



CITY OF KIRKLAND
Planning and Community Development Department
 123 Fifth Avenue, Kirkland, WA 98033
 425.587-3225 - www.kirklandwa.gov

**ADVISORY REPORT
 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS**

To: Kirkland Hearing Examiner

From: 
 Tony Leavitt, Project Planner


 Eric R. Shields, AICP, Planning Director

Date: October 29, 2013

File: SUB13-00456, SAR13-00457; CEDARBROOK SHORT PLAT AND BUFFER
 MODIFICATION PERMIT

Hearing Date and Place: November 5, 2013; 7:00 PM
 City Hall Council Chamber
 123 Fifth Avenue, Kirkland

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I. **INTRODUCTION**

A. **APPLICATION**

1. Applicant: Matt Hough of CPH Consultants
2. Site Location: 9757 124th Avenue NE (see Attachment 1)
3. Request: Proposal to subdivide one 1.58 acre parcel into 9 separate lots in a RSX 7.2 Zone. Access to the lots will be provided via a new private access road off of NE 100th Street. The project includes a proposal for stream and wetland buffer modifications through enhancement of the remaining buffers. The application includes utilization of the Low Impact Development Zoning Code provisions to reduce the minimum lot size and increase the allowed density by 1 lot in exchange for increased open space on the site (see Attachment 2).
4. Review Process: Process IIA, Hearing Examiner conducts public hearing and makes final decision, consistent with the Zoning Code requirement for stream and wetland buffer modifications. The short plat and low impact development applications would typically be reviewed as a Process I permit (Planning Director Approval), however the Kirkland Zoning Code Section 145.10 states that if the development is part of a proposal that requires additional approval through Process IIA the entire proposal will be decided upon using that other process.
5. Summary of Key Issues:
 - a. Compliance with Short Plat Approval Criteria (see Section II.D.1)
 - b. Compliance with Wetland and Stream Buffer Modification Approval Criteria (See Section II.D.2)
 - c. Compliance with Low Impact Development Regulations (II.E.1)

B. **RECOMMENDATIONS**

Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, we recommend approval of this application subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 3, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Attachment 3, the condition of approval shall be followed (see Conclusion II.G.2).
2. Trees shall not be removed or altered following short plat approval except as approved by the Planning Department. Attachment 3, Development Standards, contains specific information concerning tree retention requirements.
3. As part of the land surface modification permit application, the applicant shall:
 - a. Submit development plans that incorporate the approved buffer enhancement, monitoring and maintenance plans (see Conclusion II.D.2).
 - b. Submit a financial security device to cover the cost of completing the buffer enhancement improvements. The security shall be consistent with the standards outlined in Zoning Code section 90.145 (see Conclusion II.E.5).

- c. Submit Erosion control plans, which depict the location of a six-foot high construction phase fence along the boundary of the entire wetland buffer with silt screen fabric installed per City standard. The fencing shall be installed prior to issuance of any permits. The fence shall remain upright in the approved location for the duration of development activities (see Conclusion II.E.8).
 - d. Submit documentation showing compliance with the requirement to show that Low Impact Development techniques have been employed to control 50% of stormwater from all hard surfaces (see II.E.1).
 4. Prior to issuance of a land surface modification permit or a building permit, whichever is issued first, the applicant shall enter into an agreement with the City that runs with the property, in a form acceptable to the City Attorney, indemnifying the City from any claims, actions, liability and damages to sensitive areas arising out of development activity on the subject property (see Conclusion II.E.6).
 5. Prior to final inspection of the land surface modification permit, the applicant shall:
 - a. Complete installation of the buffer enhancement plan, subject to inspection by the City's consultant at the applicant's expense (see Conclusion II.D.2).
 - b. Install a permanent 3 to 4 foot tall split rail fence between the boundary of the wetland buffer and the developed portion of the site (see Conclusion II.E.8).
 - c. Provide proof of a written contract with a qualified professional who will perform the monitoring program, together with a completed contract and fees to fund review of the monitoring and maintenance activities, (i.e. inspection of plant materials, annual monitoring reports or revegetation activities) by the City's consultant. Alternatively, the applicant shall provide a copy of a completed contract and fees to fund completion of the monitoring program by the City's consultant (see Conclusion II.D.2).
 - d. Provide proof of a written contract to cover maintenance activities outlined in the buffer report (see Conclusion II.D.2).
 - e. Submit to the Planning Department a financial security device to cover all monitoring and maintenance activities that will need to be done including wetland consultant site visits, reports to the Planning Department, and any vegetation that needs to be replaced. The security shall be consistent with the standards outlined in Zoning Code section 90.145 (see Conclusion II.E.5).
 6. As part of the short plat recording, the applicant shall:
 - a. Dedicate a natural greenbelt protection easement encompassing the stream, wetland, and associated buffers on the site. The boundaries of the Natural Greenbelt Protection Easement shall be established by survey. All surveys shall be located on KCAS or plat bearing system and tied to known monuments (see Conclusion II.E.7).

- b. Include a note in the mylars that the gross floor area for each lot shall not exceed 3,600 square feet (see Conclusion II.E.1).
7. As part of the application for a Building Permit the applicant shall submit:
 - a. A site plan for each building permit that shows compliance with the low impact development standards (parking, required yards, front porches, garage setbacks, lot coverage) in KZC Section 114.15 (see Conclusion II.E.1).
 - b. Floor plans for each building permit that show that the gross floor area for each dwelling unit does not 3,600 square feet (see II.E.1).

II. **FINDINGS OF FACT AND CONCLUSIONS**

A. **SITE DESCRIPTION**

1. Site Development and Zoning:
 - a. Facts:
 - (1) Size: 68,912 square feet (1.58 acres).
 - (2) Land Use: The site currently contains a single family residence and associated accessory structures. All structures are proposed to be removed.
 - (3) Zoning: Single Family Residential, RSX 7.2 zone with a minimum lot size of 7,200 square feet. Pursuant to KZC 114.15 (Low Impact Development), individual lot sizes must be at least 50% of the minimum lot size for the underlying zone. Proposed lot sizes range from 3,600 to 3,607 square feet.
 - (4) Terrain: The property slopes downward from the northern property line (adjacent to NE 100th Street) to the south at an approximate slope of 6 percent.
 - (5) Vegetation: There are 92 significant trees on the property. Retention of trees is discussed in Section II.E.9.
 - (6) Stream: A Class A Stream (a tributary to Forbes Creek) exists on the southern portion of the property. This stream is part of the Forbes Creek Basin, which is primary basin and requires a 75 foot buffer and a ten foot buffer setback.
 - (7) Wetland: A Type II Wetland exists on the property which encompasses and is associated with the onsite stream. The wetland is in the Forbes Creek Basin, which is a primary basin and requires a 75 foot buffer and a ten foot buffer setback.
 - b. Conclusions: Size, land use, zoning, terrain and vegetation are not constraining factors in the consideration of this application. The stream and wetland are relevant factors in the review of the application.
2. Neighboring Development and Zoning:
 - a. Facts: The neighboring properties are zoned as follows and contain the following uses:
North, South and West: Zoned RSX 7.2; Single-family residences
East: Zoned RSX 7.2, City of Kirkland Fire Station
 - b. Conclusion: The neighboring development and zoning are not

constraining factors in this application.

B. PUBLIC COMMENT

1. Facts: The initial public comment period ran from April 26 to May 23, 2013. The Planning Department received one comment email (see Attachments 4) during this comment period. Below is a summary of public comments followed by a brief staff response.
 - a. Comment: The letter express concerns that the stream buffer is not included in the applicant's buffer modification report and requests that the buffer enhancement area be extended.
Staff Response: The final report does address the stream buffer modification. The proposal complies with the City's Buffer Enhancement requirements.
 - b. Comment: The letter requests removal of the existing fence that crosses the stream and buffer.
Staff Response: All fences on the subject property that extend into the sensitive areas and buffers are required to be removed as part of the enhancement plan.
 - c. Comment: The letter expresses concerns about stormwater impacts to the stream.
Staff Response: The applicant will be required to comply with all City requirements for management of stormwater.
 - d. Comment: The final comment is in regards to the stream culvert under 124th Avenue NE.
Staff Response: The project will not impact the existing culvert.

C. STATE ENVIRONMENTAL POLICY ACT (SEPA) AND CONCURRENCY

1. Facts: The project is exempt from SEPA and Traffic Concurrency Reviews.

D. APPROVAL CRITERIA

1. SHORT PLAT AND LOW IMPACT DEVELOPMENT PROPOSALS
 - a. Facts:
 - (1) KZC Section 114.25 states that the City will review and process an application for a LID project concurrent with and through the same process as the underlying subdivision proposal.
 - (2) The short plat and low impact development applications would typically be reviewed as a Process I permit (Planning Director Approval), however Kirkland Zoning Code Section 145.10 states that if the development is part of a proposal that requires additional approval through Process IIA the entire proposal will be decided upon using that other process.
 - (3) Municipal Code section 22.20.140 states that the decision maker may approve a short subdivision only if:
 - (a) There are adequate provisions for open spaces, drainage ways, rights-of-way, easements, water supplies, sanitary waste, power service, parks, playgrounds, and schools; and

- (b) It will serve the public use and interest and is consistent with the public health, safety, and welfare. The Hearing Examiner shall be guided by the policy and standards and may exercise the powers and authority set forth in RCW 58.17.
- (4) Zoning Code section 145.45 states that the decision maker may approve a short subdivision only if
 - (a) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
 - (b) It is consistent with the public health, safety, and welfare.
- b. Conclusions: The proposal complies with Municipal Code section 22.20.140 and Zoning Code section 145.45. It is consistent with the Comprehensive Plan. With the recommended conditions of approval, it is consistent with the Zoning Code and Subdivision regulations and there are adequate provisions for open spaces, drainage ways, rights-of-way, easements, water supplies, sanitary waste, power service, parks, playgrounds, and schools. It will serve the public use and interest and is consistent with the public health, safety, and welfare because it will add housing stock to the City of Kirkland in a manner that is consistent with applicable development regulations.

2. BUFFER MODIFICATIONS

a. Facts:

- (1) KZC 90.100.2 and KZC 90.60.2 establish that a Stream Buffer Modification and a Wetland Buffer Modification may only be granted when the proposed development is consistent with all of the following 9 criteria:
 - It is consistent with Kirkland's Streams, Wetlands and Wildlife Study (The Watershed Company, 1998) and the Kirkland Sensitive Areas Regulatory Recommendations Report (Adolfson Associates, Inc., 1998);
 - It will not adversely affect water quality;
 - It will not adversely affect fish, wildlife, or their habitat;
 - It will not have an adverse effect on drainage and/or storm water detention capabilities;
 - It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;
 - It will not be materially detrimental to any other property or the City as a whole;
 - Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;

- All exposed areas are stabilized with vegetation normally associated with native stream buffers, as appropriate; and
 - There is no practicable or feasible alternative development proposal that results in less impact to the buffer.
- (2) As required by the KZC, the applicant submitted a report prepared by a qualified professional dated March 25, 2013 that responds to the decisional criteria for modifying a stream and wetland buffer (see Attachment 5)
 - (3) The Watershed Company, the City's Consultant, reviewed the applicant's report and in a letter dated July 30, 2013 requested revisions (see Attachment 6).
 - (4) The applicant submitted a revised report dated September 9, 2013 (see Attachment 7). The report was reviewed by the Watershed Company and a final approval recommendation with conditions was issued (see Attachment 8). The applicant chose to address these conditions in a final response letter (see Attachment 9). Staff has confirmed that all of Watershed's comments have been incorporated into the final report.
 - (5) KZC Section 90.100.1(b) states that a stream buffer cannot be reduced by more than one-third of the standard buffer width. An additional 10-foot buffer setback is required through KZC Section 90.90.2. The reduced buffer line and 10-foot buffer setback line are shown on the applicant's plans. Preliminary measurement by Staff shows compliance with the referenced code sections.
 - (6) KZC Section 90.60.2.a.2 states that a wetland buffer cannot be reduced by more than one-third of the standard buffer width. An additional 10-foot buffer setback is required through KZC Section 90.45.2. The reduced buffer line and 10-foot buffer setback line are shown on the applicant's plans. Preliminary measurement by Staff shows compliance with the referenced code sections.
- b. Conclusions: Pursuant to the attachments included with this report, which include the proposed site plan, buffer mitigation plan, and monitoring and maintenance plans (see Attachment 9), and the review letter from The Watershed Company (see Attachment 8), the proposed development is consistent with the above criteria, subject to the following conditions:
- (1) As part of the land surface modification permit application, the applicant should submit development plans that incorporate the approved buffer enhancement, monitoring and maintenance plans.

- (2) Prior to final inspection of the land surface modification permit, the applicant should:
 - Complete installation of the buffer enhancement plan, subject to inspection by the City's consultant at the applicant's expense.
 - Provide proof of a written contract with a qualified professional who will perform the monitoring program, together with a completed contract and fees to fund review of the monitoring and maintenance activities, (i.e. inspection of plant materials, annual monitoring reports or revegetation activities) by the City's consultant. Alternatively, the applicant should provide a copy of a completed contract and fees to fund completion of the monitoring program by the City's consultant.
 - Provide proof of a written contract to cover maintenance activities outlined in the buffer report.

3. GENERAL ZONING CODE CRITERIA

- a. Fact: Zoning Code section 150.65.3 states that a Process IIA application may be approved if:
 - (1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
 - (2) It is consistent with the public health, safety, and welfare.
- b. Conclusion: The proposal complies with the criteria in section 150.65.3. It is consistent with all applicable development regulations (see Sections II.E) and the Comprehensive Plan (see Section II.F). In addition, it is consistent with the public health, safety, and welfare because it enhances and protects a stream and wetland which contribute to higher water quality standards.

E. DEVELOPMENT REGULATIONS

1. Low Impact Development Standards
 - a. Facts:
 - (1) KZC Chapter 114 provides standards for an alternative type of site development that ensures low impact development (LID) facilities are utilized to manage stormwater on project sites in specified low density zones.

- (2) KZC Section 114.15 lists the standard for a low impact development. The following is a review, in a checklist format, of compliance with these standards:

Complies as proposed	Complies as conditioned	Code Section
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted Housing Types: Detached Dwelling Units
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Minimum Lot Size: 3,600 square feet for RSX 7.2
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Minimum Number of Lots: Over 4 Lots
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Maximum Density: 8.67 units (see Section E.2 below) times 110%= 9.54 units
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Low Impact Development: LID Techniques are employed to control stormwater runoff from 50% of all hard surfaces.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Locations: Allowed in RSX 7.2 (Low Density Residential)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Review Process: Appropriate Review Process is being used.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Parking Requirements: Project is required to provide 2 stalls/ unit.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ownership Structure: Subdivision is permitted
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Minimum External Required Yards: 20 feet for all front yards, 10 feet for all other required yards. Compliance will be reviewed with building permit applications.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Minimum Internal Required Yards: 10 feet for front, Required front yard can be reduced to 5 feet, if required front yard is increased by same amount of front yard reduction, 5 feet for rear and side. Compliance will be reviewed with building permit applications.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Front Porches: Must comply with KZC 115.115.3(n), except that front entry porches may extend to within 5 feet of the interior required front yard. Compliance will be reviewed with building permit applications.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Garage Setbacks: Must comply with KZC 115.43, except that attached garages on front facade of dwelling unit facing internal front property line must be set back 18 feet from internal front property line. Compliance will be reviewed with building permit applications.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Lot Coverage: Maximum lot coverage is 50%. To be verified with land surface modification and building permit applications.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Required Common Open Space: The proposed open space, minus the stream and wetland area, exceeds the 40% minimum.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Maximum Floor Area: Maximum gross floor area for each lot is 3,600 square feet. Compliance will be reviewed with building permit application.

2. Maximum Development Potential

a. Facts:

- (1) Zoning Code Section 90.135 provides that the maximum potential number of dwelling units for a site which contains a wetland, stream, minor lake, or their buffers shall be the buildable area in square feet divided by the maximum lot area per unit as specified in KZC Chapters 15 through 60, plus the required sensitive area buffer in square feet divided by the minimum lot area as specified in KZC chapters 15 through 60, multiplied by the development factor from Subsection 2 of KZC

Section 90.135.

- (2) The following is the maximum development potential calculations for the site:

Total Property Size	68,912 square feet
Sensitive Areas	3,596 square feet
Unmodified Sensitive Area Buffers	14,321 square feet
Buildable Area	50,995 square feet
Percentage of Site in Sensitive Areas and Buffers	21%
Minimum Lots Size	7,200 square feet
Development Factor per Chart in Section 90.135.	80%
Maximum Development Potential	8.67 units
KZC 114.15 10% Bonus	0.87 units
Total Allowed Density	9.54 units

- b. Conclusion: With nine proposed lots, the proposed short plat does not exceed the maximum lots permitted by the Zoning Code.

3. General Lot Layout and Site Development Standards

a. Facts:

- (1) Kirkland Municipal Code Section 22.28.041.a states that the minimum lot size will be deemed to have been met if the minimum lot area is not less than fifty percent of the lot area required of the zoning district in which the property is located.
- (2) In the RSX 7.2 Use Zone, the minimum lot size shall be at least 3,600 square feet
- (3) The lots in the development proposal range in size from 3,600 square feet to 3,607square feet.
- (4) KMC Section 22.28.041.b requires that the lots within the low impact development meet the design standards and guidelines and approval criteria as defined in Chapter 114 of the Kirkland Zoning Code.

b. Conclusion:

- (1) The proposal complies with KMC Section 22.28.041. a.
- (2) As outlined in Section II.E.1, the lots within the low impact development meet the design standards and guidelines and approval criteria as defined in Chapter 114 of the Kirkland

Zoning Code.

4. Vehicular Access Easements

a. Facts:

- (1) Municipal Code sections 22.28.110 and 22.28.130 establish that if vehicular access within the plat is provided by means other than rights-of-way, the plat must establish easements or tracts, compliant with Zoning Code Section 105.10, which will provide the legal right of access to each of the lots served.
- (2) Zoning Code section 105.10 establishes dimensional standards for vehicular access easements or tracts. Easements or tracts which serve 1-4 lots must be 20 feet wide and contain a paved surface 16 feet in width.
- (3) Lots 8 and 9 are considered as being served as they are not directly adjacent to the right-of-way.

b. Conclusion: The proposed vehicular access easement complies with section 105.10. A minimum 16-foot wide paved road should be installed within the 20-foot wide proposed vehicular access easement or tract.

5. Bonds and Securities

a. Facts:

- (1) Zoning Code section 90.145 establishes the requirement for the applicant to submit a performance or maintenance bond to ensure compliance with any aspect of the Drainage Basin regulations contained in Chapter 90 of the Kirkland Zoning Code or any decision or determination made pursuant to the chapter.

b. Conclusions:

- (1) As part of the land surface modification permit application, the applicant should submit a financial security device to cover the cost of completing the buffer enhancement improvements. The security should be consistent with the standards outlined in Zoning Code section 90.145.
- (2) Prior to final inspection of the land surface modification permit, the applicant should submit to the Planning Department a financial security device to cover all monitoring and maintenance activities that will need to be done including wetland consultant site visits, reports to the Planning Department, and any vegetation that needs to be replaced. The security should be consistent with the standards outlined in Zoning Code section 90.145

6. Sensitive Areas Covenant

a. Fact: KZC 90.155 establishes that prior to issuance of a land surface modification permit or a building permit, whichever is issued first, the applicant shall enter into an agreement with the City that runs with the property, in a form acceptable to the City Attorney, indemnifying the

City from any claims, actions, liability and damages to sensitive areas arising out of development activity on the subject property. The applicant shall record this agreement with the King County Department of Elections and Records.

- b. Conclusion: Prior to issuance of a land surface modification permit or a building permit, whichever is issued first, the applicant should enter into an agreement with the City that runs with the property, in a form acceptable to the City Attorney, indemnifying the City from any claims, actions, liability and damages to sensitive areas arising out of development activity on the subject property.

7. Natural Greenbelt Protection Easement

- a. Fact: KZC Section 90.150 requires that consistent with law, the applicant shall dedicate development rights, air space, or grant a greenbelt protection or open space easement to the City to protect sensitive areas and their buffers.
- b. Conclusion: As part of the short plat recording, the applicant should dedicate a natural greenbelt protection easement encompassing the stream, wetland, and associated buffers on the site. The boundaries of the Natural Greenbelt Protection Easement should be established by survey. All surveys shall be located on KCAS or plat bearing system and tied to known monuments

8. Stream/ Wetland Buffer Fence or Barrier

- a. Facts:
 - (1) Zoning Code sections 90.50 and 90.95 require that prior to the start of development activities, the applicant install a six-foot high construction-phase chain link fence or equivalent fence, as approved by the Planning Official, along the upland boundary of the entire wetland or stream buffer with silt screen fabric installed per City standard.
 - (2) Zoning Code sections 90.50 and 90.95 require the applicant to install either (1) a permanent three- to four-foot-tall split rail fence; or (2) permanent planting of equal barrier value; or (3) equivalent barrier, as approved by the Planning Official between the upland boundary of all stream/wetland buffers and the developed portion of the site.
- b. Conclusions:
 - (1) As part of the land surface modification permit application, the applicant should submit Erosion control plans, which depict the location of a six-foot high construction phase fence along the boundary of the entire wetland buffer with silt screen fabric installed per City standard. The fencing should be installed prior to issuance of any permits. The fence should remain upright in the approved location for the duration of development activities.
 - (2) Prior to final inspection of the land surface modification permit, the applicant should install a permanent 3 to 4 foot tall split rail

fence between the boundary of the wetland buffer and the developed portion of the site.

9. Natural Features - Significant Vegetation

a. Facts:

- (1) Regulations regarding the retention of trees can be found in Chapter 95 of the Kirkland Zoning Code. The applicant is required to retain all viable trees on the site following the short plat approval. Tree removal will be considered at the land surface modification and building permit stages of development.
- (2) The applicant has submitted a Tree Plan III, prepared by a certified arborist (see Attachment 10). Specific information regarding the tree density on site and the viability of each tree can be found in Attachment 3, Development Standards. The City's Arborist has reviewed this plan.

- b. Conclusions: The applicant should retain all viable trees during the construction of plat improvements and residences and comply with the specific recommendations of the City's arborist.

F. COMPREHENSIVE PLAN

1. Fact: The subject property is located within the North Rose Hill neighborhood. Figure NRH-4 on page XV.F-11 designates the subject property for Low Density Residential, 6 dwelling units per acre (see Attachment 11).
2. Conclusion: The proposed use of the subject property is consistent with the Comprehensive Plan.

G. DEVELOPMENT STANDARDS

1. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 3.
2. Conclusion: The applicant should follow the requirements set forth in Attachment 3.

III. SUBSEQUENT MODIFICATIONS

Modifications to the approval may be requested and reviewed pursuant to the applicable modification procedures and criteria in effect at the time of the requested modification.

IV. APPEALS AND JUDICIAL REVIEW

The following is a summary of the deadlines and procedures for and appeals. Any person wishing to file or respond to an appeal should contact the Planning Department for further procedural information.

A. APPEALS

Appeal to City Council:

Section 150.80 of the Zoning Code allows the Hearing Examiner's decision to be appealed by the applicant and any person who submitted written or oral

testimony or comments to the Hearing Examiner. A party who signed a petition may not appeal unless such party also submitted independent written comments or information. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., _____, fourteen (14) calendar days following the postmarked date of distribution of the Hearing Examiner's decision on the application.

B. JUDICIAL REVIEW

1. Section 150.130 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

V. LAPSE OF APPROVAL

A. SHORT PLAT

Under Section 22.20.370 of the Subdivision Ordinance, the short plat must be recorded with King County within seven (7) years following the date of approval, or the decision becomes void; provided, however, that in the event judicial review is initiated, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the short plat.

B. BUFFER MODIFICATIONS

Under Section 150.135 of the Zoning Code, the applicant the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 150.130, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void.

VI. APPENDICES

Attachments 1 through 11 are attached.

1. Vicinity Map
2. Development Plans
3. Development Standards
4. Public Comment Email
5. Buffer Enhancement Report prepared by B&A Inc. dated March 25, 2013
6. The Watershed Company Review Letter dated July 30, 2013
7. Revised Buffer Enhancement Report prepared by ACRE Environmental Consulting dated September 9, 2013
8. The Watershed Company Review Letter dated September 25, 2013
9. Final Buffer Enhancement Report prepared by ACRE Environmental Consulting dated October 1, 2013

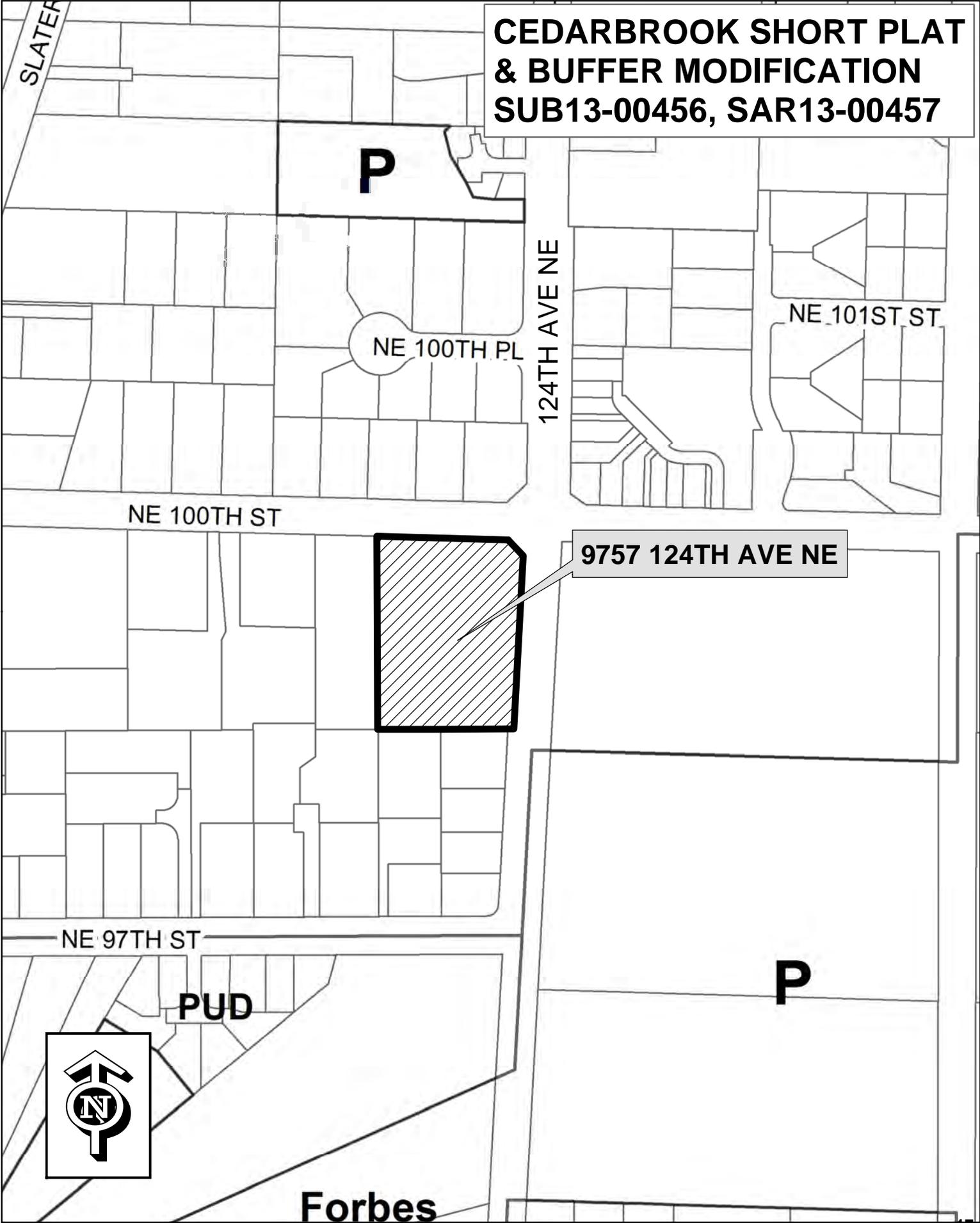
10. Tree Plan prepared by International Forestry Consultants, Inc., dated February 28, 2013
11. North Rose Hill Neighborhood Land Use Map

VII. PARTIES OF RECORD

Applicant
Parties of Record
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

A written decision will be issued by the Hearing Examiner within eight calendar days of the date of the open record hearing.

CEDARBROOK SHORT PLAT & BUFFER MODIFICATION SUB13-00456, SAR13-00457



PTN. OF SEC. 4, TWP 25N, R5E W.M.

SUB13-00456, SAR13-00457 Staff Report
Attachment 2

CEDARBROOK PRELIMINARY SHORT PLAT

CITY OF KIRKLAND

KING COUNTY, WA



SURVEY DATA

EXISTING BOUNDARY, TOPOGRAPHIC, AND PLANNING INFORMATION SHOWN ON THIS PLAN AND OTHERS IN THIS SET WERE USED AS A BASIS FOR DESIGN AND REPRESENT FIELD SURVEY DATA AND MAPPING PREPARED BY AXX SURVEY & MAPPING (AAX JOB NO. 12-116) AND DOES NOT REPRESENT WORK BY CPH CONSULTANTS. THE FOLLOWING SURVEY DATA WAS PROVIDED WITH THE TOPOGRAPHIC MAP BY AXX SURVEY & MAPPING:

BASIS OF BEARINGS:
HELD NORTH 89°24'37" WEST ALONG THE MONUMENTED CENTERLINE OF NORTH EAST SOUTH ST. BETWEEN BLADEL AVE. AND 124TH AVE. NE. PER RECORD OF SURVEY NO. 20110080002.

NAD 83 (N) CITY OF KIRKLAND

ORIGINATING BENCHMARK:
CITY OF KIRKLAND MONUMENT NO. 31, AS PUBLISHED IN CITY OF KIRKLAND'S SURVEY CONTROL NETWORK

VERTICAL DATUM:
NAVD 88
ELEVATION 258.86'
TM-4 202.87'

LEGAL DESCRIPTION:
A PORTION OF LOT 14 AND 15, BLOCK #4, BURKE AND FARRAR'S KIRKLAND ADDITION TO THE CITY OF SEATTLE, DIVISION NO. 14, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20 OF PLATS, PAGE 14, KING COUNTY, WASHINGTON.

MORE PARTICULARLY DESCRIBED AS THAT PORTION OF THE ABOVE DESCRIBED PARCEL LYING SOUTHWESTERLY OF THE LINE FOLLOWING DESCRIBED LINE:

COMMENCING AT A POINT ON THE SOUTH MARION OF NE 105TH STREET LYING 25.00 FEET WESTERLY OF THE INTERSECTION OF SAID SOUTH MARION AND THE WESTERLY MARION OF 124TH AVENUE NE, THENCE, SOUTHEASTERLY TO ITS TERMINUS AT A POINT ON THE WESTERLY MARION OF SAID 124TH AVENUE NE LYING 23.00 FEET SOUTH OF SAID INTERSECTION.

LEGAL DESCRIPTION IS BASED ON DATA FOR KING COUNTY ASSOCIATE'S OFFICE. NO ABSTRACT OF TITLE, NOR TITLE COMMITMENT, OR RESULTS OF A TITLE SEARCH WERE FURNISHED TO THE SURVEYOR. DOCUMENTS OF RECORD MAY EXIST WHICH AFFECT THE SUBJECT PROPERTY.

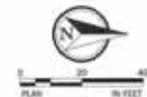
NOTES:

1. INSTRUMENTATION FOR THIS SURVEY WAS A LEICA 4201 TOTAL STATION. PROCEDURES USED IN THIS SURVEY WERE FIELD BRANCH, METING OR EXCEEDING STANDARDS SET BY WACS 332-130-060/590.
2. UNDERGROUND WATER LINES SHOWN ARE BASED ON THE CITY OF KIRKLAND 2012 WATER MAP BOOK, 2012 WASTE WATER MAP BOOK AND 2012 SURFACE WATER MAP BOOK. THIS LOCATION IS APPROXIMATE AND THE CONTRACTOR SHALL VERIFY THE EXACT LOCATION, ELEVATION AND SIZE OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.
3. THE INFORMATION EXPICED ON THIS MAP REPRESENTS THE RESULTS OF A SURVEY MADE ON DECEMBER 03, 2012 AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITIONS EXISTING AT THAT TIME.
4. THE WELANDS AND CREEKS WERE FLAGGED BY THE WATERSHED COMPANY IN JULY OF 2011. BUFFER DISTANCES ARE ACCORDING TO THE WELAND REPORT REFERENCE NUMBER 1007431, PREPARED BY THE WATERSHED COMPANY.

WELANDS FLAGS AND ASSOCIATED CONTOURS AND RESULTING CONTOURS ARE PER RE SURVEY AND HAVE NOT BEEN VERIFIED DURING THE COURSE OF THE SURVEY.

REFERENCES:

- (R1) RECORD OF SURVEY BY DOM, H&M UNDER KING COUNTY RECORDING NUMBER 201100800002 VOL. 243/P. 718-719
- (R2) BURKE AND FARRAR'S KIRKLAND ADDITION TO THE CITY OF SEATTLE, DIVISION NO. 14, RECORDED IN VOLUME 20 OF PLATS, PAGE 14, KING COUNTY, WASHINGTON.
- (R3) STATUTORY WARRANTY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 832372394.



CPH CONSULTANTS
Site Planning • Civil Engineering
Land Use Consulting • Project Management
16010 Aurora Blvd. SW • Everett, WA 98203
Phone: 425.336.2282 Fax: 425.336.2283
www.cphconsultants.com

NO.	DATE	REVISION	BY	CHK.
1	02/26/13	PRELIMINARY SHORT SUBMITTAL CORRECTED	PHD	BOH

EXISTING CONDITIONS		
DRAWN BY: CPH WINDWARD REAL ESTATE SERVICES, LLC 835 PARK PLACE CENTER, SUITE G111 KIRKLAND, WA 98033 P: (425) 347-2868		
PROJECT SURVEYOR: AXX SURVEYING AND MAPPING, INC. 13305 NE 126th PLACE, KIRKLAND, WA 98034 P: (425) 823-5180 F: (425) 823-8700		
SCALE:	PROJECT NO.:	SHEET:
AS NOTED	0079-12-001	1 of 4

PTN. OF SEC. 4, TWP 25N, R5E W.M.

CEDARBROOK PRELIMINARY SHORT PLAT

CITY OF KIRKLAND

KING COUNTY, WA



PROJECT DATA

GENERAL

PARCEL NO: 12800-0880
 ADDRESS: 3000 124TH AVENUE NE, KIRKLAND, WA 98033
 ZONING: R5K-7.2
 PRESENT USE: SINGLE FAMILY RESIDENCE
 WATER DISTRICT: CITY OF KIRKLAND
 SEWER DISTRICT: CITY OF KIRKLAND

SITE DEVELOPMENT

TOTAL SITE AREA: 68,813 SF (1.58 AC)
 PUBLIC STREET DEDICATION: 2,825 SF (0.06 AC)
 NET SITE AREA: 65,987 SF (1.52 AC)
 CRITICAL AREA (INCL. BUFFER): 12,817 SF (0.29 AC)
 UPLAND AREA: 48,170 SF (1.1 AC)
 DEVELOPMENT CREDIT: 14,334 SF (0.33 AC)
 NET DEVELOPABLE AREA: 62,304 SF (1.43 AC)
 ALLOWABLE NO. LOTS (STANDARD): 62,304/7,500 = 8.3 DU
 ALLOWABLE NO. LOTS (SUE): 110 + STANDARD = 8.8 DU
 NO. LOTS PROPOSED: 8

NET AREA

MELAND 'A': 388 SF (0.01 AC)
 STREAM 'A': 2,987 SF (0.07 AC)
 TOTAL: 3,375 SF (0.08 AC)

OPEN SPACE TRACTS

TRACT OS1: 29,031 SF (0.67 AC)
 TRACT OS2: 2,537 SF (0.06 AC)
 TOTAL: 31,568 SF (0.73 AC)

NET OPEN SPACE PROVIDED:
 31,568 SF - 3,375 SF = 28,193 SF (0.65 AC NET, 40.88 AC TOTAL SITE)

- NOTES**
1. ALL EXISTING ON-SITE STRUCTURES SHALL BE REMOVED UNDER SEPARATE PERMIT PER CITY OF KIRKLAND DEVELOPMENT STANDARDS.
 2. ANY ON-SITE DOMESTIC WATER WELLS AND SANITARY SEWER DRAINPILES OR SEPTIC TANKS SHALL BE REMOVED OR OTHERWISE DECOMMISSIONED IN ACCORDANCE WITH APPLICABLE KING COUNTY HEALTH DEPARTMENT AND DEPARTMENT OF ECOLOGY STANDARDS.



CPH CONSULTANTS
 City Planning & Civil Engineering
 1400 1st Avenue, Suite 200, Kirkland, WA 98033
 Phone: (206) 825-1200 | Fax: (206) 825-1208
 www.cphconsultants.com

NO.	DATE	REVISION	BY	CHK.
1	05/26/21	PRELIMINARY SUBMITTAL SUBMITTAL	MS	MS

PRELIMINARY SITE PLAN

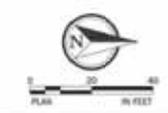
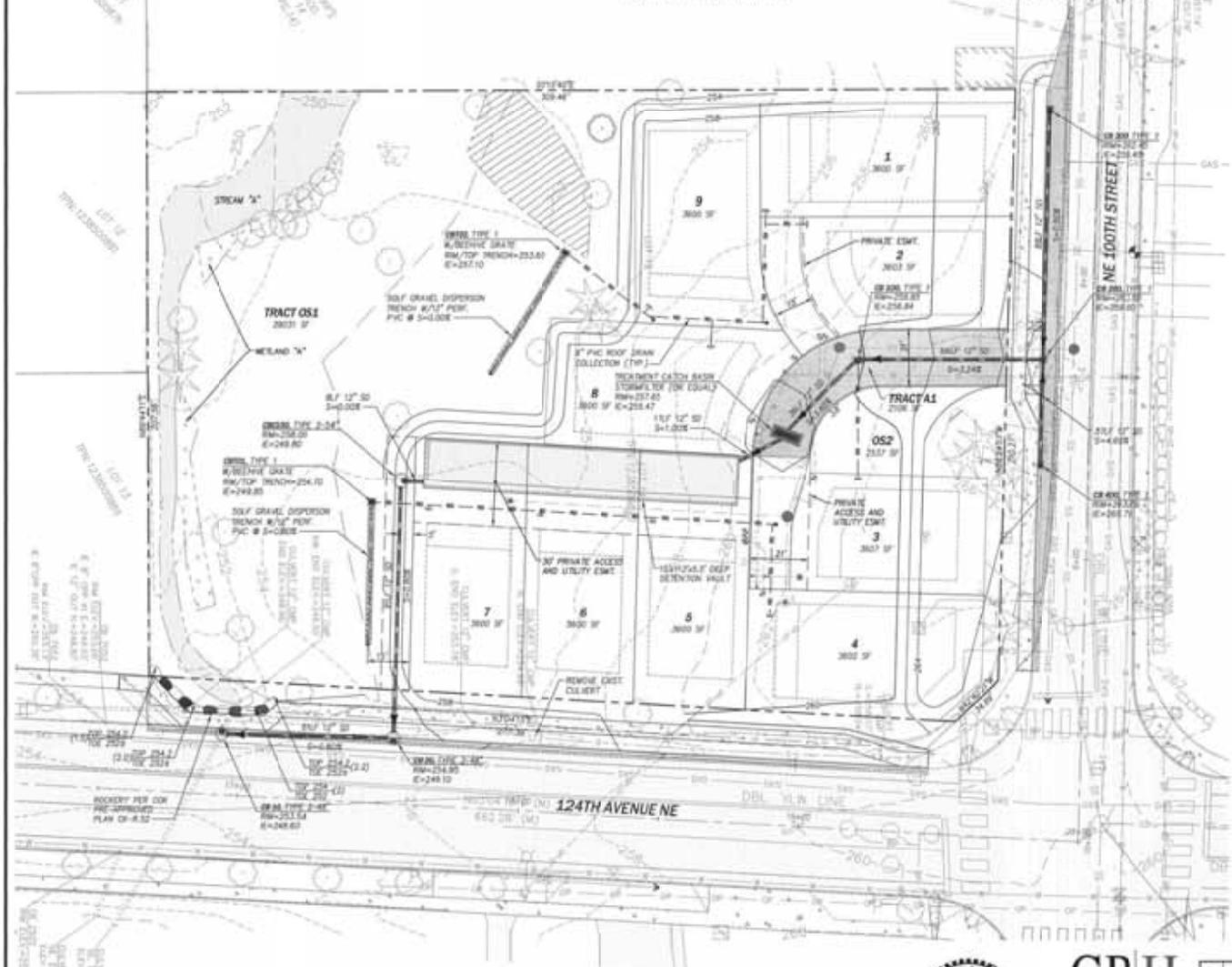
DESIGN DEVELOPER:
WINDWARD REAL ESTATE SERVICES, LLC
 335 PARK PLACE CENTER, SUITE G111
 KIRKLAND, WA 98033
 P: (425) 847-2898

PROJECT SURVEYOR:
ARTS SURVEYING AND MAPPING, INC.
 13500 NE 128th PLACE, KIRKLAND, WA 98034
 P: (425) 823-5700 | F: (425) 823-4700

SCALE: AS NOTED PROJECT NO: 0079-12-001 SHEET: 2 of 2

PTN. OF SEC. 4, TWP 25N, R5E W.M.
CEDARBROOK PRELIMINARY SHORT PLAT
 CITY OF KIRKLAND KING COUNTY, WA

- LEGEND**
- ROCK PROTECTION AT PIPE INLET/OUTLET
 - OVERFLOW/FLOW CONTROL STRUCTURE (TYPE 1 OR 4-BEDDING GRADE)
 - TWE 1 CATCH BASIN
 - STORM DRAIN PIPE
 - CULVERT INLET/OUTLET
 - DOMESTIC WATER SERVICE METER



PRELIMINARY GRADING AND DRAINAGE PLAN			
DRAWN BY: WINDWARD REAL ESTATE SERVICES, LLC 335 PARK PLACE CENTER, SUITE G113 KIRKLAND, WA 98033 P: (425) 247-2898			
PROJECT SURVEYOR: AITE SURVEYING AND MAPPING, INC. 3320 NE 128th PLACE, KIRKLAND, WA 98034 P: (425) 823-5700 F: (425) 823-8700			
SCALE:	PROJECT NO.:	SHEET:	
AS NOTED	0079-12-001	3 of 8	

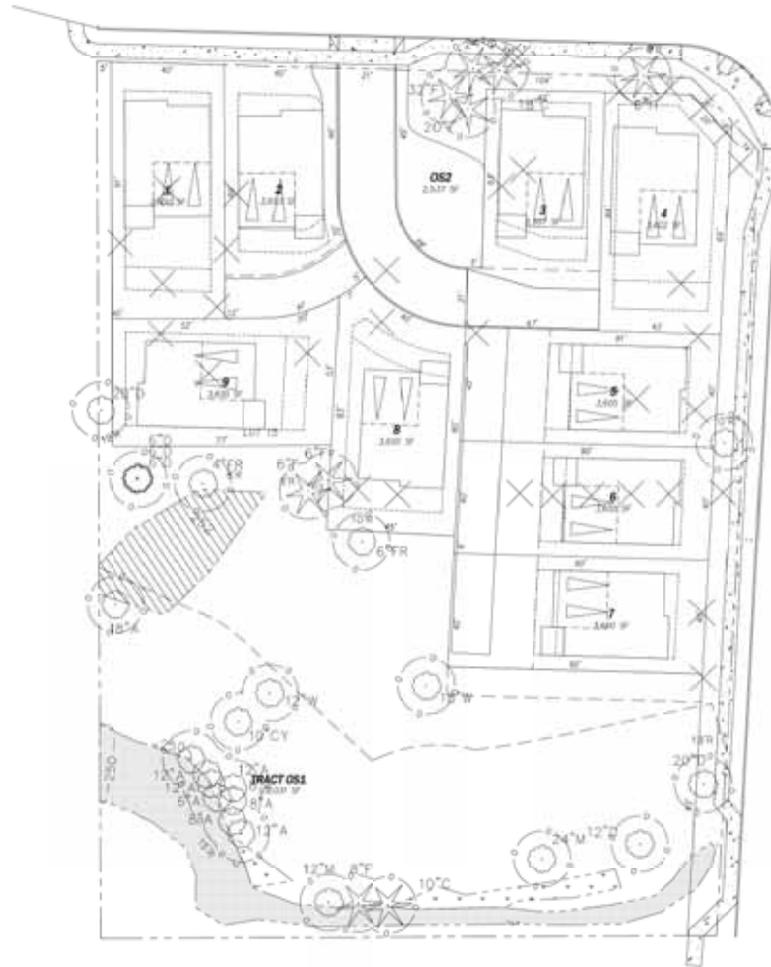
CPH CONSULTANTS
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 www.cphconsultants.com

NO.	DATE	REVISION	BY	CHK.
1	05/27/12	PRELIMINARY SUBMIT TECHNICAL SUBMITTAL	PH	MSD

Tree Legend

	Tree To Be Preserved		
	Tree To Be Removed		

This information and material is based upon the Cedarbrook Tree Plan, developed by Bob Light, CM Certified Arborist #190-27144 of International Forestry Consultants, Inc. Further details regarding tree protection and maintenance are to be found in the Tree Plan dated February 28th, 2013.



124TH AVE NE.

DATE	REVISION	BY

Paul Jay
Landscape Architect
17000 1st Avenue, Burien, WA
Phone: 206.835.8728
Fax: 206.835.8888
p.jay@pauljay.com



Cedarbrook
9900 124th Ave NE Kirkland WA
TREE PLAN

APPLICANT:
Westend Property Management

DATE:
March 28, 2013

P/LA JOB NO: 01.XXXX

DRAWN BY: PJ

CHECKED BY: PJ

TREE PLAN

L-2
OF 2

File: 20130328_124th Ave NE Kirkland WA_Cedarbrook_Tree_Plan.dwg, 124th Ave NE, 9900 124th Ave NE, Kirkland, WA 98033



CITY OF KIRKLAND
Planning and Community Development Department
 123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
 www.kirklandwa.gov

DEVELOPMENT STANDARDS LIST
FILE: SUB13-00456, SAR 13-00457
CEDARBROOK SHORT PLAT AND BUFFER MODIFICATION PERMIT

TREE PLAN SUMMARY

KMC 22.28.210 & KZC 95.30 Significant Trees.

A Tree Retention Plan was submitted with the short plat. During the review of the short plat, all proposed improvements were unknown. Therefore KZC Section 95.30 (6)(a) – Phased Review applies in regards to tree retention. There are 92 significant trees on the site, of which 82 are viable. These trees have been assessed by staff and the City’s Arborist. They are identified by number in the following chart.

Significant Trees:	High Retention Value	Moderate Retention Value	Low Retention Value
101		X	
105	X		
106	X		
107	X		
108	X		
109		X	
110		X	
111		X	
112		X	
113		X	
114			X
115		X	
116		X	
7111	X		
7113		X	
2862			X
2859		X	
2860		X	
2861		X	
2863		X	
2864		X	
2865			X
2868			X
2867			X

117			X
118		X	
120	X		
121	X		
122		X	
123		X	
124			X
125		X	
126		X	
127	X		
128		X	
129		X	
130		X	
131		X	
132		X	
133		X	
134		X	
135			X
136		X	
137		X	
138		X	
139		X	
140		X	
141		X	
142		X	
143		X	
144		X	
145		X	
146		X	
147		X	
148		X	
149		X	
150		X	
151		X	
152		X	
153		X	
154		X	
155	X		
160	X		
7116	X		
7117	X		
128	X		
129	X		
130	X		
131	X		
132	X		

133	X		
134	X		
135			X
136	X		
137	X		
138	X		
139	X		
140	X		
141	X		
142	X		
143	X		
144	X		
145	X		
146	X		
147	X		
148	X		
149	X		
150	X		
151	X		
152	X		
153			X
154	X		

No trees are to be removed with an approved short plat or subdivision permit. Based on the approved Tree Retention Plan, the applicant shall retain and protect all viable trees throughout the development of each single family lot except for those trees allowed to be removed for the installation of the plat infrastructure improvements with an approved Land Surface Modification permit. Subsequent approval for tree removal is granted for the construction of the house and other associated site improvements with a required Building Permit. The Planning Official is authorized to require site plan alterations to retain High Retention value trees at each stage of the project. In addition to retaining viable trees, new trees may be required to meet the minimum tree density per KZC Section 95.33.

SUBDIVISION STANDARDS

22.28.030 Lot Size. Unless otherwise approved in the preliminary subdivision or short subdivision approval, all lots within a subdivision must meet the minimum size requirements established for the property in the Kirkland zoning code or other land use regulatory document.

22.28.050 Lot Dimensions. For lots smaller than 5,000 square feet in low density zones, the lot width at the back of the required front yard shall not be less than 50 feet unless the garage is located at the rear of the lot or the lot is a flag lot.

22.28.130 Vehicular Access Easements. The applicant shall comply with the requirements found in the Zoning Code for vehicular access easements or tracts.

22.32.010 Utility System Improvements. All utility system improvements must be designed and installed in accordance with all standards of the applicable serving utility.

22.32.030 Stormwater Control System. The applicant shall comply with the construction phase and permanent stormwater control requirements of the Municipal Code.

22.32.050 Transmission Line Undergrounding. The applicant shall comply with the utility lines and appurtenances requirements of the Zoning Code.

22.32.060 Utility Easements. Except in unusual circumstances, easements for utilities should be at least ten feet in width.

27.06.030 Park Impact Fees. New residential units are required to pay park impact fees prior to issuance of a building permit. Please see KMC 27.06 for the current rate. Exemptions and/or credits may apply pursuant to KMC 27.06.050 and KMC 27.06.060. If a property contains an existing unit to be removed, a "credit" for that unit shall apply to the first building permit of the subdivision.

Prior to Recording:

22.20.362 Short Plat - Title Report. The applicant shall submit a title company certification which is not more than 30 calendar days old verifying ownership of the subject property on the date that the property owner(s) (as indicated in the report) sign(s) the short plat documents; containing a legal description of the entire parcel to be subdivided; describing any easements or restrictions affecting the property with a description, purpose and reference by auditor's file number and/or recording number; any encumbrances on the property; and any delinquent taxes or assessments on the property.

22.20.366 Short Plat - Lot Corners. The exterior short plat boundary and all interior lot corners shall be set by a registered land surveyor. If the applicant submits a bond for construction of short plat improvements and installation of permanent interior lot corners, the City may allow installation of temporary interior lot corners until the short plat improvements are completed.

22.20.390 Short Plat - Improvements. The owner shall complete or bond all required right-of-way, easement, utility and other similar improvements.

22.32.020 Water System. The applicant shall install a system to provide potable water, adequate fire flow and all required fire-fighting infrastructure and appurtenances to each lot created.

22.32.040 Sanitary Sewer System. The developer shall install a sanitary sewer system to serve each lot created.

22.32.080 Performance Bonds. In lieu of installing all required improvements and components as part of a plat or short plat, the applicant may propose to post a bond, or submit evidence that an adequate security device has been submitted and accepted by the service provider (City of Kirkland and/or Northshore Utility District), for a period of one year to ensure completion of these requirements within one year of plat/short plat approval.

Prior to occupancy:

22.32.020 Water System. The applicant shall install a system to provide potable water, adequate fire flow and all required fire-fighting infrastructure and appurtenances to each lot created.

22.32.040 Sanitary Sewer System. The developer shall install a sanitary sewer system to serve each lot created.

22.32.090 Maintenance Bonds. A two-year maintenance bond may be required for any of the improvements or landscaping installed or maintained under this title.

ZONING CODE STANDARDS

90.45 Wetlands and Wetland Buffers. No land surface modification may take place and no improvement may be located in a wetland or within the environmentally sensitive area buffers for a wetland, except as specifically provided in this Section.

90.50 Wetland Buffer Fence. Prior to development, the applicant shall install a six-foot high construction phase fence along the upland boundary of the wetland buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for

the duration of development activities. Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either 1) a permanent 3 to 4 foot tall split rail fence, or 2) permanent planting of equal barrier value.

90.55 Monitoring and Maintenance of Wetland Buffer Modifications: Modification of a wetland buffer will require that the applicant submit a 5-year monitoring and maintenance plan consistent with the criteria found in 95.55 and which is prepared by a qualified professional and reviewed by the City's wetland consultant. The cost of the plan and the City's review shall be borne by the applicant.

90.80 Streams. No land surface modification may take place and no improvements may be located in a stream except as specifically provided in this Section.

90.90 Stream Buffers. No land surface modification may take place and no improvement may be located within the environmentally sensitive buffer for a stream, except as provided in this Section.

90.95 Stream Buffer Fence. Prior to development, the applicant shall install a six-foot high construction phase fence along the upland boundary of the entire stream buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for the duration of development activities. Upon project completion, the applicant shall install between the upland boundary of all stream buffers and the developed portion of the site, either 1) a permanent 3 to 4 foot tall split rail fence, or 2) permanent planting of equal barrier value.

90.100.3 Monitoring and Maintenance of Stream Buffer Modifications: Modification of a stream buffer will require that the applicant submit a 5-year monitoring and maintenance plan consistent with KZC section 95.55. This plan shall be prepared by a qualified professional and reviewed by the City's wetland consultant. The cost of the plan and the City's review shall be borne by the applicant.

95.50 Tree Installation Standards. All supplemental trees to be planted shall conform to the Kirkland Plant List. All installation standards shall conform to Kirkland Zoning Code Section 95.45.

95.52 Prohibited Vegetation. Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City.

105.20 Required Parking. 2 parking spaces are required for this use.

105.47 Required Parking Pad. Except for garages accessed from an alley, garages serving detached dwelling units in low density zones shall provide a minimum 20-foot by 20-foot parking pad between the garage and the access easement, tract, or right-of-way providing access to the garage.

110.60.5 Street Trees. All trees planted in the right-of-way must be approved as to species by the City. All trees must be two inches in diameter at the time of planting as measured using the standards of the American Association of Nurserymen with a canopy that starts at least six feet above finished grade and does not obstruct any adjoining sidewalks or driving lanes.

115.25 Work Hours. It is a violation of this Code to engage in any development activity or to operate any heavy equipment before 7:00 am. or after 8:00 pm Monday through Friday, or before 9:00 am or after 6:00 pm Saturday. No development activity or use of heavy equipment may occur on Sundays or on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day. The applicant will be required to comply with these regulations and any violation of this section will result in enforcement action, unless written permission is obtained from the Planning official.

115.40 Fence Location. Fences over 6 feet in height may not be located in a required setback yard. A detached dwelling unit abutting a neighborhood access or collector street may not have a fence over 3.5 feet in height within the required front yard. No fence may be placed within a high waterline setback yard or within any portion of a north or south property line yard, which is coincident with the high waterline setback yard.

A detached dwelling unit may not have a fence over 3.5 feet in height within 3 feet of the property line abutting a principal or minor arterial except where the abutting arterial contains an improved landscape strip between the street and sidewalk. The area between the fence and property line shall be planted with vegetation and maintained by the property owner.

115.43 Garage Requirements for Detached Dwelling Units in Low Density Zones.

Detached dwelling units served by an open public alley, or an easement or tract serving as an alley, shall enter all garages from that alley. Whenever practicable, garage doors shall not be placed on the front façade of the house. Side-entry garages shall minimize blank walls. For garages with garage doors on the front façade, increased setbacks apply, and the garage width shall not exceed 50% of the total width of the front façade. These regulations do not apply within the disapproval jurisdiction of the Houghton Community Council. Section 115.43 lists other exceptions to these requirements.

115.75.2 Fill Material. All materials used as fill must be non-dissolving and non-decomposing. Fill material must not contain organic or inorganic material that would be detrimental to the water quality, or existing habitat, or create any other significant adverse impacts to the environment.

115.90 Calculating Lot Coverage. The total area of all structures and pavement and any other impervious surface on the subject property is limited to a maximum percentage of total lot area. See the Use Zone charts for maximum lot coverage percentages allowed. Section 115.90 lists exceptions to total lot coverage calculations See Section 115.90 for a more detailed explanation of these exceptions.

115.95 Noise Standards. The City of Kirkland adopts by reference the Maximum Environmental Noise Levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC. Any noise, which injures, endangers the comfort, repose, health or safety of persons, or in any way renders persons insecure in life, or in the use of property is a violation of this Code.

115.115 Required Setback Yards. This section establishes what structures, improvements and activities may be within required setback yards as established for each use in each zone.

115.115.3.g Rockeries and Retaining Walls. Rockeries and retaining walls are limited to a maximum height of four feet in a required yard unless certain modification criteria in this section are met. The combined height of fences and retaining walls within five feet of each other in a required yard is limited to a maximum height of 6 feet, unless certain modification criteria in this section are met.

115.115.3.n Covered Entry Porches. In residential zones, covered entry porches on dwelling units may be located within 13 feet of the front property line if certain criteria in this section are met. This incentive is not effective within the disapproval jurisdiction of the Houghton Community Council.

115.115.3.o Garage Setbacks. In low density residential zones, garages meeting certain criteria in this section can be placed closer to the rear property line than is normally allowed in those zones.

115.115.3.p HVAC and Similar Equipment: These may be placed no closer than five feet of a side or rear property line, and shall not be located within a required front yard; provided, that HVAC equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95.

115.115.5.a Driveway Width and Setbacks. For a detached dwelling unit, a driveway and/or parking area shall not exceed 20 feet in width in any required front yard, and shall be separated from other hard surfaced areas located in the front yard by a 5-foot wide landscape strip. Driveways shall not be closer than 5 feet to any side property line unless certain standards are met.

115.135 Sight Distance at Intersection. Areas around all intersections, including the

entrance of driveways onto streets, must be kept clear of sight obstruction as described in this section.

Prior to recording:

110.60.5 Landscape Maintenance Agreement. The owner of the subject property shall sign a landscape maintenance agreement, in a form acceptable to the City Attorney, to run with the subject property to maintain landscaping within the landscape strip and landscape island portions of the right-of-way (see Attachment). It is a violation to pave or cover the landscape strip with impervious material or to park motor vehicles on this strip.

110.60.6 Mailboxes. Mailboxes shall be installed in the development in a location approved by the Postal Service and the Planning Official. The applicant shall, to the maximum extent possible, group mailboxes for units or uses in the development.

Prior to issuance of a grading or building permit:

90.50 Wetland Buffer Fence. Prior to development, the applicant shall install a six-foot high construction phase fence along the upland boundary of the wetland buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for the duration of development activities. Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either 1) a permanent 3 to 4 foot tall split rail fence, or 2) permanent planting of equal barrier value.

90.95 Stream Buffer Fence. Prior to development, the applicant shall install a six-foot high construction phase fence along the upland boundary of the entire stream buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for the duration of development activities. Upon project completion, the applicant shall install between the upland boundary of all stream buffers and the developed portion of the site, either 1) a permanent 3 to 4 foot tall split rail fence, or 2) permanent planting of equal barrier value.

90.150 Natural Greenbelt Protective Easement. The applicant shall submit for recording a natural greenbelt protective easement, in a form acceptable to the City Attorney, for recording with King County.

90.155 Liability. The applicant shall enter into an agreement with the City which runs with the property, in a form acceptable to the City Attorney, indemnifying the City for any damage resulting from development activity on the subject property which is related to the physical condition of the stream, minor lake, or wetland.

95.30(4) Tree Protection Techniques. A description and location of tree protection measures during construction for trees to be retained must be shown on demolition and grading plans.

95.34 Tree Protection. Prior to development activity or initiating tree removal on the site, vegetated areas and individual trees to be preserved shall be protected from potentially damaging activities. Protection measures for trees to be retained shall include (1) placing no construction material or equipment within the protected area of any tree to be retained; (2) providing a visible temporary protective chain link fence at least 6 feet in height around the protected area of retained trees or groups of trees until the Planning Official authorizes their removal; (3) installing visible signs spaced no further apart than 15 feet along the protective fence stating "Tree Protection Area, Entrance Prohibited" with the City code enforcement phone number; (4) prohibiting excavation or compaction of earth or other damaging activities within the barriers unless approved by the Planning Official and supervised by a qualified professional; and (5) ensuring that approved landscaping in a protected zone shall be done with light machinery or by hand.

27.06.030 Park Impact Fees. New residential units are required to pay park impact fees prior to issuance of a building permit. Please see KMC 27.06 for the current rate. Exemptions

and/or credits may apply pursuant to KMC 27.06.050 and KMC 27.06.060. If a property contains an existing unit to be removed, a "credit" for that unit shall apply to the first building permit of the subdivision.

Prior to occupancy:

90.145 Bonds. The City may require a bond and/or a perpetual landscape maintenance agreement to ensure compliance with any aspect of the Drainage Basins chapter or any decision or determination made under this chapter.

95.51.2.b Tree Maintenance. For detached dwelling units, the applicant shall submit a 5-year tree maintenance agreement to the Planning Department to maintain all pre-existing trees designated for preservation and any supplemental trees required to be planted.

110.60.6 Mailboxes. Mailboxes shall be installed in the development in a location approved by the Postal Service and the Planning Official. The applicant shall, to the maximum extent possible, group mailboxes for units or uses in the development.

110.75 Bonds. The City may require or permit a bond to ensure compliance with any of the requirements of the Required Public Improvements chapter.

DEVELOPMENT STANDARDS

SUB13-00456



BUILDING DEPARTMENT

BUILDING DEPARTMENT CONDITIONS

TOM JENSEN (425) 587-3611

1. Prior to issuance of Building, Demolition or Land surface Modification permit applicant must submit a proposed rat baiting program for review and approval. Kirkland Municipal Ordinance 9.04.040
2. Currently, building permits must comply with the 2009 editions of the International Building, Residential and Mechanical Codes and the Uniform Plumbing Code as adopted and amended by the State of Washington and the City of Kirkland. Permit applications received on or after July 1, 2013 will need to comply with the 2012 editions as amended.
3. Currently, structures must comply with the 2009 Washington State Energy Code. Permit applications received on or after July 1, 2013 will need to comply with the 2012 edition.
4. Structures to be designed for seismic design category D, wind speed of 85 miles per hour and exposure B.
5. Plumbing meter and service line shall be sized in accordance with the current UPC.
6. Demolition permit required for removal of existing structures, if applicable.

FIRE DEPARTMENT

Contact: Grace Steuart at 425-587-3660; or gsteuart@kirklandwa.gov

Hydrants in the area are adequate to provide coverage. The closest hydrant west of the property (on NE 100th) shall be equipped with a 5" Stortz fitting. Fire flow in the area is between 2200 and 3500 gpm, which is adequate for the proposed project.

Access as shown is adequate for fire department purposes.

Per Kirkland Municipal Code, all new buildings which are 5,000 gross square feet or larger require fire sprinklers. This requirement also applies to new single family homes; the garage is included in the gross square footage. (This comment is included in the pre-app conditions for informational purposes only.)

PUBLIC WORKS DEPARTMENT

PUBLIC WORKS CONDITIONS

Permit #: SUB13-00456

Project Name: Cedar Brook PUD

Project Address: 9900 124th Ave. NE

Date: April 26, 2013

Public Works Staff Contacts

Land Use and Pre-Submittal Process:

Rob Jammerman, Development Engineering Manager

Phone: 425-587-3845 Fax: 425-587-3807

E-mail: rjammer@kirklandwa.gov

Building and Land Surface Modification (Grading) Permit Process:

John Burkhalter, Development Engineer Supervisor

Phone: 425-587-3846 Fax: 425-587-3807

E-mail: jb Burkhalter@kirklandwa.gov

OR

Building and Land Surface Modification (Grading) Permit Process:

Philip Vartanian, Development Engineer

Phone: 425-587-3856 Fax: 425-587-3807

E-mail: pvartanian@kirklandwa.gov

General Conditions:

1. All public improvements associated with this project including street and utility improvements, must meet the City of Kirkland Public Works Pre-Approved Plans and Policies Manual. A Public Works Pre-Approved Plans and Policies manual can be purchased from the Public Works Department, or it may be retrieved from the Public Works Department's page at the City of Kirkland's web site at www.kirklandwa.gov.
2. This project will be subject to Public Works Permit and Connection Fees. It is the applicant's responsibility to contact the Public Works Department by phone or in person to determine the fees. The fees can also be review the City of Kirkland web site at www.kirklandwa.gov The applicant should anticipate the following fees:
 - o Water and Sewer connection Fees (paid with the issuance of a Building Permit)
 - o Side Sewer Inspection Fee (paid with the issuance of a Building Permit)
 - o Septic Tank Abandonment Inspection Fee (if applicable)
 - o Water Meter Fee (paid with the issuance of a Building Permit)
 - o Right-of-way Fee
 - o Review and Inspection Fee (for utilities and street improvements).
 - o Traffic, Park and School Impact Fee (paid with the issuance of Building Permit). Any existing buildings within this project which are demolished will receive a Traffic Impact Fee credit, Park Impact Fee Credit and School Impact Fee Credit. This credit will be applied to the first Building Permits that are applied for within the project. The credit amount for each demolished building will be equal to the most currently adopted Fee schedule.
3. All street and utility improvements shall be permitted by obtaining a Land Surface Modification (LSM) Permit. If a Building Permit for a new house is applied for prior to applying for the LSM Permit, the Building Permit will not be issued until a complete LSM Permit is applied for.
4. The subdivision can be recorded in advance of installing all the required street and utility improvements by posting a performance security equal to 130% of the value of work. Contact the Development Engineer assigned to this project to assist with this process.
5. This project is exempt from Transportation Concurrency Review.
6. All civil engineering plans which are submitted in conjunction with a building, grading, or right-of-way permit must conform to the Public Works Policy titled ENGINEERING PLAN REQUIREMENTS. This policy is contained in the Public Works Pre-Approved Plans and Policies manual.
7. All street improvements and underground utility improvements (storm, sewer, and water) must be designed by a Washington State Licensed Engineer; all drawings shall bear the engineers stamp.
8. All plans submitted in conjunction with a building, grading or right-of-way permit must have elevations which are based on the King County datum only (NAVD 88).
9. A completeness check meeting is required prior to submittal of any Building Permit applications.
16. The required tree plan shall include any significant tree in the public right-of-way along the property frontage.
17. All subdivision recording mylar's shall include the following note:

Utility Maintenance: Each property owner shall be responsible for maintenance of the sanitary sewer or storm water stub from the point of use on their own property to the point of connection in the City sanitary sewer main or storm water main. Any portion of a sanitary sewer or surface water stub, which jointly serves more than one property, shall be jointly maintained and repaired by the property owners sharing such stub. The joint use and maintenance shall "run with the land" and will be binding on all property owners within this subdivision, including their heirs, successors and assigns.

Public Right-of-way Sidewalk and Vegetation Maintenance: Each property owner shall be responsible for keeping the sidewalk abutting the subject property clean and litter free. The property owner shall also be responsible for the maintenance of the vegetation within the abutting landscape strip. The maintenance shall "run with the land" and will be binding on all property owners within this subdivision, including their heirs, successors and assigns.

Sanitary Sewer Conditions:

1. The existing sanitary sewer main within the public right-of-way along NE 100th Street is adequate to serve all the lots within the proposed project.
2. The applicant shall extend an 8-inch sewer main into the project along the access easement and provide 6-inch side sewer stub to each lot.
3. A 20 foot wide public sanitary sewer easement must encompass the sewer main extension.
4. The existing septic system shall be abandoned per City standards.

Water System Conditions:

1. The existing water main in the public right-of-way along the front of the subject property is adequate to serve this proposed development.
2. Provide a separate 1" minimum water service from the water main to the meter for each lot; City of Kirkland will set the water meter. All of the meters for the project shall be located within the public right-of-way on 124th Ave. NE or NE 100th Street.

Surface Water Conditions:

1. Provide temporary and permanent storm water control per the 2009 King County Surface Water Design Manual and the Kirkland Addendum. See Policies D-2 and D-3 in the PW Pre-Approved Plans for drainage review information, or contact city of Kirkland Surface Water staff at (425) 587-3800 for help in determining drainage review requirements. This project triggers:

- Full Drainage Review
- A full drainage review is required for any proposed project, new or redevelopment, that will:
 - Add or replaces 5,000ft² or more of new impervious surface area,
 - Propose 7,000ft² or more of land disturbing activity, or,
 - Be a redevelopment project on a single or multiple parcel site in which the total of new plus replaced impervious surface area is 5,000ft² or more and whose valuation of proposed improvements (including interior improvements but excluding required mitigation and frontage improvements) exceeds 50% of the assessed value of the existing site improvements.
- 2. Evaluate the feasibility and applicability of dispersion, infiltration, and other stormwater low impact development facilities on-site (per section 5.2 in the 2009 King County Surface Water Design Manual). If feasible, stormwater low impact development facilities are required. See PW Pre-Approved Plan Policy L-1 for more information on this requirement.
- 3. If the project development area exceeds one acre in size, the following conditions will apply:
 - Amended soil requirements (per Ecology BMP T5.13) must be used in all landscaped areas.
 - If the project meets minimum criteria for water quality treatment (5,000ft² pollution generating impervious surface area), the enhanced level of treatment is required if the project is multi-family residential, commercial, or industrial. Enhanced treatment targets the removal of metals such as copper and zinc.
 - The applicant is responsible to apply for a Construction Stormwater General Permit from Washington State Department of Ecology. Provide the City with a copy of the Notice of Intent for the permit. Permit Information can be found at the following website: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>
 - o Among other requirements, this permit requires the applicant to prepare a Storm Water Pollution Prevention Plan (SWPPP) and identify a Certified Erosion and Sediment Control Lead (CESCL) prior to the start of construction. The CESCL shall attend the City of Kirkland PW Dept. pre-construction meeting with a completed SWPPP.
 - Turbidity monitoring by the developer/contractor is required if a project contains a lake, stream, or wetland.
 - A Stormwater Pollution Prevention and Spill (SWPPS) Plan must be kept on site during all phases of construction and shall address construction-related pollution generating activities. Follow the guidelines in the 2009 King County Surface Water Design Manual for plan preparation.

4. Amended soil per Ecology BMP T5.13 is recommended for all landscaped areas.
5. This project is creating or replacing more than 5000 square feet of new impervious area that will be used by vehicles (PGIS - pollution generating impervious surface). Provide storm water quality treatment per the 2009 King County Surface Water Design Manual.
6. Provide a level one off-site analysis (based on the King County Surface Water Design Manual, core requirement #2).
7. If any work is occurring within an existing ditch the developer has been given notice that the Army Corps of Engineers (COE) has asserted jurisdiction over upland ditches draining to streams. Either an existing Nationwide COE permit or an Individual COE permit may be necessary for work within ditches, depending on the project activities. Applicants should obtain the applicable COE permit; information about COE permits can be found at: U.S. Army Corps of Engineers, Seattle District Regulatory Branch http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage_NWPs

Specific questions can be directed to: Seattle District, Corps of Engineers, Regulatory Branch, CENWS-OD-RG, Post Office Box 3755, Seattle, WA 98124-3755, Phone: (206) 764-3495

8. Provide an erosion control report and plan with Building or Land Surface Modification Permit application. The plan shall be in accordance with the 2009 King County Surface Water Design Manual.
9. Construction drainage control shall be maintained by the developer and will be subject to periodic inspections. During the period from May 1 and September 30, all denuded soils must be covered within 7 days; between October 1 and April 30, all denuded soils must be covered within 12 hours. Additional erosion control measures may be required based on site and weather conditions. Exposed soils shall be stabilized at the end of the workday prior to a weekend, holiday, or predicted rain event.
10. Provide collection and conveyance of right-of-way storm drainage
11. As part of the roof and driveway drainage conveyance system for each new house, each lot shall contain a 10 ft. long (min.) perforated tight line connection with an overflow to the public storm drain system (COK Plan No. CK-D.39). The tight line connections shall be installed with the individual new houses.
12. Provide a separate storm drainage connection for each lot.
13. All roof and driveway drainage must be tight-lined to the storm drainage system or utilize low impact development techniques.
14. Provide a 15' wide access easement to the storm detention control manhole; easement must be improved with 10' minimum width of asphalt.
15. If this project drains to the stream channel the Washington State Department of Fish & Wildlife must review and approve the storm system for this project.

Street and Pedestrian Improvement Conditions:

1. The subject property abuts 124th Ave. NE (an Arterial type street) and NE 100th Street (a Collector type street). Zoning Code sections 110.10 and 110.25 require the applicant to make half-street improvements in rights-of-way abutting the subject property. Section 110.30-110.50 establishes that this street must be improved with the following:

124th Ave. NE

- A. Widen the street to 23 ft. from centerline to face of curb.
- B. Install storm drainage, curb and gutter, an 11.5 ft. planter strip with street trees 30 ft. on-center, and a 5 ft. wide sidewalk.
- C. Dedicate 10 ft. of public right-of-way to encompass the improvements.
- D. The said street improvements may need to be modified in width within the stream buffer area and any new sidewalk may need constructed with pervious concrete.

NE 100th Street

A. Widen the street to a minimum 32 ft. from the existing curb on the north side of the street. This street width will provide for 2-11 ft. through lanes and 2-5 ft. bike lanes.

B. Install storm drainage, curb and gutter, a 4.5 ft. planter strip with street trees 30 ft. on-center, and a 5 ft. wide sidewalk.

2. A 2-inch asphalt street overlay will be required where three or more utility trench crossings occur within 150 lineal ft. of street length or where utility trenches parallel the street centerline. Grinding of the existing asphalt to blend in the overlay will be required along all match lines.

3. All lots shall take access from the interior access road unless otherwise approved by Public Works.

4. The driveway for each lot shall be long enough so that parked cars do not extend into the access easement or right-of-way (20 ft. min.)

5. All street and driveway intersections shall not have any visual obstructions within the sight distance triangle. See Public Works Pre-approved Policy R.13 for the sight distance criteria and specifications.

6. Install "NO PARKING ANYTIME" signs along 124th Ave. NE and NE 100th St (unless on-street parking is provided by additional widening).

7. It shall be the responsibility of the applicant to relocate any above-ground or below-ground utilities which conflict with the project associated street or utility improvements.

8. Underground all new and existing on-site utility lines and overhead transmission lines.

9. Zoning Code Section 110.60.9 establishes the requirement that existing utility and transmission (power, telephone, etc.) lines on-site and in rights-of-way adjacent to the site must be underground. The Public Works Director may determine if undergrounding transmission lines in the adjacent right-of-way is not feasible and defer the undergrounding by signing an agreement to participate in an undergrounding project, if one is ever proposed. In this case, the Public Works Director has determined that undergrounding of existing overhead utility on 124th Ave. NE and NE 100th St. is not feasible at this time and the undergrounding of off-site/frontage transmission lines should be deferred with a Local Improvement District (LID) No Protest Agreement. The final recorded subdivision mylar shall include the following note:

Local Improvement District (LID) Waiver Agreement. Chapter 110.60.7.b of the Kirkland Zoning Code requires all overhead utility lines along the frontage of the subject property to be converted to underground unless the Public Works Director determines that it is infeasible to do so at the time of the subdivision recording. If it is determined to be infeasible, then the property owner shall consent to the formation of a Local Improvement District, hereafter formed by the City or other property owners. During review of this subdivision it was determined that it was infeasible to convert the overhead utility lines to underground along the frontage of this subdivision on (((street name))). Therefore, in consideration of deferring the requirement to underground the overhead utility lines at the time of the subdivision recording, the property owner and all future property owners of lots within this subdivision hereby consent to the formation of a Local Improvement District hereafter formed by the City or other property owners

10. New street lights may be required per Puget Power design and Public Works approval. Contact the INTO Light Division at PSE for a lighting analysis. If lighting is necessary, design must be submitted prior to issuance of a grading or building permit.

Tony Leavitt

From: Tony Leavitt
Sent: Tuesday, May 28, 2013 10:55 AM
To: 'Karen Walter'
Subject: RE: Cedarbrook Short Plat, SUB13-00456, Notice of Application

Karen,
Thank you for the comment letter. We will review and respond accordingly. Thanks.

Tony,

Thank you again for sending us the wetland report/mitigation plans, site plans and the drainage report we requested for the proposed Cedarbrook Short Plat referenced above. We have reviewed these documents and offer the following comments in the interest of protecting and restoring the Tribe's treaty protected fisheries resources:

1. Stream buffer reduction concerns

From our review of the information you provided, nowhere is there a mention that the project is also proposing to reduce the regulated stream buffer to the Forbes Creek tributary (a documented fish-bearing water per the 2011 Watershed Company report) from 75' to 50'. Further, there is no detailed analysis about potential impacts to the stream from the proposed buffer reduction. For example, while a re-vegetated 50' wide buffer along the north side of the Forbes Creek tributary is an improvement; there is no consideration of permanent impacts to riparian functions, particularly future wood recruitment necessary to create salmon habitat.

The potential production of large woody debris from the adjacent riparian will be reduced by the proposed buffer reduction as suggested in the stream buffer modification plan. While the existing riparian buffer is not growing many trees now, the potential to fully restore trees in the riparian buffer will be lost with implementation of the buffer reduction. Further, the existing 75 foot regulated buffer does not provide for the full potential of wood production from a either a conifer or hardwood dominated riparian area (see McDade et al. 1990, attached). The data from this paper suggests that 70% of the source wood (both hardwood and conifers) documented came from a distance of 20 meters (65.62 feet) from the stream bank. This is still shy of 100% of wood loading that could be produced from the adjacent riparian areas. The project proposing to reduce the 75 foot regulated buffer to 50 feet and plant an unknown number of native trees. This is important because the affected stream likely lacks wood (based on limited information provided in the Watershed Company's 2011 report) and is likely far from its expected natural wood loading (see Fox and Bolton 2007 attached). Instream wood is needed to create pools, cover, and reduce water velocities important for adult and juvenile salmon. Sites need to be able to grow trees for wood production to address these deficiencies.

Future wood recruitment in this tributary is also likely limited due to undersized culverts at road crossings and from removal along streams. The existing 12" CMP culvert underneath 124th Ave NE (see survey sheet 1) is likely not only a fish passage barrier, but unable to transport any wood to the affected reach of the Forbes Creek tributary. As a result, the planted buffer along the Forbes Creek tributary needs to be maximized to the fullest extent possible.

We recommend that the enhanced buffer be extended beyond the proposed 50' line into areas south and west of the constructed houses at lots 7, 8 and 9 and the stormwater infrastructure as shown on Sheet 3 of 4 for the proposed plat. Native trees should be planted in this expanded area to increase riparian functions. It should also be noted that since Wetland A has a surface water connection to Forbes Creek (based on the 2011 Watershed Company report) it may be used by salmonids in addition to the Forbes Creek tributary.

2. Existing fence concerns

The existing fence that crosses the Forbes Creek tributary on the property should be removed from the stream and its associated buffer. As shown in the 2011 Watershed Company report photos 1 and 2, this fence is entraining wood and debris that is likely adversely affected fish passage and habitat conditions.

3. Stormwater concerns

a. Stormwater quantity

By discharging stormwater to the Forbes Creek Tributary, there is a high potential for adverse impacts to salmonids in this tributary as a result. For example, the Stormwater Level 2 standard does not fully address all potential impacts to salmonids. Rather, as noted in the 2009 King County Surface Water Design Manual states on page 1-20:

1.1.4 DRAINAGE DESIGN BEYOND MINIMUM COMPLIANCE

This manual presents King County's minimum standards for engineering and design of drainage facilities. While the County believes these standards are appropriate for a wide range of development proposals, compliance solely with these requirements does not relieve the professional engineer submitting designs of his or her responsibility to ensure drainage facilities are engineered to provide adequate protection for natural resources and public and private property.

*Compliance with the standards in this manual does not necessarily mitigate all probable and significant environmental impacts to aquatic biota. **Fishery resources and other living components of aquatic systems are affected by a complex set of factors. While employing a specific flow control standard may prevent stream channel erosion or instability, other factors affecting fish and other biotic resources (e.g., increases in stream flow velocities) are not directly addressed by this manual.** [emphasis added]*

Likewise, some wetlands, including bogs, are adapted to a very constant hydrologic regime. Even the most stringent flow control standard employed by this manual does not prevent increases in runoff volume, which can adversely affect wetland plant communities by increasing the duration and magnitude of water level fluctuations. Thus, compliance with this manual should not be construed as mitigating all probable and significant stormwater impacts to aquatic biota in streams and wetlands; additional mitigation may be required.

As you can see from the KC Storm Water Management Manual language, even with detention, it is unlikely that all impacts to fish and aquatic biota are fully mitigated. There are potential impacts from increase stormwater discharges to juvenile salmon using the Forbes Creek Tributary which is described as a linear, simplified channel in the 2011 Watershed Company Report. Simplified stream channels that receive stormwater can see increases in water velocities along their margins which can displace juvenile salmon, forcing them to expend more energy staying in place leaving them susceptible to disease and predation, or reduced feed that also leads to reduce growth and predation avoidance. While the increase in stormwater discharge as a result of the project may be small; however, if the existing stream velocities already exceed those maintainable by juvenile salmon or the stormwater increases stream velocities to a point exceeding those sustainable for juvenile salmon, then these are two ways the project can present an additional impact from stormwater that is otherwise unmitigated. We typically recommend that projects address this concern by either infiltrated stormwater onsite (to avoid the impact initially) or to increase the habitat complexity along the margins to offset the increased water velocities from stormwater discharges (minimization). Since stormwater cannot be fully infiltrated by this project due to the existing soil type, we recommend that the stream channel be enhanced with wood to offset the stormwater discharges.

b. Stormwater quality

The project proposed to treat its stormwater using the basic treatment methods from the Stormwater Manual. Instead, we recommend that the project manage its stormwater using enhanced water quality treatment methods to reduce the amount of pollutants, particularly heavy metals from entering the Forbes Creek Tributary. As noted in the attached reference scientific paper, urban areas in Puget Sound, including King County, have a potential result in mortality of coho spawners as a result of stormwater discharges, most likely due to copper and PAHs. Enhanced stormwater treatment that reduces the discharges of heavy metals and PAHs will reduce these risks.

4. Culvert modifications

It is not clear from the site plans if the project will need to modify or extend the culvert conveying the Forbes Creek Tributary underneath 124th Avenue NE. If so, we recommend that this existing 12" culvert

be replaced with a fish passable culvert as it is likely undersized for the stream channel based on the photos provided in the wetland reports.

We appreciate the opportunity to review this proposal and look forward to the City's responses. Please let me know if you have any questions.

Thank you,
Karen Walter
Watersheds and Land Use Team Leader

*Muckleshoot Indian Tribe Fisheries Division
Habitat Program
39015 172nd Ave SE
Auburn, WA 98092
253-876-3116*



March 25, 2013

G. Krabbe Consulting, LLC
1726 Holbrook Ave
Everett, WA 98203

RE: Buffer Enhancement Reduction at 9757 124th Ave. NE
Gerde Property- King County parcel number 1238500890),

Dear Greg:

We are using the Watershed Company report to simplify the application. We are using the 75 foot buffer and reducing per code by 1/3 to a final enhanced buffer of 50 feet.

We tightened up the wetland delineation and split The Watershed Company report's Wetland A into Wetland X and Z. The Watershed Company rated Wetland A as a Type 2 Wetland with a 75 foot buffer based on the rating form in their report. Wetland A rated 23 points and 22 is needed to be a Type 2 Wetland. The rating form shows a forested class and the new delineation shows that no trees are in Wetland Z. There are a couple alder trees in Wetland X, but no shrubs. The wetlands could be rated again, probably lose a few points and go below 22 and thus be Type 3 wetlands with 50 foot buffers.

We decided that there would be no benefit to the stream and wetland resources to change the rating. In the interest of protecting the resources, the preferred approach is to enhance the buffer and end up with a 50 foot buffer.

City Code is provided below in bold and used as the outline to address buffer enhancement.

90.60 Wetland Buffer Modification

2. Modification of Wetland Buffers when Wetland Is Not To Be Modified – No land surface modification may occur and no improvement may be located in a wetland buffer, except as provided for in this subsection. Buffer widths may be decreased if an applicant receives a modification request approval.

a. Types of Buffer Modifications – Buffers may be reduced through one (1) of two (2) means, either (1) buffer averaging, or (2) buffer reduction with enhancement. A combination of these two (2) buffer reduction approaches shall not be used:

We are proposing the second option, enhancement.

2) Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means), the reduced buffer will function at a higher level than the existing standard buffer. At a minimum, a buffer enhancement plan shall provide the following:

(a) a map locating the specific area of enhancement;

Figure 1 is map of the entire stream, wetland and buffer area that will be enhanced.

(b) a planting plan that uses native species, including groundcover, shrubs, and trees;

The above area contains buildings, fences, exotics and domestic pasture grasses. All debris, buildings, fences and materials will be removed. Undesirable exotics will be removed. Native species will be planted. The plants will be taken from Table 1. A detailed planting plan will be provided upon approval of this conceptual plan. The detailed plan will include a location map, site overview, detailed plant counts, bonding amounts, plant details and other information. The plan will be in two 24 by 36 inch plan sheets.

(c) a monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in KZC [90.55\(4\)](#).

Section 90.55(4) detailing monitoring and maintenance standards is inserted:

To ensure success of the mitigation plan, the applicant shall submit a monitoring and maintenance program prepared by a qualified professional. At a minimum, the monitoring and maintenance plan shall include the following:

a. The goals and objectives for the mitigation plan;

Remove all debris, buildings, fences, poles and other man related features
Remove all undesirable vegetation species
Replant the buffer with native plants
Work with the City and its consultants arrive at the most favorable approach

The above objective will at a minimum:

- Enhance Fish and Wildlife habitat
- Improve shading of the stream
- Improve and maintain water quality
- Reduce light and glare
- Improve the wildlife corridor
- Reduce noise from the street
- Reduce the chance for human intrusion
- Prevent sedimentation of the stream
- Increase tree cover over existing buffer conditions

b. Success criteria by which the mitigation will be assessed;

Different jurisdictions have different requirements, generally an 80% survival after 5 years is the minimum with no more than a 10% coverage by invasives. We anticipate the City to expand on this as this is part of the fourth objective above. The final plan will incorporate the standards as requested by the City.

c. Plans for a 5-year monitoring and maintenance program;

A report will be provided as follows or as recommended by the City based on two site visits per year, one in June and the other at the end of the growing season:

As-built in the spring following winter plantings

Monitoring Report 1	End of Year 1 which will report on the June site visit
Monitoring Report 2	End of Year 2 which will report on the June site visit
Monitoring Report 3	End of Year 3 which will report on the June site visit
Monitoring Report 4	End of Year 4 which will report on the June site visit
Final Report 5	End of Year 5 which will report on the June site visit

Reports will be due in December, or as requested by the City, of each year. This will allow corrective actions if the plan falls below the success criteria.

d. A contingency plan in case of failure;

Contingency would be failure of plantings and the need for replanting, the need for additional watering, or the removal of invasives if they go above the success criteria standards.

e. Proof of a written contract with a qualified professional who will perform the monitoring program.

A contract will be provided prior to approval being granted.

The monitoring program shall consist of at least two (2) site visits per year by a qualified professional, with annual progress reports submitted to the Planning Official and all other agencies with jurisdiction.

See above schedule

The cost of producing and implementing the mitigation plan, the monitoring and maintenance program, reports, and drawing, as well as the review of each component by the City's wetland consultant, shall be borne by the applicant.

The applicant will contract with the City for its review.

Buffers may not be reduced at any point by more than one-third (1/3) of the standards in KZC [90.45\(1\)](#).

The minimum buffer is 50 feet.

b. Review Process and Decisional Criteria – Modification requests for averaging or reduction/enhancement of Types 1 and 2 wetland buffers shall be considered by the Hearing Examiner pursuant to Process IIA, described in Chapter [150](#) KZC. Modification requests for averaging or reduction/enhancement of Type 3 wetland buffers shall be considered by the Planning Official. An improvement or land surface modification shall be approved in a wetland buffer only if:

1) It is consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998);

The following sections from each of the above referenced documents specifically address the upper Forbes Creek area and need for enhancement of degraded stream and wetland buffers.

Kirkland's Streams, Wetlands and Wildlife Study
Prepared for:
Planning and Community Development
City of Kirkland
123 Fifth Avenue
Kirkland, Washington 98033

“The upper Forbes wetland systems east of Interstate 405 are more isolated blocks of wildlife habitat which are connected hydrologically, but separated by roads and development. However, although their value as wildlife habitat would increase if there were continuous travel corridors, these wetlands still provide significant wildlife refuges at each location.

Existing problems noted during field studies, and opportunities to restore or enhance the functions and features of this basin have been identified and are listed below.

- Systematically address fish passage problems for upstream-bound fish along the length of the creek beginning at the downstream end and working upstream, with the goal being to make as much of the basin accessible to migratory Coho salmon and cutthroat trout populations as possible. The ultimate goal would be to allow fish to be able to swim upstream from Lake Washington to Forbes Lake and vicinity.

- Along wetlands where much of the surrounding land has already been developed, it is recommended that vegetated buffers be established wherever possible and as future opportunities arise.
- Many of even the smallest wetlands could be enhanced by removing garbage and invasive plants, such as Himalayan blackberry, English ivy, Japanese knotweed, and bittersweet nightshade. Establishing any buffer of native vegetation can provide an improvement for screening, water quality, and wildlife habitat.
- Enhance stream buffers to provide some cover for wildlife to travel between wetlands and associated habitats.”

CITY OF KIRKLAND SENSITIVE AREAS RECOMMENDATIONS REPORT
 A Technical Issue Paper prepared for the Kirkland Department of Planning & Community Development
 Prepared by Adolfson Associates, Inc., 31 August 1999

“For example, Forbes Creek (a stream within a Primary Basin) would be classified a Class A Stream in the City of Kirkland. A 75-foot buffer plus a 10-foot building setback would be required. A buffer reduction of up to 25 feet may be allowed on this stream given that buffer enhancements or averaging is proposed; therefore, a minimum buffer of 50-feet plus a 10-foot building setback would be required on Forbes Creek.”

2) It will not adversely affect water quality;

Water quality will be improved through better shading of Forbes Creek and the water feeding the creek. The buffer will not have ready public access and there will be no chance for animals to use the existing buildings, such as the chicken/duck shed, as it will be removed. There will be no domestic animals given the opportunity to pollute the stream. A fence and dense plantings will discourage dogs their owners from using the area.

3) It will not adversely affect fish, wildlife, or their habitat;

Project goals are to improve these functions of the buffer.

4) It will not have an adverse effect on drainage and/or storm water detention capabilities;

The buffer reduction will have no negative impact on these functions. The improved buffer over time will enhance upper canopy catchment of water and improve infiltration and water storage. The existing pasture is compacted, which accelerated runoff over a natural forested system.

5) It will not lead to unstable earth conditions or create an erosion hazard;

There will be no change in earth stability and erosion will not be an added hazard as native plantings will replace the domestic pasture species.

6) It will not be materially detrimental to any other property or the City as a whole;

There will be no detriment in any way to any other property of the City. There will be an enhancement to the aesthetics of the area as the forest grows and increases the tree cover over existing conditions.

7) Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;

No fill material will be used. At the most mulch will be brought in from approved sources.

8) All exposed areas are stabilized with vegetation normally associated with native wetland buffers, as appropriate;

The only exposed areas will be from debris and invasive plant removal. These will be replanted and mulched to prevent erosion. The final planting plan will provide details. Plants will be selected from Table 1

9) There is no practicable or feasible alternative development proposal that results in less impact to the buffer.

The buffer reduction is offered as an incentive for developers to improve degraded buffers. The development could be made smaller to get out of the buffer. This would not follow the recommendations of the two publications under section 1) above. The buffer reduction is offered to improve degraded buffers. The enhanced reduced buffer will function at a higher level than the original degraded buffer.

As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's wetland consultant. The report shall assess the

Habitat

Existing habitat is degraded with fences, a poultry shed and domestic pasture. The enhance buffer will remove all the non-native features including structures and vegetation. Habitat will be improved with native plantings.

water quality

Water quality issues could be a disaster if fowl were reintroduced into the chicken shed. This will not happen as the buffer will remove this structure. The current stream buffer is not heavily shaded or vegetated with a canopy for the full 50 feet of the buffer. The enhancement will provide dense vegetation for the entire 50 foot buffer that will maintain water temperatures and cover the stream in perpetuity. The current buffer could be mown, fertilized and pesticides used close to the stream. Existing and historic uses allows these activities.

storm water detention

There will be no change in storm water detention. The proposed detention will be to current Code requirements.

ground water recharge

The current buffer has pasture grasses with a compacted surface. This limits infiltration. The enhanced buffer will mature into a forest with improved water infiltration and retention over existing conditions.

shoreline protection

The heavily vegetated buffer will protect the shores of the stream with native vegetation. The dense vegetation will protect the shoreline from unfavorable intrusions.

erosion protection functions of the buffer;

The erosion potential of the buffer is high as it could be tilled and gardened. Unless permanent protection is in place an owner could introduce sediments into the stream.

assess the effects of the proposed modification on those functions;

The modification will improve all the functions as discussed above, except stormwater, in which there will be no change.

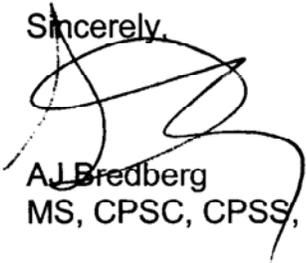
address the nine (9) criteria listed in this subsection (2)(b) of this section.

The nine criteria are addressed above.

Conclusion

We have been able to put in considerable time to update the Watershed Company Report. We look forward to meeting on site to confirm our findings.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. J. Bredberg', written over the typed name.

A. J. Bredberg
MS, CPSC, CPSS, PWS

Figure 1 follows at 30 scale and north is per the large site plan with the creek running east and west.

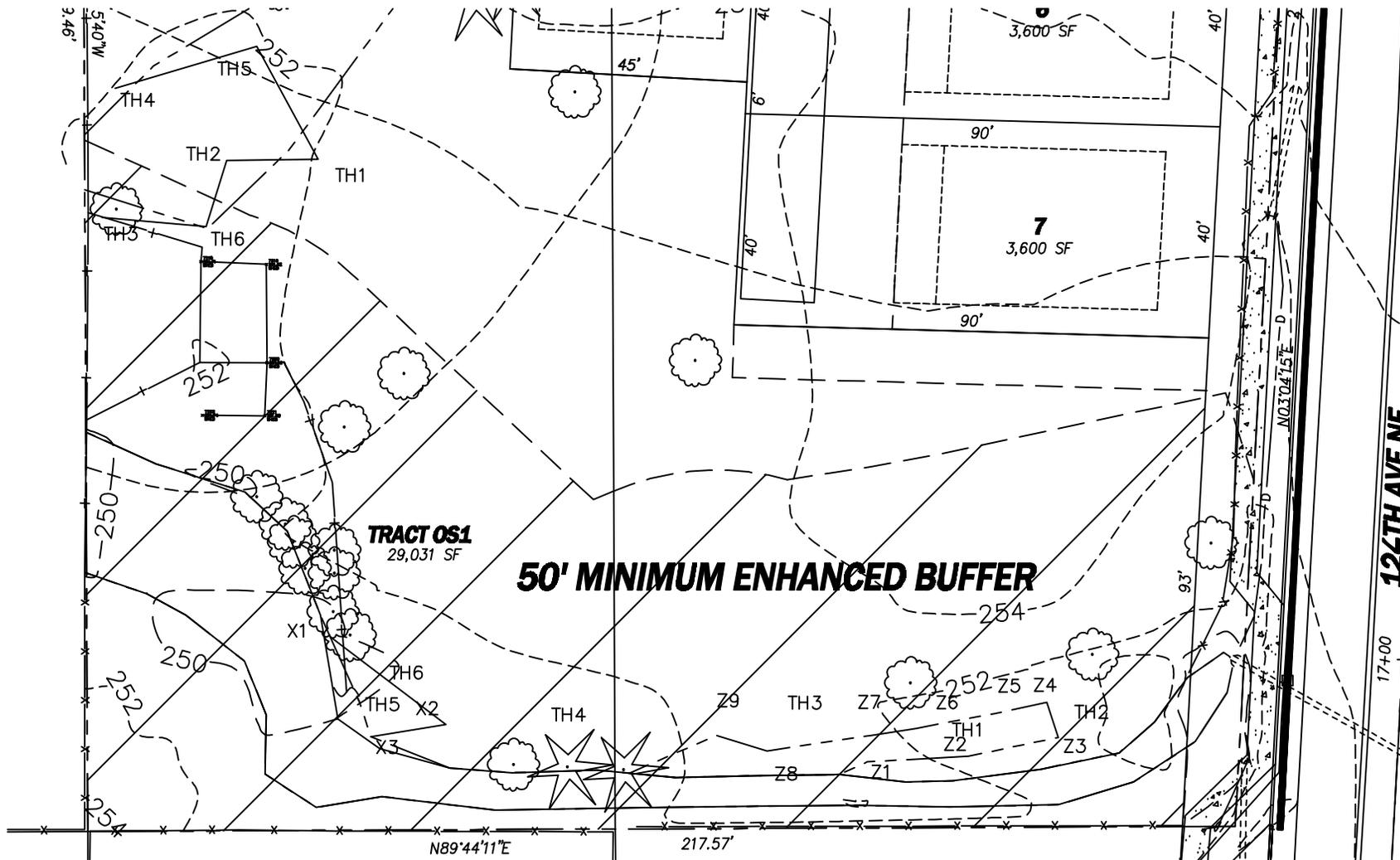


TABLE 1: PLANT LIST

Common Name	Scientific Name	Size	Spacing	# Used	Cost per plant	Extended Total
Trees						
Bigleaf maple (BM)	<i>Acer macrophyllum</i>	1 gal.	10'		2.75	0.00
Bitter cherry (CH)						
Black cottonwood (BC)	<i>Populus trichocarpa</i>	1 gal.	10'		2.50	0.00
Douglas fir (DF)	<i>Pseudotsuga menziesii</i>	1 gal.	10'		5.50	0.00
Grand fir (GF)						
Lodgepole pine (LP)	<i>Pinus contorta</i>	1 gal.	10'		2.75	0.00
Oregon ash (OA)	<i>Fraxinus latifolia</i>	1 gal.	10'		2.75	0.00
Oregon oak (OO)	<i>Quercus garryana</i>	1 gal.	10'		6.00	0.00
Pacific madrona (PM)	<i>Arbutus menziesii</i>	1 gal.	10'		3.25	0.00
Ponderosa pine (PP)	<i>Pinus ponderosa</i>	1 gal.	10'		12.00	0.00
Quaking aspen (QA)	<i>Populus tremuloides</i>	1 gal.	10'		2.75	0.00
Red alder (RA)	<i>Alnus rubra</i>	1 gal.	10'		2.50	0.00
Sitka Spruce (SI)	<i>Picea stichensis</i>	1 gal.	10'		2.75	0.00
Western hemlock (WH)	<i>Tsuga heterophylla</i>	1 gal.	10'		2.75	0.00
Western red cedar (RC)	<i>Thuja plicata</i>	1 gal.	10'		2.75	0.00
Saplings						
Crab apple (CR)						
Pacific dogwood (PD)	<i>Cornus nutalli</i>	1 gal.	10'		3.50	0.00
Pacific willow (WI)	<i>Salix lasiandra</i>	1 gal.	6'		2.50	0.00
Redtwig dogwood (RD)	<i>Cornus stolonifera</i>	1 gal.	6'		2.75	0.00
Vine maple (VM)	<i>Acer circinatum</i>	1 gal.	6'		2.75	0.00
Willow (WI)	<i>Salix sp.</i>	1 gal.	6'		2.50	0.00
Shrubs						
Big huckleberry (BH)	<i>Vaccinium membranaceum</i>	1 gal.	6'		3.50	0.00
Cascara (CA)	<i>Rhamnus purshiana</i>	1 gal.	6'		2.75	0.00
Evergreen huckleberryEH	<i>Vaccinium ovatum</i>	1 gal.	6'		3.00	0.00
Gooseberry (GH)	<i>grossulariaceae</i>	1 gal.	6"		2.75	0.00
Hazelnut (HN)	<i>Corylus cornuta</i>	1 gal.	6'		3.00	0.00
Indian plum (IP)	<i>Oemlaria cerasiformis</i>	1 gal.	6'		3.00	0.00
Kinnikinnick	<i>Arctostaphylos uva-ursi</i>	1 gal.	3'		3.00	0.00
Mock orange (MO)	<i>Philadelphus lewisii</i>	1 gal.	6'		2.75	0.00
Ninebark (NB)	<i>Physocarpus capitatus</i>	1 gal.	6'		5.50	0.00
Nootka rose (NR)	<i>Rosa nutkana</i>	1 gal.	6'		2.75	0.00
Ocean spray (OS)	<i>Holodiscus discolor</i>	1 gal.	6'		2.75	0.00
Oregon grape (OG)	<i>Mahonia aquifolium</i>	1 gal.	6'		2.75	0.00
Pearfurit rose	<i>Rosa pisocarpa</i>	1 gal.	6'		2.75	
Red currant (WR)	<i>Ribes triste</i>	1 gal.	6'		2.50	0.00
Red elderberry (RE)	<i>Sambucus racemosa</i>	1 gal.	6'		2.75	0.00
Red huckleberry (RH)	<i>Vaccinium parvifolium</i>	1 gal.	6'		3.25	0.00
Salal (SA)	<i>Gaultheria shallon</i>	1 gal.	6'		2.75	0.00
Salmonberry (SB)	<i>Rubus spectatiblis</i>	1 gal.	6'		2.75	0.00
Serviceberry (SE)	<i>Amelanchier alnifolia</i>	1 gal.	6'		2.75	0.00
Snowberry (SN)	<i>Symphoricarpos albus</i>	1 gal.	6'		2.75	0.00
Twinberry (TW)	<i>Lonicera involucrate</i>	1 gal.	6'		2.75	0.00
TOTALS					0.00	0.00



July 30, 2013

Tony Leavitt
City of Kirkland
Planning and Community Development
123 Fifth Avenue
Kirkland, WA 98033

Re: 9757 124th Ave. NE (former Gerde Property) The Watershed Company
Reference Number: 100714.17

Dear Tony:

Thank you for the opportunity to review the buffer modification proposal for this project.

Documents used in this review include the March 25, 2013 letter from A. J. Bredberg of B and A, Inc (B&A), four sheets of preliminary plat civil drawings by CPH Consultants, two landscape plan sheets by Paul Jay Landscape Architect, and the City of Kirkland Zoning Code (KZC), Chapter 90.

The B&A letter proposes a wetland buffer reduction by enhancement per KZC 90.60. The letter does not include a full buffer restoration plan but states one will be prepared upon approval of the concepts outlined in the letter. This review letter outlines necessary changes and additional information that should be incorporated into the final buffer reduction submittal package.

Findings

In addition to the wetland, the site also includes a Class A tributary to Forbes Creek adjacent to the wetlands. The stream requires a 75-foot buffer and therefore must also be reduced to accommodate the site plan. While the criteria for wetland and stream reductions are substantially similar, submitted documentation should also reflect the stream buffer reduction for completeness.

The enhancements proposed include removal of the poultry shed, removal of invasive weeds, planting native species and fencing/signage. Reductions for both stream and wetland buffers also require installing habitat features such as downed woody debris or snags. Material for these features is readily available for no procurement cost in the form of multiple trees which will be removed during the development of the site.

The civil plans show a sidewalk within the buffer, a small portion of a gravel dispersion trench, and what appears to be a rock retaining wall proposed just above the 124th Avenue NE road culvert. All three features are inside the proposed modified buffer. Past applicants have successfully used KZC 90.20.4. to allow sidewalks within buffers. Note that this section requires demonstration of no alternative location for the impact and also requires no increase in impervious surface area or reduced flood storage capacity. As for the dispersal trench, a slight modification could remove all portions from the buffer; otherwise compliance with KZC 90.45.3 or 90.45.5 will be required.

The B&A letter does not detail how erosion will be prevented or how soil will be amended for planting in the area of the existing poultry shed.

KZC 90.60.2.a.2 requires the use of native ground covers. The plant list in Table 1 does not include native ground cover species (such as sword fern, salal, or Oregon grape).

KZC 90.60.2.b.8 requires specific enhancement vegetation requirements including the use of vegetation normally associated with native wetland buffers. The table in the B&A letter contains a long list of plants, most of which will be successful in achieving a dense, native assemblage with good habitat attributes. However, several species are listed that have very narrow ecological requirements, making them generally unsuccessful in most mitigation sites. Species such as lodgepole and ponderosa pine, Oregon oak, Pacific madrone, quaking aspen, Pacific dogwood, all three huckleberries, gooseberry, and kinnikinnick should be omitted from the planting list on the final plan. Removing these species will improve overall success and lower the maintenance and replacement costs of the plan.

The proposal lists nine goals and objectives for the plan but only offers two performance criteria to measure the success of achieving them. It is suggested the City will expand on these standards. Typically, plans such as this one have performance standards for minimum native cover at years 3 and 5, maximum invasive weed cover in each of the five monitoring years, and a native plant diversity standard. The suggested standard of 80% survival is usually reserved for small planting areas where keeping track of mortality, replacements and volunteers is simple. On large plans, there is typically a 100% survival standard for the first year, which is met by either survival or replacements. In following years, vegetative success is measured by the combination of native cover and diversity.

The plan uses several dispersion trenches on stormwater outfalls. These trenches are frequently installed in a manner that results in point discharge, causing channelized erosion. Therefore, another plan performance standard should be included that requires uniform distribution of stormwater in a manner that does not cause channelization or other erosion downstream of the trenches.

The monitoring schedule needs additional details added and the timing should be modified to be consistent with past approved mitigation sites in Kirkland. As correctly identified in the B&A letter, Kirkland requires two site visits per year. The monitoring schedule typically involves an early spring maintenance site visit followed by the formal monitoring in the summer or early fall. The spring visit reports maintenance needs to the owner in preparation for each upcoming growing season. The summer or early fall visit accomplishes all of the monitoring measurements and photos needed for the annual report. These reports are typically prepared following the site work and are usually received by the City in the fall.

To address the requirements of KZC 90.60.2.b.1), the B&A letter simply quotes several passages from these studies without detailing specifically how the proposal is consistent with those findings.

Recommendations

1. Submit a detailed buffer mitigation plan that includes a planting plan, plant schedule, installation notes, monitoring and maintenance plans all in one document. Also submit an itemized bond quantity worksheet to cover plan components.
2. Include responses to applicable stream buffer modification criteria, as necessary.
3. Propose use of woody debris as habitat features in the reduced buffer.
4. Detail how the sidewalk, dispersal trench, and retaining wall meets KZC requirements for wetland and stream buffers.
5. Provide details on erosion control and soil amendment for the poultry shed demolition area.
6. Revise the planting list to utilize only proven mitigation site species and the use of suitable native groundcovers.
7. Revise the goals and devise specific performance standards to measure success towards the goals.
8. Revise the monitoring schedule.
9. Address how the proposal is consistent with the studies in KZC 90.60.2.b.1.

Please call if you have any questions or if I can provide you with any additional information.



Hugh Mortensen, PWS
Senior Ecologist

