing information specified by the City Engineer which analyzes the potential impacts to the geological hazard from the proposed development in the zone of influence and meets the standards of this section. The report shall contain recommendations to avoid adverse impacts to the geologically hazardous area. Concentrated discharge of stormwater shall only be allowed where specially recommended in the report and authorized by the City Engineer."

E. Development Standards.

1. General Requirements. The City Engineer shall establish administrative procedures to implement this section. The applicant shall meet the following standards for all new activities permitted in geologically hazardous areas or associated buffers:
- a. The proposed activity shall not create a net increase in geological instability, either on- or off-site, which is defined as follows:
 - i. The subject parcel shall not be less stable after the planned development than before; and
 - ii. The adjacent parcels shall not have greater risk or be less stable after the planned development than before.
 - b. The proposed activity shall not increase the risk of life safety due to geological hazards above professionally acceptable levels.
 - c. The proposed activity shall not increase the risk due to geological hazards above professionally acceptable levels for:

technical review committee in BIMC

- i. Property loss of any habitable structures or their necessary supporting infrastructure on-site or;
- ii. Risk to any off-site structures or property of any kind; and
- d. Proposed buildings shall be constructed using appropriate engineering methods that respond to the geologic characteristics specific to the site in order to achieve the highest standard of safety feasible.
- e. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.0 for dynamic conditions. Analysis of dynamic conditions shall be based on the minimum horizontal acceleration for the probabilistic maximum considered earthquake as established by the currently adopted version of the International Building Code.
- f. The proposed activity shall not further degrade the values and functions of the associated critical areas.

2. Redevelopment of existing structures

*minutes from update process
previous drafts*

- a. If an existing structure is damaged or is intentionally demolished the new structure must meet all the provisions of a new structure.
- b. Structural alteration to an existing legally constructed structure that does not increase the structural footprint and are determined by the City Engineer as having a minimal potential for increasing landslide hazard and meets the minimum buffer deminsions in B-9(E)(3)(i); *- buffer reductions*

3. Development Design and Location.

- The following requirements shall apply to any land or vegetation modification or construction within a landslide hazard area and/or its buffer as described herein:
- a. Buffer Requirement: A buffer equal to the height of the slope or fifty (50) feet, whichever is greater, shall be established from all edges of a landslide hazard area except where no other reasonable alternative exists, reduction may be allowed as follows:

i. Buffer Reduction.

- A. Buffer reductions may be allowed provided a critical areas report, pursuant to Section B-9(D)(1)(2) and any other related section of Appendix B, demonstrates to the Director that the buffer reduction will not reduce the level of protection to the proposed development, adjacent properties, and other associated critical areas as required by Section B-9(E)(1).

- B. For slopes forty (40) percent or greater the buffer may in no case be reduced to less than ten (10) feet. A decision by the Director to reduce buffer shall be based on a critical areas report pursuant Section B-9(D)(1)(2) that may includes a third-party independent review by a qualified geotechnical engineer pursuant to BIMC Section B-9(D)(1)(d);

- ii. Increased Buffer. The buffer may be increased beyond that specified in subsection (a) above if the Director determines a larger buffer is necessary to prevent risk of damage to proposed development, adjacent development, and uses and the associated critical areas;
- iii. Building Setback. All building and structures shall have a minimum setback of (15) feet from the outer edge of the buffer around landslide hazard areas to allow for construction activity; and

- iv. Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.

- b. All development proposals shall be designed to avoid impacts to the geologically hazardous areas. The development shall be designed to minimize the footprint of building in other disturbed areas, minimize removal of vegetation, minimize topographic change, and retain open space to the maximum extent practicable;
- c. Development design shall utilize clustering, under-structure parking, multi-level construction, and tiered foundations to the extent feasible to minimize impervious lot coverage, slope disturbance, and changes to the natural topography;
- d. Access shall be in the least sensitive part of the site, and common access drives and utility corridors are required to the extent feasible;
- e. Roads, walkways and parking areas shall be designed to parallel the natural contours to the extent feasible;
- f. All proposed clearing and tree removal shall be marked in the field for inspection and approval prior to alteration of the site;
- g. Cut and fill slopes shall be prepared and maintained to control against erosion and instability;
- h. Drainage and stormwater designs in zones of influence shall incorporate elements of low impact design, to the extent feasible, and shall be designed in such a manner that stormwater outlet discharges do not create additional impacts. The proposed activities shall not increase surface water discharge or sedimentation to adjacent properties beyond the pre-development condition; and

F. Exemptions: The following activities are permitted in geologically hazardous areas or associated buffers; provided, that the applicant can demonstrate that applicable standards in Subsection B-9(E)(1) can be met, or where the applicant has demonstrated through a Critical Areas report prepared by a geotechnical engineer in accordance with the specifications of the City Engineer that no adverse impact will result from the proposal and where approved surface water drainage will result in minimum slope and vegetation disturbance: ** structural alterations to an ex. legally constructed structure is exempt in B1MC*

- 1. Surface Water Management: Slopes or buffers may be used for approved surface water conveyance if no other reasonable alternative route is available. Installation techniques shall minimize disturbance to the slope and vegetation.
- 2. The construction of approved public or private trails; provided, they are constructed of material, for example cable lift access, which will not contribute to surface water runoff;
- 3. The construction of public or private utility corridors or streets; provided, it has been demonstrated that such alterations will not increase landslide or erosion risks through required analysis pursuant to section B-9(D)(1) and the City determines that no other feasible alternative exists;
- 4. Select Vegetation Removal Activities. The following vegetation removal activities are allowed, provided that no vegetation shall be removed from a geologically hazardous area or its buffer without approval from the Director;
 - a. Removal of noxious weeds using non-motorized equipment or light equipment if approved by the Director. Provision for the use of herbicides are in Section 4.1.7 of the Shoreline Master Program. Bare areas remaining after weed removal shall be re-vegetated with native plant species pursuant to an enhancement plan approved by the City.
 - b. Removal and pruning of hazard trees as defined ISA (International Society of Arboriculture) standards by provided that a ISA certified arborist documents the hazard

and provides a report to the Director for review and approval. Replacement shall be based on the recommendations of the arborist and geotechnical engineer and approved by the Director. The Director may require a second opinion from a certified ISA arborist in cases of removal of hazard trees. Mitigation for tree removal shall follow Section 4.1.2 of the Shoreline Master Program and the following

- i. Size of trees shall be approved by the Director, and
 - ii. The landowner shall ensure 100% survival of replacement trees.
5. The trimming and limbing of vegetation for the creation and maintenance of view corridors in accordance with the pruning standards of the International Society of Arboriculture; provided, that the soils are not disturbed and activity will not increase the risk of landslide or erosion. All vegetation removal must be based on a bluff management plan (SMP Section 4.1.5) developed by a certified arborist and reviewed by a geotechnical engineer to determine if it will impact slope stability. A clearing permit will be required prior to the any vegetation removal.
 6. **Limited Exemption** - For landslide areas 40% or greater with a vertical elevation change of up to twenty (20) feet may be exempted from section B-9(E)(2)(i) based on the City review and acceptance of a Critical Areas report from a geologist or licensed geotechnical engineer in accordance with section B-9(D) when no adverse impact will result from the exemption.

doesn't
exist
(3)(4)?
Buffer req.

B-10. Wetlands.

- A. Purpose. This section applies to all regulated uses within or adjacent to areas designated as wetlands, as categorized in section B-10(B) below. The intent of this Section is listed in no specific priority, as follows:
 1. Preserve, protect, restore, and improve wetland functions and values. Achieve no net loss and increase the quality of wetland acreage, functions, and values within the city. Mitigation measures, as conditions of permits, must have a reasonable expectation of success. Under the conditions of this Section, the Director may deny development proposals that would irreparably impact regulated wetlands; and
 2. Protect the public's health, safety, and welfare, while preventing public expenditures that could arise from improper wetland uses and activities; and
 3. Plan wetland uses and activities in a manner that protects and enhances the natural systems and environmental quality of Bainbridge Island and allows property holders to benefit from wetland property ownership wherever allowable under the conditions of this chapter; and
 4. Preserve ecological functions and values of wetlands which provide water quality protection, natural flood control, stormwater storage, contributes to groundwater and stream flow, shoreline stabilization, and wildlife and fish habitat; and
 5. Prevent turbidity and pollution of wetlands and fish or shellfish bearing waters, and maintain healthy wildlife habitat; and
 6. Encourage land use development patterns that maintain, enhance, or restore natural wetland systems and protect disturbance-sensitive and wetland-dependent wildlife, fish resources, and open space; and
 7. Protect and preserve wetlands values as natural areas providing aesthetic, recreational, and educational opportunities that need to be preserved for future generations; and
 8. Enhance the connectivity between wetland landscapes.

Area reports for two or more types of Critical Areas must meet the report requirements for each relevant type of Critical Area.

- 2 Landslide Hazard and Erosion Hazard Areas. In addition to the basic Critical Areas report, a Critical Area report for an erosion hazard or landslide hazard area shall include the following information at a minimum:
 - a. Erosion Control. An erosion control plan prepared by a civil engineer shall be submitted to the City prior to the issuance of a clearing or grading permit, (in accordance with BIMC 15.20.) *not in BIMC*
 - b. The applicant shall provide a geotechnical analysis containing the following information:
 - i. Site Plan. The Critical Area report shall include a copy of the site plan for the proposal showing:
 - A. The height of slope, slope gradient, and cross-section of the project area;
 - B. The location of springs, seeps, or other surface expressions of ground water on or a zone or distance of potential significant influence as determined by a professional engineer/geologist; and
 - C. The location and description of surface water run-off features.
 - ii. Hazards Analysis. The hazards analysis component of the Critical Areas report shall specifically include:
 - A. A description of the extent and type of vegetative cover;
 - B. A description of subsurface conditions based on data from site-specific explorations;
 - C. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - D. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
 - E. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;
 - F. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;
 - G. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - H. Recommendations for building siting limitations; and
 - I. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.
 - iii. Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:
 - A. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - B. Recommendations for drainage and subdrainage improvements;
 - C. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and

- B. Wetland Delineation and Categories. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City of Bainbridge Island meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter.

The City uses the Department of Ecology's (DOE's) Washington State Wetland Rating System for Western Washington, 2004, or as amended hereafter and adopted by the Director to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands. Once a wetland has been classified using the current DOE rating system, the City shall not reclassify the wetland without clearly documenting the reason for the change. If the wetland has a rating in the City GIS system, this rating can be used for regulatory purposes. This system consists of four wetland categories generally described as follows:

1. Category I wetlands are those that:
 - a. Represent unique or rare wetland type; or
 - b. Are more sensitive to disturbance than most wetlands; or
 - c. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
 - d. Provide a high level of function.

Category I wetlands include estuarine wetlands larger than one acre, bogs, mature and old-growth wetlands over one acre, wetlands in coastal lagoons, and wetlands that perform many functions very well as demonstrated by a score of over 70 points using the DOE rating system.

2. Category II wetlands are difficult, though not impossible, to replace, and provide a high level of function. Category II wetlands include estuarine wetlands smaller than one acre or disturbed and larger than one acre and wetlands that perform functions well as demonstrated by a score of 51-69 using the DOE rating system.
3. Category III wetlands are wetlands with a moderate level of function as demonstrated by a score of 30-50 points using the DOE rating system.
4. Category IV wetlands have the lowest level of function as demonstrated by a score less than 30 points using the DOE rating system and are often heavily disturbed.

C. Regulated and Non-Regulated Wetlands Classification.

1. Regulated Wetlands:

- a. All natural wetlands that meet the criteria in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region (Version 2.0) and are greater than 1000 square feet. ^{new manual ref.} _{in BIME}
- b. Unintentionally created wetlands that meet the criteria in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region (Version 2.0) except as listed in subsection (C)(2)(b) of this section. ^{money reference}
- c. Wetlands intentionally created from non-wetland areas to mitigate conversion of other wetlands.
- d. Wetlands ≤ 1000 sf if assoc. w/ riparian corridor. _{in BIME}

2. Non-Regulated Wetlands:

- a. Created Wetlands. Wetlands created intentionally from a non-wetland site that was not required to be constructed as mitigation for adverse wetland impacts. These may include, but are not limited to, irrigation and drainage ditches, grass-lined swales, canals,

detention facilities, wastewater treatment ponds, farm ponds not contiguous, as defined in this chapter, and landscape amenities. The applicant shall bear the burden of proving that the wetland was intentionally created from a non-wetland site. Where enhancements or restorations are made to wetlands for purposes other than mitigation, the original rating shall be maintained even if the changes would otherwise result in a higher classification.

- b.. Recent, Road Construction Related Wetlands. Wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. The applicant shall bear the burden of proving that the wetland meets these criteria.

D. Development Standards.

1. Water quality buffers – An applicant shall provide the prescribed water quality buffers in this section (Tables 3-6) unless relief is granted through SMP Section 4.2.1.7, nonconforming lot or through a shoreline variance.

2. Habitat buffers – An applicant shall provide either:

- a. The prescribed habitat buffers specified in this section (Tables 3, 4, 5, and 6); or
b. An approved Habitat Management Plan, pursuant to section B-4, that clearly provides greater habitat functions and values in perpetuity than the prescribed habitat buffers in this section (Tables 3, 4, 5, and 6).

3. Buffers. Buffers shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Any buffer enhancement and/or limited view clearing activity must be reviewed and approved by the Director. No refuse shall be placed in the buffer. Alteration of habitat buffer areas may be allowed for water-dependent and water-related activities and for development authorized by Section B-2 (C) (Exemptions), or Section B-2(D)(Standards for Existing Development), or Section B-3(3) (Buffer Averaging), or through SMP Section 4.2.1.7 nonconforming lot or through a shoreline variance. not in B14C

4. If a wetland meets more than one of the criteria listed in each table, the buffer needed to protect the wetland is the widest one. Table 3: Category I Wetlands - Buffers

Wetland Characteristics	Impact of Land Use (See Definitions)	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
Natural Heritage Wetlands	Low	50 ft	75 ft	125 ft	No additional discharge of surface water. No septic systems within 300 ft. Restore degraded parts of the buffer
	Moderate	75 ft	115 ft	190 ft	
	High	100 ft	150 ft	250 ft	
Bogs	Low	50 ft	75 ft	125 ft	No additional surface discharges. Restore degraded parts of the buffer.
	Moderate	75 ft	115 ft	190 ft	
	High	100 ft	150 ft	250 ft	

Wetland Characteristics	Impact of Land Use (See Definitions)	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
Forested	Low	50 ft	75 ft	125 ft	If forested wetland scores high for habitat, maintain connectivity to other natural areas.
	Moderate	75 ft	115 ft	190 ft	
	High	100 ft	150 ft	250 ft	
Estuarine	Low	50 ft	50 ft	100 ft	N/A
	Moderate	75 ft	75 ft	150 ft	
	High	100 ft	100 ft	200 ft	
Wetlands in Coastal Lagoon	Low	50 ft	50 ft	100 ft	N/A
	Moderate	75 ft	75 ft	150 ft	
	High	100 ft	100 ft	200 ft	
High level of function for habitat (score for habitat is 29-36 pts.)	Low	50 ft	100 ft	150 ft	Maintain connectivity to other natural areas. Restore degraded parts of the buffer.
	Moderate	75 ft	150 ft	225 ft	
	High	100 ft	200 ft	300 ft	
Moderate level of function for habitat (score for habitat is 20-28 pts.)	Low	50 ft	25 ft	75 ft	N/A
	Moderate	75 ft	35 ft	110 ft	
	High	100 ft	50 ft	150 ft	
High level of function for water quality improvement and low for habitat (score for water quality 24-32 pts.; habitat less than 20 pts.)	Low	50 ft	0 ft	50 ft	No additional discharges of untreated runoff.
	Moderate	75 ft	0 ft	75 ft	
	High	100 ft	0 ft	100 ft	
Not meeting any of the above criteria.	Low	50 ft	0 ft	50 ft	N/A
	Moderate	75 ft	0 ft	75 ft	
	High	100 ft	0 ft	100 ft	

(Table 4: Category II Wetlands - Buffers)

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Exhibit 1

Wetland Characteristics	Impact of Land Use (See Definitions)	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
High level of function for habitat (score for habitat is 29-36 pts.)	Low Moderate High	50 ft 75 ft 100 ft	100 ft 150 ft 200 ft	150 ft 225 ft 300 ft	Maintain connectivity to other natural areas.
Moderate level of function for habitat (score for habitat is 20-28 pts.)	Low Moderate High	50 ft 75 ft 100 ft	25 ft 35 ft 50 ft	75 ft 110 ft 150 ft	N/A
Estuarine	Low Moderate High	50 ft 75 ft 100 ft	25 ft 35 ft 15 ft	75 ft 110 ft 115 ft	N/A
Not meeting any of the above criteria	Low Moderate High	50 ft 75 ft 100 ft	0 ft 0 ft 0 ft	50 ft 75 ft 100 ft	N/A

Table 5: Category III Wetlands - Buffers

Wetland Characteristics	Impact of Land Use (See Definitions)	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
Moderate level of function for habitat (score for habitat is 20-28 pts.)	Low	40 ft	35 ft	75 ft	N/A
	Moderate	60 ft	50 ft	110 ft	
	High	80 ft	70 ft	150 ft	
Not meeting above criterion	Low	60 ft	0 ft	60 ft	N/A 40' in B1MC
	Moderate	60 ft	0 ft	60 ft	
	High	80 ft	0 ft	80 ft	

Table 6: Category IV Wetlands - Buffers

Wetland Characteristics	Impact of Land Use (See Definitions)	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
Larger than 10,000 square feet	Low	40 ft	0 ft	40 ft	N/A all 25' in B1MC
	Moderate	40 ft	0 ft	40 ft	
	High	50 ft	0 ft	50 ft	
Smaller than 10,000 square feet	Low	40 ft	0 ft	40 ft	N/A
	Moderate	40 ft	0 ft	40 ft	
	High	40 ft	0 ft	40 ft	

- a. For Category II or III wetlands smaller than 10,000 square feet with a habitat score of less than 20 points, the buffer may be reduced by 50 percent.
- b. For the purpose of determining the impact of land use, unless the Director determines a lesser level of impact is appropriate based on information provided by the applicant, the intensity of impact of the adjacent land use is determined based on the "impact of land use" definition.
5. If an applicant elects to propose an HMP, and that HMP proposes habitat buffer widths less than those prescribed in Tables 3 – 6, the HMP shall be prepared pursuant to Section B-4 and fulfill all requirements specified therein.
6. Table 7 provides examples of measures that might be provided in an HMP or when prescribed buffers are otherwise altered to minimize impacts of certain activities. Other measures may also be effective in minimizing impacts depending on site-specific circumstances and the nature of proposed activity.

Table 7: Examples of measures to minimize impacts to wetlands from different types of activities.

Examples of Disturbance	Examples of Measures to Minimize Impacts	Activities that Cause the Disturbance
Lights	Direct lights away from wetland.	Parking lots, warehouses, manufacturing, residential
Noise	Locate activity that generates noise away from wetland.	Manufacturing, residential
Toxic runoff*	Route all new runoff away from wetland. Establish covenants limiting use of pesticides within 150 ft of wetland. Apply integrated pest management.	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping
Change in water regime	Infiltrate or treat, detain, and disperse new runoff into buffer.	Impermeable surfaces, lawns, tilling
Pets	Plant dense vegetation around buffer, such as rose, hawthorn, etc.	Residential areas
Human disturbance	Plant buffer with impenetrable natural vegetation appropriate for region.	Residential areas
Dust	Utilize best management practices to control dust.	Tilled fields
* These examples are not necessarily adequate to meet the rules for minimizing toxic runoff if threatened or endangered species are present at the site.		

7. Buffer Measurement. All buffers shall be measured on a horizontal plane from the regulated wetland edge as marked in the field.
8. Fencing and Signs. This section applies to those wetlands and their buffers that are within 200 feet of regulated development activities.
 - a. 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.
 - b. 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.

9. Building or Impervious Surface Setback Lines. A building or impervious surface setback line of 15 feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the Director determines that such intrusions will not adversely impact the wetland. The setback shall be identified on a site plan and filed as an attachment to a notice on title.
- E. Regulated Uses And Activities. New development activities on properties containing regulated wetlands and buffers are subject to the development standards in this section, as permitted in the underlying zoning designation. Requirements for additional activities are specified in Table 8. The City may grant exceptions to these uses and activities according to the intent and specifications of this ~~(chapter.)~~ All authorized uses and activities in a regulated wetland or its buffer shall be subject to conditions established by the Director and may be subject to mitigation as required by this chapter. Development shall be classified as "allowed," "permitted," "special use" or "prohibited" according to this Section. Any regulated uses not specifically listed in Table 8 and ~~Table 4 of the Shoreline Master Program~~ shall be considered unclassified and may be allowed if granted a special use review in accordance with this ~~(chapter)~~ and the ~~Shoreline Master Program.~~ For the purpose of Table 8, "W" and "B" refer to the terms "wetland" and "buffer."

* OMITTED FROM SMP (INCLD. IN BIMG):

- Agriculture
- Bank Stabilization
- Boat Ramp

- Dock/float
- Mineral extraction
- Ponds - stock watering
- stormwater

Exhibit 1

Table 8: Regulated Uses and Activities in Regulated Wetlands and Buffers

	Category I		Category II		Category III		Category IV	
	W	B	W	B	W	B	W	B
1. Draining Wetlands (associated with no other permitted use, except as allowed under Section 120.C)	X	N/A	X	N/A	X	N/A	X	N/A
2. Driving of Piles	X	X	S	S	S	S	P	P
3. Educational or Scientific Activities	P	P	P	P	P	P	P	P
4. Enhancement	S	S	P	P	P	P	P	P
5. Excavation (not associated with enhancement)	X	X	S	S	S	S	S	S
6. Fill (associated with no other use)	X	X	X	X	X	X	X	X
7. Fish Hatchery	X	X	S	S	S	S	S	S
8. Flooding (associated with no other use)	X	X	S	S	S	S	S	S
9. Forest Practice-Class IV General or COHP	X	X	X	X	X	X	X	X
10. Golf Course	X	X	X	X	S	S	S	S
11. Land Division	P	P	P	P	P	P	P	P
12. Parks Development-Public & Private	S	S	S	S	S	S	P	P
13. Placing of Obstruction	X	X	X	X	X	X	X	X
14. Public Facility	X	X	X	S	S	S	S	S

missing number

new

new

	Category I		Category II		Category III		Category IV	
	W	B	W	B	W	B	W	B
14. Public Project of Significant Importance	S	S	S	S	S	S	S	S
15. Radio/TV Towers	X	X	S	S	S	S	S	S
16. Restoration/Revegetation of Site	S	S	P	P	P	P	P	P
17. Road/Street-Public/Private Access								
A) Expand within existing ROW	S	S	S	S	S	S	P	P
B) New Facilities	X	X	S	S	S	S	S	S
18. Signs-(Interpretation, Hazard, Critical Area Boundary, Survey Markers)	P	P	P	P	P	P	P	P
19. Site Investigation (non-mechanized)	A	A	A	A	A	A	A	A
Site Investigation (mechanized)	P	P	P	P	P	P	P	P
20. Trails and Trail Related Facilities	P	P	P	P	P	P	P	P
21. Utility Facility	X	X	S	S	S	S	S	S
22. Utility-On-Site Sewage Facility	X	X	X	S	X	S	X	S
23. Utility Line-Overhead	S	S	S	S	S	S	P	P

	Category I		Category II		Category III		Category IV	
	W	B	W	B	W	B	W	B
24. Utility Line-Underground	X	S	S	S	S	S	S	S

Key: A = Allowed Outright P = Permitted Subject to Development Standards and Underlying Permit S = Special Use Review Required X = Prohibited

F. Additional development standards for regulated uses. In addition to meeting the Development Standards in section D, above, those regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances.

1. Forest Practice, Class IV General, and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands.

a. Density Calculation.

- i. The actual density that will allowed to be built upon a parcel containing a wetland shall ultimately be determined during the site specific review of the parcel's planned development.
- ii. In determining the actual density of a parcel based on a specific site plan, the site plan shall locate all buildings outside of the wetland buffers;
- iii. The number of development rights allowed for any residentially-zoned parcel shall be its size in square feet divided by the number of square feet per home that is required by its zoning;
- iv. If the land can be subdivided such that all setbacks, buffers, and other zoning requirements can be observed, and no variances are requested, the density from the wetland can be transferred within the property;
- v. To the extent that the number of allowable development rights cannot be used on-site, they may be sold, traded, or transferred by the property owner through the transfer of development rights program pursuant to Chapter 18.37 BIMC;
- vi. Property owners may voluntarily extinguish development rights that are provided by the underlying zoning, but the City shall not extinguish any of these rights outside the aforementioned transactions.
- b. Land division approvals shall be conditioned to require that regulated wetlands and regulated wetland buffers be designated as an easement or covenant encumbering the wetland and wetland buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat or binding site plan, and title.
- c. In order to implement the goals and policies of this chapter, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site.
2. Surface Water Management. The following stormwater management activities may be allowed within wetland or buffer areas only if they meet the following requirements, in

Orphaned? or
needs different
numbering

1. Docks
3. Ag. Restrictions
4. Road/Street Repair

5. Land Disturbance

BIMC sections
omitted from
SMP

addition to the development standards in this section and in conformance with the Stormwater Management Ordinance, Chapter 15.20 BIMC:

- a. Surface water discharges from stormwater facilities or structures; provided, that the new surface water discharges to regulated wetlands from retention/detention facilities;
- b. Pre-settlement ponds or other surface water management structures; provided, that the discharge does not significantly increase or decrease the rate of flow and/or hydro-period, nor decrease the water quality of the wetland. Water quality treatment best management practices will be required prior to discharge. Pre-treatment of surface water discharge through biofiltration or other means shall be required.
3. Trails and Trail-Related Facilities: Construction of public and private trails and trail-related facilities, such as benches and viewing platforms, may be allowed in wetlands or wetland buffers pursuant to the following guidelines:
 - a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas [which do not provide ecological functions.] *not in BIMC*
 - b. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance, and existing hydrological characteristics, shrubs, snags, and important wildlife habitat.
 - c. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland.
 - d. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer and a minimum of 25 feet from the wetland edge, except where wetland crossings or viewing areas have been approved by the Director. Trail locations close to the wetland may be allowed if the primary purpose of the trail is wetland viewing or enjoyment. [Elevated trails which protect or enhance ecological functions shall be used to the maximum extent feasible.] *not in BIMC*
 - e. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails, have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the Director. Trails shall be constructed with pervious materials unless otherwise approved by the Director.
4. Parks. Development of public park and recreation facilities may be permitted; provided, that no alteration of wetlands or wetland buffers is allowed except for uses allowed in Table 8. For example, enhancement of wetlands and development of trails may be allowed in wetlands and wetland buffers subject to special use requirements and approval of a Wetland Mitigation Plan.
5. Educational or scientific activities. These activities shall only be permitted if they are directly related to the affected wetland and related buffers, and may include the viewing and sampling of natural systems. They may also include the installation of physical structures, including pervious trails, benches, permanent wildlife watching blinds, boardwalks, viewing platforms, or similar structures, or minor modifications to wetlands and their buffers. Any physical structures or minor modifications are subject to City

approval to minimize the impacts of human intrusion on the functions and values of critical areas and their buffers according to the following criteria:

- a. Minimize the footprint of structures and the number of access points to any particular critical area;
 - b. Minimize the amount of clearing and grading;
 - c. Elevate structures where possible;
 - d. Avoid impacting the flow of water;
 - e. Use appropriate building materials; and
 - f. Minimize the impacts of construction.
- G. Special Use Review. Development identified as a Special Use Review in Table 8 of this section may be approved, with conditions, or denied according to the procedures and criteria outlined in this subsection. Special Use Review is an administrative process unless the underlying permit requires a public hearing.
1. The Director is authorized to take action on permits as required by this chapter.
 2. The Director may approve a permit after review of the application and a Wetland Mitigation Plan submitted in accordance with this chapter. The Director shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists, the proposed use is consistent with the spirit and intent of this chapter and it will not cause adverse impacts to the wetland or the wetland buffer which cannot be mitigated. In taking action to approve a Special Use Review, the Director may attach reasonable conditions as necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.
 3. The Director shall deny a Special Use Review request if the proposed use or activity is inconsistent with this chapter and/or will cause adverse impacts to the wetland or wetland buffer, which cannot be adequately mitigated and/or avoided.
 4. Special use review requests for agricultural conversions shall include a farm plan developed by the Kitsap Conservation District. The plan shall identify the best management practices for the proposed agricultural activity.
 5. Special Use Review determinations are appealable to the hearings examiner pursuant to BIMC 2.16.020(P). *BIMC 2.16.130 referenced in 16.20*
- H. Wetlands and Streams Restoration, Creation, Mitigation, or Enhancement.
1. Any person who alters regulated wetlands or streams or their standard buffers as required by this chapter shall restore, create or enhance equivalent areas or greater areas than those altered in order to compensate for losses. In the alternative, conservation easements or mitigation banking may be considered as appropriate mitigation provided that areas equivalent to those altered are achieved.
 2. Where feasible, restored or created wetlands and streams shall be a higher category than the altered wetland or stream.
 3. Compensation areas shall be determined according to function, acreage, type, location, time factors, ability to be self-sustaining and projected success. Multiple compensation projects may be proposed for one project in order to best achieve the goal of no net loss.
 4. Given the need for expertise and monitoring, voluntary restoration, creation or enhancement projects or compensatory projects may be permitted only when the Director finds that the proposed project is associated with an activity or development otherwise permitted. Additionally, the applicant shall:

- a. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;
 - b. Demonstrate the capability for monitoring the site and to make corrections during this period if the project fails to meet projected goals and plans; and
 - c. Provide for the long-term protection and management of the compensation area to avoid further development or degradation.
5. Acreage Replacement Ratio. Any applicant proposing to alter wetlands may propose to reestablish, create, rehabilitate, or enhance wetlands in order to compensate for the wetland losses.
- a. Replacement Ratios for Wetlands. Table 9 provides the required replacement ratios for the reestablishment or creation, rehabilitation, or enhancement of a wetland. The first number specifies the replacement acreage of wetlands and the second specifies the acreage of wetlands altered.

Table 9: Replacement Ratios for Wetlands

Category and Type	Re-establishment or Creation	Rehabilitation	1:1 Re-establishment or Creation (R/C) or Enhancement (E)	Enhancement Only
I - Forested	6:1	12:1	1:1 R/C 10:1 E	24:1
I - Highly functioning	4:1	8:1	1:1 R/C 6:1 E	16:1
I - Bog	Not possible	6:1 of a Bog	Case by Case	Case by Case
I - Estuarine	Case by Case	6:1 - Estuarine	Case by Case	Case by Case
II - Estuarine	Case by Case	4:1 - Estuarine	Case by Case	Case by Case
II - Others	3:1	8:1	1:1 R/C 4:1 E	12:1
III	2:1	4:1	1:1 R/C 2:1 E	8:1
IV	1.5:1	3:1	1:1 R/C 2:1 E	6:1

- b. Replacement ratios for buffers shall be 1:1.
- c. Increased Replacement Ratio. The Director may increase the ratios under the following circumstances:
 - i. Uncertainty as to the probable success of the proposed rehabilitation or creation;
 - ii. Significant period of time between destruction and replication of wetland functions; or
 - iii. Projected losses in functional value.
- d. Decreased Replacement Ratio. The Director may decrease these ratios when there are findings of special studies coordinated with agencies with expertise which demonstrate that no net loss of wetland function or value is attained under the decreased ratio.
- e. In all cases, a minimum acreage replacement ratio of 1:1 shall be required.

6. Wetland Type. In-kind compensation shall be provided except where the applicant can demonstrate that:
 - a. The wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functions and values;
 - b. Scientific problems such as invasive/exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible;
 - c. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types); and
 - d. Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functions and values.
7. Location. On-site compensation shall be provided except where the applicant can demonstrate that:
 - a. The hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be substantially damaged by the on-site loss;
 - b. On-site compensation is not scientifically feasible due to problems with hydrology, soils, or other factors;
 - c. Compensation is not practical due to potentially adverse impacts from surrounding land uses;
 - d. Existing functions and values at the site of the proposed restoration are significantly greater than lost wetland functional values;
 - e. That established regional goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of compensatory measures at another site;
 - f. There is no feasible location for on-site mitigation;
 - g. Off-site compensation shall occur within the same watershed, if feasible, as the wetland loss occurred; provided, that Category IV wetlands may be replaced outside of the watershed when there is no reasonable alternative; and
 - h. In selecting compensation sites, an applicant shall pursue siting in the following order of preference:
 - i. Upland sites which were formerly wetlands;
 - ii. Idled upland sites generally having bare ground or vegetative cover consisting primarily of invasive introduced species, weeds, or emergent vegetation; or
 - iii. Other disturbed upland.
8. Timing. Wherever feasible, compensatory projects shall be completed prior to activities that will disturb wetlands, and immediately after activities that will temporarily disturb wetlands. In all other cases, except for Category I wetlands, compensatory projects should be completed prior to use or occupancy of the activity or development which was conditioned upon such compensation. Construction of compensation projects shall be timed to reduce impacts to existing wildlife and flora.
9. Cooperative Restoration, Creation or Enhancement Projects. The Director may encourage, facilitate, and approve cooperative projects wherein a single applicant or other organization with demonstrated capability may undertake a compensation project with funding from other applicants under the following circumstances:
 - a. Restoration, creation or enhancement at a particular site may be scientifically difficult or impossible; or

- ~~mitigation banking~~
~~mitigation banking~~
- b. Creation of one or several larger wetlands may be preferable to many small wetlands;
 - c. Persons proposing cooperative compensation projects shall:
 - i. Submit a joint permit application;
 - ii. Demonstrate compliance with all standards;
 - iii. Demonstrate the organizational and fiscal capability to act cooperatively; and
 - iv. Demonstrate that long-term management can and will be provided.
 - 10. Mitigation Banking.
 - a. The City may consider and approve replacement or enhancement of wetlands to address unavoidable adverse impacts caused by development activities through an approved wetland mitigation bank. Compensatory mitigation in advance of authorized impacts must be provided through an approved mitigation bank if a bank is used.
 - b. When off-site mitigation is authorized, the Director shall give priority to locations within the same drainage basin as the development proposal site that meet the following:
 - i. Mitigation banking sites and resource mitigation reserves as authorized by this chapter;
 - ii. Private mitigation sites that are established in compliance with the requirements of this chapter and approved by the Director; and
 - iii. Public mitigation sites that have been ranked in a process that has been supported by ecological assessments.
 - c. The Director may require documentation that the mitigation site has been permanently preserved from future development or alteration that would be inconsistent with the functions of the mitigation. The documentation may include, but need not be limited to, a conservation easement, transfer of clearing credits or other agreement between the applicant and owner of the mitigation site. The City may enter into agreements or become a party to any easement or other agreement necessary to ensure that the site continues to exist in its mitigated condition.
 - d. The Director shall maintain a list of sites available for use for off-site mitigation projects.
 - e. The Director may develop a program to allow the payment of a fee in lieu of providing mitigation on a development site. The program should address:
 - i. When the payment of a fee is allowed, considering the availability of a site in geographic proximity with comparable hydrologic and biological functions and potential for future habitat fragmentation and degradation; and
 - ii. The use of the fees for mitigation on public or private sites that have been ranked according to ecological criteria through one or more programs that have included a public process.

B-11. Frequently Flooded Areas

A. Classification. Classification for frequently flooded areas shall be consistent with the 100-year floodplain designation of the Federal Emergency Management Agency and the National Flood Insurance Program. In addition, the following criteria shall be considered when designating and classifying these areas:

- 1. Flooding impact to human health, safety, and welfare and to public facilities and services;
- 2. Available documentation including federal, state, and local laws, regulations and programs, local maps, and federally subsidized flood insurance programs;

3. The future floodplain defined as a channel of the stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow at build-out without any measurable increase in flood heights; and
4. The effect of high tides with strong winds, and greater surface runoff caused by increasing impervious surfaces.

B. Standards.

1. Development shall not reduce the effective base flood storage volume. Effective storage capacity shall be maintained.
2. Grading or other regulated activities which would reduce the flood water storage volume shall be mitigated by creating compensatory storage on- or off-site. Applicants must provide mitigation plans pursuant to this chapter.
3. Base flood data and flood hazard notes shall be on the face of any recorded plat or site plan including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway.
4. Applicants for development in low lying shoreline areas and other areas where flood elevation is controlled by tide level shall be provided with information on sea level rise. (Ord. 2005-03 § 2, 2005)

B-12 The Winslow Ravine – Special Rules in Mixed Use Town Center.

A stream commonly known as the “Winslow Ravine Stream” is located in a ravine commonly known as, and identified on department maps as, the “Winslow Ravine”. Both the stream and the ravine are partially located in the Mixed Use Town Center (MUTC). In order to accommodate more dense development within the MUTC, and recognizing the significant distance from the top of the ravine to the stream and its adjacent wetlands, in lieu of the buffer and setback rules provided for Fish and Wildlife Conservation Areas (Section B-8) and Wetlands (Section B-10), the applicant may select the prescriptive option or the mitigated option with respect to the Winslow Ravine Stream and the Winslow Ravine within the MUTC as described below:

A. “Option A” - Prescriptive Standards.

CATEGORIES	BUFFER WIDTH STANDARD	MINIMUM BUILDING SETBACK	OTHER DEVELOPMENT STANDARDS
Streams, Wetlands and Wildlife Conservation Areas associated with the Winslow Ravine or	50 feet beyond the top of the Winslow Ravine.	15 feet beyond the buffer.	

Winslow Ravine Stream within the MUTC.			
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- B. "Option B" - Mitigated Standards. The applicant shall demonstrate by submittal of necessary studies and proposed mitigation, that measures can and will be taken to ensure that the functions and values provided by the buffers prescribed under "Option A" are retained or improved.

CATEGORIES	BUFFER WIDTH STANDARD	MINIMUM BUILDING SETBACK	OTHER DEVELOPMENT STANDARDS
Streams, Wetlands and Wildlife Conservation Areas associated with the Winslow Ravine or Winslow Ravine Stream within the MUTC.	25 feet beyond the top of the Winslow Ravine.	10 feet beyond the buffer.	The buffer area shall be landscaped to facilitate filtration and infiltration of storm water. If such landscaping is installed, the buffer area may be used for recreational purposes. Fences, sitting areas and walking paths are allowed within the buffer area. There is no requirement that the buffer be dedicated as permanent open space tracts or otherwise.

Table I – Shoreline Study Requirements

Use	Analyses Required
All Activities below Mean Higher High Water	Dive Survey and/or Biological Evaluation or Biological Assessment ¹
Pier and Docks	Dive Survey and/or Biological Evaluation or Biological Assessment ¹
Shoreline Armoring (bulkhead and revetments)	Sediment analyses Biological Evaluation or Biological Assessment ¹
Development Activities Disturbing Native Vegetation Zone (Single Family Residences or Commercial)	Re-vegetation Plan

Footnotes:

¹Only as required by Washington Department of Fish and Wildlife, US Army Corp of Engineers, NOAA Fisheries or US Fish and Wildlife.

Additional Studies may be required by the Director as necessary to determine whether the application meets the decision criteria for Shoreline Substantial Development Permit, Shoreline Substantial Development Exemption, Shoreline Conditional Use Permit or Shoreline Variance.