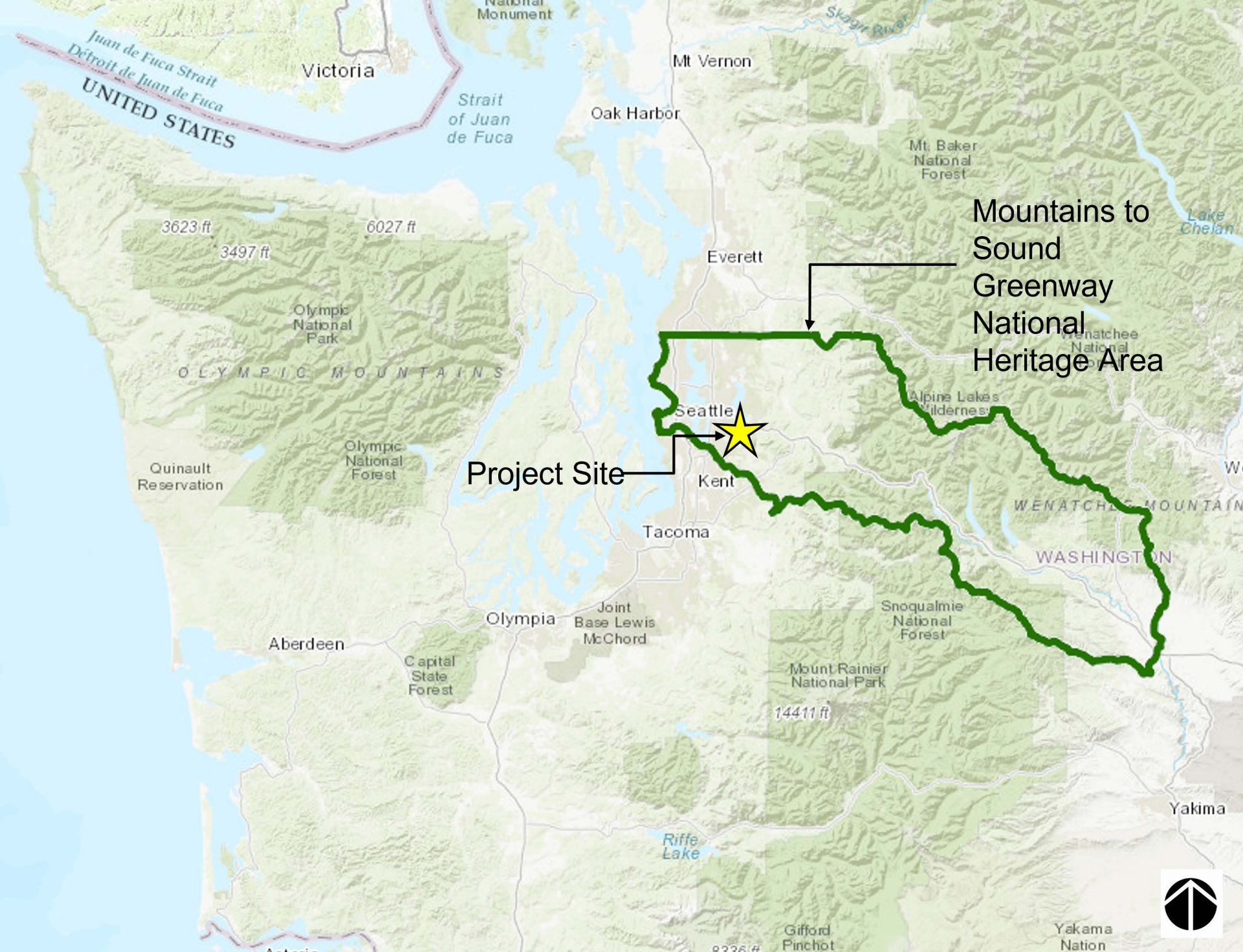




HARVEY MANNING PARK EXPANSION PRESERVATION PROJECT

Project Design Document List

- Regional Location Map
- Area Site Map
- Deed for Harvey Manning Park
- Issaquah Zoning Official Map
- PP16-00001 Plan Set 2017-10-23 1
- PP16-00001 Plan Set 2017-10-23 3
- MDNS Decision Signed
- HE Decision Signed
- Purchase and Sale Agreement
- Buyers Settlement Statement
- Promissory Note
- Declaration of Development Restrictions
- Harvey Manning Carbon Quantification
- Stand Map A
- Stand Map B
- Forest Age 1946
- Forest Age 1936
- Picture 1
- Picture 2
- i-Tree Canopy Report
- Harvey Manning Park Expansion Trails
- Attestation of No Double Counting of Credits
- Attestation of No Net Harm
- Carbon Co-Benefit Quantification
- GIS shape files are available upon request



Mountains to
Sound
Greenway
National
Heritage Area

Project Site











Legend

-  Parcels
-  Trailhead
-  Trailhead Parking
-  Trails
-  Project Site
-  Harvey Manning Park Expansion Area

City Parks - OS - NGPE

-  PARK
-  PARK/OPEN SPACE
-  OPEN SPACE
-  NGPE
-  STATE PARK
-  Streams



DISCLAIMER: These maps and other data are for informational purposes and have not been prepared for, nor are they suitable for legal, surveying, or engineering purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. The City of Issaquah makes no warranty or guarantee as to the content, accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained herein.

CHICAGO TITLE NCS (5)
REF# 190301-SC

WHEN RECORDED, RETURN TO:

City of Issaquah
301 Rainier Blvd S.
PO Box 1307
Issaquah, WA 98027



20190228001113

WARRANTY DEED Rec: \$103.00
2/28/2019 2:42 PM
KING COUNTY, WA

E2975627

EXCISE TAX AFFIDAVITS
2/28/2019 2:42 PM KING COUNTY, WA
Tax Amount: \$10.00

**STAUTORY WARRANTY DEED
(King County, Washington)**

Grantor: The Trust for Public Land, a California nonprofit public benefit corporation

Grantee: The City of Issaquah, a Washington municipal corporation

Abbreviated Legal Description: PTN NE NW & NW NE SEC 29-24-6; PTN SW SE SEC 20-24-06

Complete legal description is at Exhibit A attached hereto.

Assessor's Property Tax Parcel Account Number: 202406-9017-04; 292406-9009-05;
292406-9003-01; 292406-9008-06; 292406-9013-09; 292406-9004-00

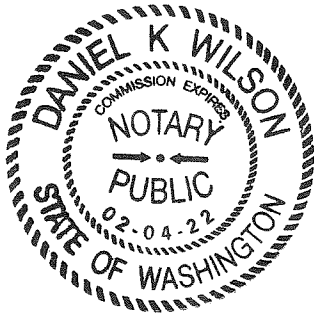
Reference to Related Documents: None

STATUTORY WARRANTY DEED
(King County, Washington)

The Trust for Public Land, a California nonprofit public benefit corporation (“Grantor”), for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, does convey and warrant to **The City of Issaquah**, a municipal corporation (“Grantee”), the real property situated in King County, Washington, legally described on Exhibit A attached hereto (the “Property”);

SUBJECT TO those reservations, liens, encumbrances, and other exceptions to title set forth on Exhibit B attached hereto; and

Dated as of the 20th day of February, 2019



GRANTOR:

The Trust for Public Land, a California nonprofit public benefit corporation

By: Thomas E. Tyner
Thomas E. Tyner
Title: Legal Director

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

That portion of the Southwest Quarter of the Southeast Quarter of Section 20, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, lying Southwesterly of the most Westerly margin of Southeast Newport Way (SSH No. 2-D).

Assessor's Parcel No.: 202406-9017-04 (Parcel B)

The South Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington

Assessor's Parcel No.: 292406-9009-05 (Parcel C)

That portion of the North Half of the North Half of the Northeast Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, lying Westerly of the western margin of Southeast Newport Way (SSH No. 2-D).

Together with that portion of vacated Southeast Newport Way, vacated May 9, 1932 by commissioner records, which would attach thereto by operation of law.

Assessor's Parcel No.: 292406-9003-01 (Parcel D)

The North Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington.

Assessor's Parcel No.: 292406-9008-06 (Parcel E)

The North Half of the Southeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington.

Assessor's Parcel No.: 292406-9013-09 (Parcel F)

That portion of the South Half of the Northwest Quarter of the Northeast Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, and of the Vacant County Road No. 941 adjoining as may attach by operation of Law, lying Westerly of the Newport-Issaquah Road;

Except that portion lying within the South 200 feet of the East 528 feet of said South Half.

Assessor's Parcel No.: 292406-9004-00 (Parcel G)

EXHIBIT B

TITLE EXCEPTIONS

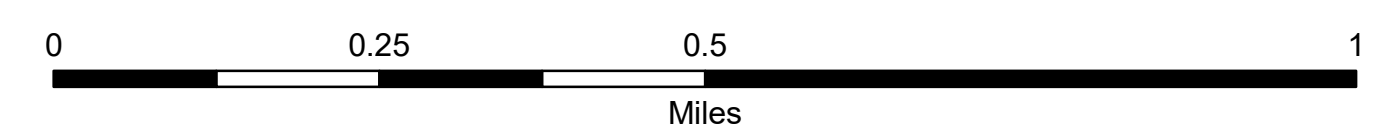
Those special exceptions listed on Chicago Title Company of Washington Title Report #0128958-06 Second Commitment dated January 28, 2019, and any supplements thereto (which Title Report and Supplements are incorporated into this Agreement by this reference) numbered 1 utility easement) (Recording Number 8107090660), 2 (road easement) (Recording Number 9102220834), 3 (telecommunication easement) (Recording Number 9209300081), 4 (utility easement) (Recording Number 20020806000047), 5 (State highway access) (Superior Court Case Number 704592), 6 (reservation of coal and iron)(Recording Number 98453), 7 (slope cuts) (Commissioner's Records filed April 20, 1931 in Volume 31, Page 363), 8 (slope cuts) (Recording Number 2676689), and 9 (lack of access to public road).

Issaquah Zoning

- TP-NRCA - TRADITION PLATEAU - NATURAL RESOURCE CONSERVATION AREA
- C-REC - CONSERVANCY RECREATION
- CF-F - COMMUNITY FACILITIES - FACILITIES
- CF-R - COMMUNITY FACILITIES - RECREATION
- CF-OS - COMMUNITY FACILITIES - OPEN SPACE
- CF-FPO - COMMUNITY FACILITIES - FACILITIES PRIVATELY OWNED
- CF-RPO - COMMUNITY FACILITIES - RECREATION PRIVATELY OWNED
- CF-OSPO - COMMUNITY FACILITIES - OPEN SPACE PRIVATELY OWNED
- C-RES - CONSERVANCY RESIDENTIAL - 1 DU/ 5 ACRES
- SF-E - SINGLE FAMILY ESTATES - 1.24 DU/ ACRE
- SF-S - SINGLE FAMILY SUBURBAN - 4.5 DU/ ACRE
- SF-SL - SINGLE FAMILY SMALL LOT - 7.26 DU/ ACRE
- SF-D - SINGLE FAMILY DUPLEX - 7.26 DU/ ACRE
- MF-M - MULTIFAMILY MEDIUM - 14.52 DU/ ACRE
- MF-H - MULTIFAMILY HIGH - 29 DU/ ACRE
- MIXED USE RESIDENTIAL
- VR - VILLAGE RESIDENTIAL
- MU - MIXED USE
- MU-CI - MIXED USE - CENTRAL ISSAQUAH
- UC - URBAN CORE
- PO - PROFESSIONAL OFFICE
- CBD - CULTURAL AND BUSINESS DISTRICT
- IC - INTENSIVE COMMERCIAL
- IC-CI - INTENSIVE COMMERCIAL - CENTRAL ISSAQUAH
- M - MINERAL RESOURCES
- UVSF-1 - URBAN VILLAGE - SINGLE FAMILY, ZONING CAP 1 DWELLING UNIT PER LOT
- UVSF-0 - URBAN VILLAGE - SINGLE FAMILY, ZONING CAP 0 DWELLING UNITS PER LOT
- UV-MF - URBAN VILLAGE - MULTIFAMILY
- UV-MUR - URBAN VILLAGE - MIXED USE RESIDENTIAL
- UV-COM/RET - URBAN VILLAGE - COMMERCIAL/RETAIL
- UV-O - URBAN VILLAGE - OFFICE
- UV-VC - URBAN VILLAGE - VILLAGE CENTER
- UV - URBAN VILLAGE
- UV-R - URBAN VILLAGE - ROWLEY
- UV-L - URBAN VILLAGE - LAKESIDE
- CenturyLink or Trailhead TOD Conditions
- City Limits
- Streets**
- STREET
- HIGHWAY
- RAMP
- ACCESS; DRIVEWAY; RETAIL ACCESS; WALKWAY
- Water Bodies
- Streams
- Parcels

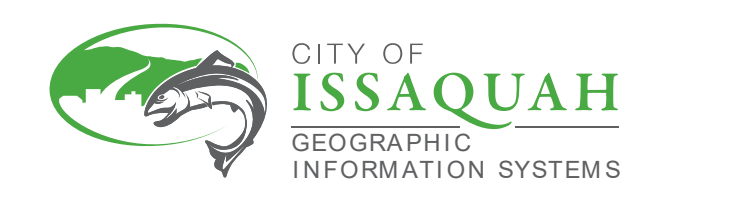
ADOPTION AND REVISIONS					
Ord.	Effective	Title	Ord.	Effective	Title
2101	01-15-96	Community Facilities Rezones	2520	03-31-08	2007 Comprehensive Plan Amendments & Zetec Rezone
2102	01-15-96	595 and 755 Newport Way NW Rezones	2535	11-03-08	2008 Comprehensive Plan and Zoning Map Amendments
2108	04-15-96	Land Use Code Update - Repeal of Hyphen Zoning	2566	12-21-09	2009 Comprehensive Plan and Zoning Map Amendments
2111	06-17-96	1996 Comprehensive Plan Update & Legislative Rezones	2602	01-03-11	2010 Comprehensive Plan and Zoning Map Amendments
2112	07-01-96	Grand Ridge Annexation	2606	03-24-11	Issaquah Pointe (WSDOT TDR) Annexation
2113	09-16-96	Parkpointe Annexation	2618	07-05-11	Confluence Park Rezone
2118	09-16-96	Bergsma Annexation	2640	01-02-12	Rowley Properties Rezone
2119	09-16-96	East Village / Tibbetts Creek Valley Annexation	2643	01-16-12	2011 Comprehensive Plan and Zoning Map Amendments
2162	09-15-97	1997 Comprehensive Plan Update & Legislative Rezones	2656	12-17-12	2012 Comprehensive Plan and Zoning Map Amendments
2222	03-29-99	1998 Comprehensive Plan Update & Legislative Rezones	2661	12-31-12	Lakeside Development Agreement and Rezone
2227	04-30-99	South SPAR Annexation	2676	04-29-13	Central Issaquah Development and Design Standards
2254	12-20-99	East Village Development Agreement and Rezone	2694	10-07-13	McCarry Woods (Issaquah 69) Annexation
2255	02-28-00	North Issaquah Annexation	2702	12-16-13	Issaquah Middle School Annexation
2275	07-31-00	Community Facilities Rezones	2706	01-06-14	2013 Comprehensive Plan and Zoning Map Amendments
2276	07-31-00	Bush Street Rezones	2731	02-01-15	Lake Sammamish State Park Annexation
2281	09-18-00	East Village Expansion Rezone	2741	06-30-15	2015 Comprehensive Plan Periodic Update
2306	04-16-01	2000 Comprehensive Plan Update & Legislative Rezones	2796	03-29-17	2016 Comprehensive Plan and Zoning Map Amendments
2309	05-21-01	Glacier Ridge Annexation	2803	11-16-17	King County Island Annexation
2346	05-05-02	Revision of Corporate Boundaries to City of Issaquah	2804	10-21-17	Bellevue Utility Parcel Island Annexation
2347	09-16-02	2001 Comprehensive Plan Update & Legislative Rezones	2810	10-25-17	2017 Comprehensive Plan and Zoning Map Amendments
2348	09-16-02	2002 Comprehensive Plan Update & Legislative Rezones	2830	03-28-18	Expiration of Issaquah Highlands Development Agreement
2344	01-01-03	Hans Jensen / Providence Point Annexation	2840	06-13-18	Expiration of Tatus Development Agreement
2382	01-19-04	2003 Comprehensive Plan Update & Legislative Rezones	2850	11-28-18	Destination Retail and Intensive Commercial Rezones
2443	12-19-05	2005 Comprehensive Plan Update & Legislative Rezones	2894	12-25-19	2019 Comprehensive Plan and Zoning Map Amendments
2442	03-02-06	Greenwood Point / South Cove Annexation	2895	02-05-20	2019 Comprehensive Plan and Zoning Map Amendments (Providence Heights)
2474	12-04-06	2006 Comprehensive Plan and Zoning Map Amendments	2935	12-16-20	2020 Comprehensive Plan and Zoning Map Amendments
2518	03-31-08	Highlands Drive Annexation			

** CenturyLink or Trailhead TOD Conditions:
Zoning change to IC - Intensive Commercial becomes effective ONLY if the following occur:
1) Permits implementing either the CenturyLink or Trailhead TOD project are submitted.
2) Parcel 2724069174 is subdivided.



Map to be used for planning purposes only. Accuracy of information subject to change due to periodic revisions and updates.

Sources:
City of Issaquah Development Services
City of Issaquah GIS



BERGSMA SUBDIVISION

PRELIMINARY PLAT NEWPORT WAY NW, ISSAQUAH WA

10/23/2017

WRES

WINDWARD REAL ESTATE SERVICES INC.



SITE DATA

EXISTING ZONING: SF-E (LOTS 1-27) AND SF-S (LOTS 28-57)
 PROPOSED LAND USE: SFR LOTS
 SITE AREA: 45.64 ACRES (1,988,163 SQ. FT.)
 PROPOSED NUMBER OF LOTS: 57 SFD LOTS
 NUMBER OF LOTS PER ACRE: 1.25 LOTS/GROSS ACRE

SITE SUMMARY

AREA IN LOTS: 10.14 AC (441,771 SF)
 CRITICAL AREA TRACTS(NGPE): 30.90 AC (1,346,049 SF)
 ROW DEDICATION (PUBLIC): 0.41 AC (17,806 SF)
 ACCESS TRACTS: 3.73 AC (162,402 SF)
 STORM DRAINAGE TRACTS: 0.46 AC (20,135 SF)
 TOTAL NON-RESIDENTIAL AREA: 35.50 AC (1,546,392 SF)

LOT SIZE SUMMARY

MINIMUM LOT SIZE: 3,040 SF (LOT 57)
 MAXIMUM LOT SIZE: 18,527 SF (LOT 26)
 AVERAGE LOT SIZE: SF-E 11,366± SF
 SF-S 4,497± SF

NET DENSITY CALCULATION

PER IMC 18.10.450 DENSITY CALCULATION IN CRITICAL AREAS
 SF-E (1.24 DU/ACRE) = 27.11 AC
 CRITICAL AREAS & BUFFERS = 13.42 AC
 PERCENTAGE OF SITE IN CRITICAL AREA &/OR BUFFERS = 49%
 DENSITY CREDITS = 60%
 DU ALLOWED PER CRITICAL CALCULATION 13.42 AC X 1.24 DU/AC X 0.60 (60%) = 9.98 UNITS
 DU ALLOWED ON REMAINDER 13.69 AC X 1.24 DU/AC = 16.98 UNITS
 SUBTOTAL UNITS ALLOWED = 26.96 UNITS
 SF-S (4.5 DU/ACRE) = 18.53 AC
 CRITICAL AREAS & BUFFERS = 12.07 AC
 PERCENTAGE OF SITE IN CRITICAL AREA &/OR BUFFERS = 65%
 AREA &/OR BUFFERS DENSITY CREDITS = 40%
 DU ALLOWED PER CRITICAL CALCULATION 12.07 AC X 4.5 DU/AC X 0.40 (40%) = 21.73 UNITS
 DU ALLOWED ON REMAINDER 6.46 AC X 4.5 DU/AC = 29.07 UNITS
 SUBTOTAL UNITS ALLOWED = 50.80 UNITS
 TOTAL UNITS = 59.03 (59) UNITS

AREA CALCULATIONS

GROSS SITE AREA: 45.64 AC (1,988,163 SF)
 TOTAL TRACT AREA: 35.09 AC (1,528,586 SF)
 TOTAL LOT AREA: 10.14 AC (441,771 SF)
 PRELIMINARY DEDICATION AREA: 0.41 AC (17,806 SF)

TRACT SUMMARY

TRACT	TRACT USE	TRACT AREA
TRACT A	NGPE-CRITICAL AREAS & BUFFERS	856,357 SQ. FT.
TRACT B	NGPE-CRITICAL AREAS & BUFFERS	493,468 SQ. FT.
TRACT C	NGPE-CRITICAL AREAS & BUFFERS	16,226 SQ. FT.
TRACT D	STORM DRAINAGE	12,094 SQ. FT.
TRACT E	STORM DRAINAGE	8,041 SQ. FT.
TRACT F	PRIVATE ACCESS	7,849 SQ. FT.
TRACT G	PRIVATE ACCESS	1,868 SQ. FT.
TRACT H	PRIVATE ACCESS	6,164 SQ. FT.
TRACT I	ACCESS/UTILITY	3,169 SQ. FT.
TRACT J	ACCESS/UTILITY	433 SQ. FT.
TRACT K	ACCESS/UTILITY	2,424 SQ. FT.
TRACT L	ACCESS PRIVATE ROAD A,B,C	140,495 SQ. FT.
TOTAL		1,528,586 SQ. FT.

ESTIMATED EARTHWORK QUANTITIES (BANK VOLUME)

TOTAL CUT: 153,000 CY
 TOTAL FILL: 69,100 CY
 NET: 83,900 CY (CUT)

R/W DEDICATION

ROAD	TYPICAL R/W	R/W AREA
NEWPORT WAY NW	TBD	TBD
TOTAL		TBD

HORIZONTAL DATUM

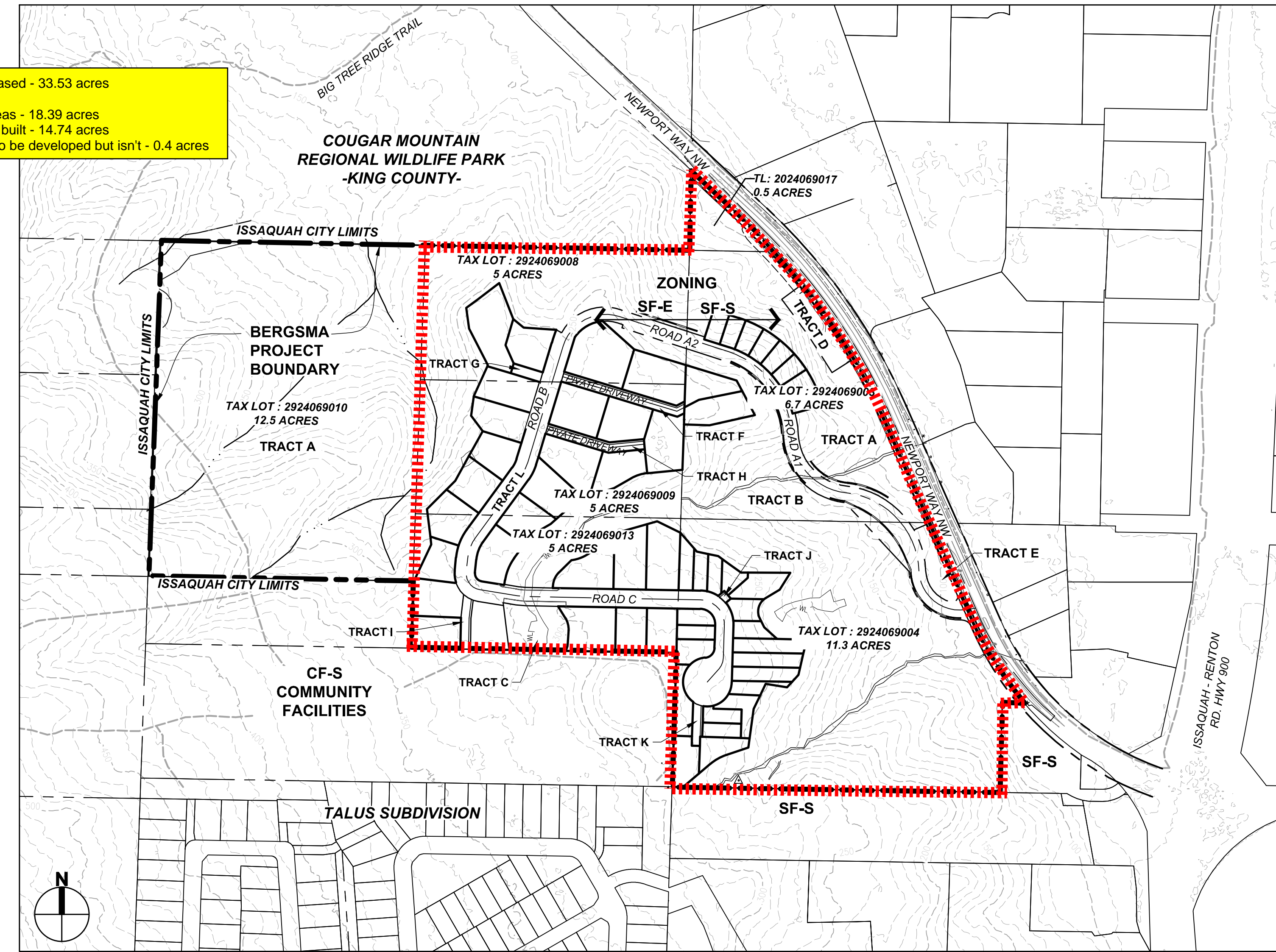
NAD 83-2011, WASHINGTON COORDINATE SYSTEM NORTH ZONE BASED ON TIES TO CITY OF BELLEVUE CONTROL POINTS 0232 AND 0487.

VERTICAL DATUM:

NAVD 88 BASED ON KING COUNTY CONTROL POINT AS PUBLISHED IN THE WGS DATABASE AS POINT DESIGNATION 2359. BEING A MONUMENT AT THE INTERSECTION OF NEWPORT WAY NW AND SE RENTON-ISSAQUAH ROAD (SR-900)

PORTIONS OF:
 NW1/4, SECTION 29, T. 24 N., R. 6 E., W.M.
 NE1/4, SECTION 29, T. 24 N., R. 6 E., W.M.

City purchased - 33.53 acres
 Critical Areas - 18.39 acres
 Developer built - 14.74 acres
 Available to be developed but isn't - 0.4 acres



SITE MAP

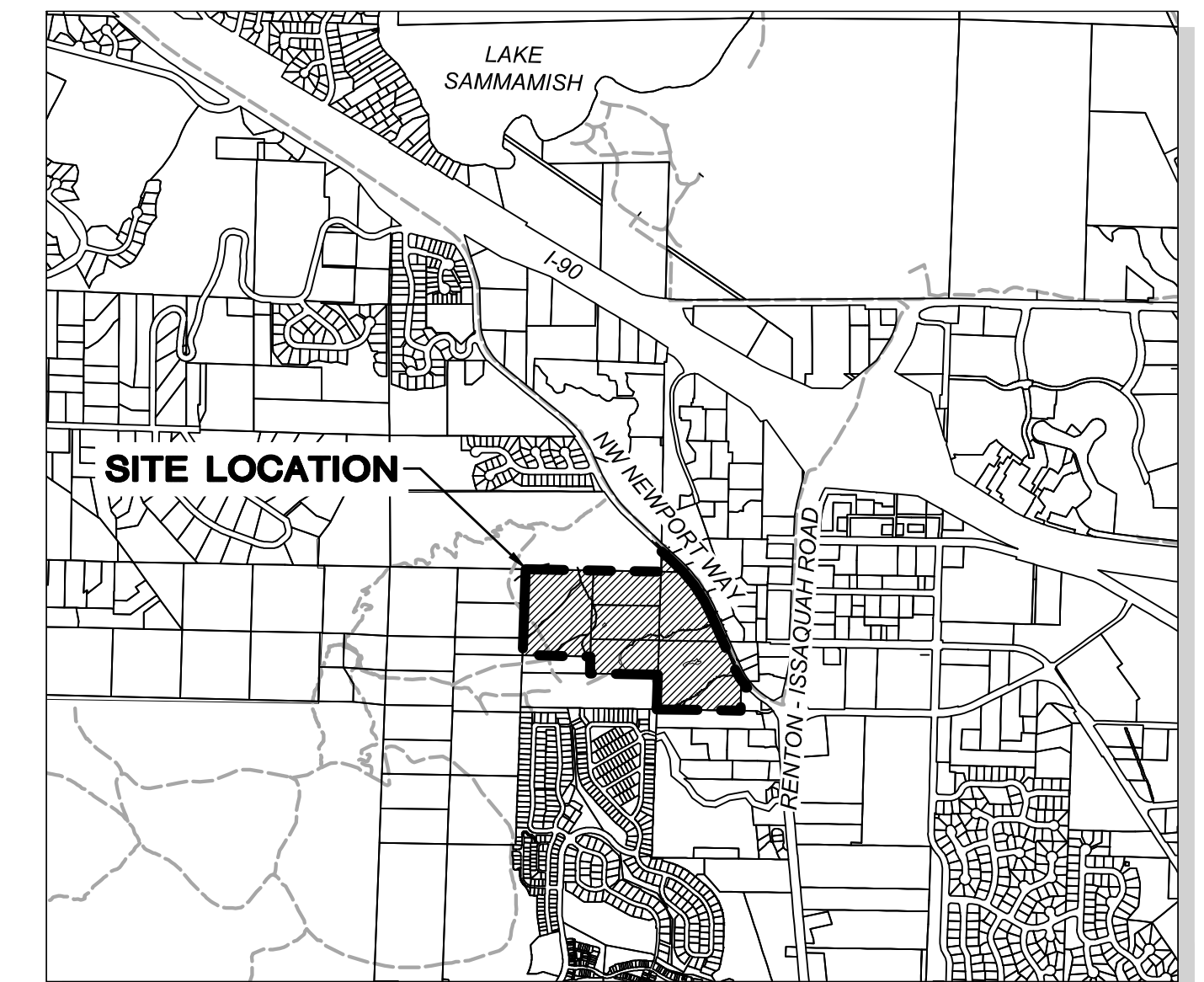
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SHEET LIST

SHEET	TITLE
C0.0	COVER SHEET
C1.0	TOPOGRAPHIC SURVEY
C2.0	PRELIMINARY SITE PLAN
C2.1	PRELIMINARY PLAT (NORTH)
C2.2	PRELIMINARY PLAT (SOUTH)
C2.3	ROAD SECTIONS
C3.0	PRELIMINARY GRADING AND DRAINAGE
C4.0	PRELIMINARY UTILITY PLAN
C5.0	ROAD A PLAN AND PROFILE
C6.0	NEWPORT WAY IMPROVEMENTS
C7.0	ROAD A SIGHT DISTANCE
C7.1	NEWPORT WAY SIGHT DISTANCE
C7.2	NEWPORT WAY DRIVEWAY TURNING MOVEMENT
L1.0	PRELIMINARY SITE LANDSCAPE PLAN
L2.0	TREE PLAN

LEGEND

- PROPERTY LINE
- BUILDING SETBACK LINE
- - - - - EXISTING GRADES
- PROPOSED RETAINING WALL
- PROPOSED ASPHALT PAVING
- PROPOSED CEMENT CONCRETE
- PROPOSED GUARDRAIL
- PROPOSED SIGN (TYP)



VICINITY MAP

NTS

**APPLICANT/DEVELOPER:
WINDWARD REAL ESTATE SERVICES, INC**

CONTACT: GREG KRABBE
 COMPANY: WINDWARD REAL ESTATE SERVICES, INC.
 ADDRESS: 805 KIRKLAND AVE, SUITE 200
 KIRKLAND, WA 98033
 PHONE: 425-750-8400

PROJECT ENGINEER:

CONTACT: SCOTT SHERROW, PE
 COMPANY: PACE ENGINEERS, INC.
 ADDRESS: 11255 KIRKLAND WAY
 KIRKLAND, WA 98033
 PHONE: 425-827-2014

LANDSCAPE ARCHITECT:

CONTACT: V. BRIAN WAY, RLA
 COMPANY: PACE ENGINEERS, INC.
 ADDRESS: 11255 KIRKLAND WAY
 KIRKLAND, WA 98033
 PHONE: 425-827-2014
 EMAIL: BRIANW@PACEENGRS.COM

WETLANDS:

NAME: CELESTE BOTHA
 COMPANY: WETLAND PERMITTING SERVICES
 ADDRESS: PO BOX 1601
 MERCER ISLAND, WA 98040
 PHONE: 206-240-2413
 EMAIL: WPS@ISP.COM

STREAM BIOLOGIST:

NAME: RUTH PARK, PROJECT BIOLOGIST
 COMPANY: CONFLUENCE ENV. COMPANY
 ADDRESS: 146 N CANAL ST. SUITE 111
 SEATTLE, WA 98103
 PHONE: 206-321-6633
 EMAIL: RUTH.PARK@CONFENV.COM

TRAFFIC ENGINEER:

NAME: BRAD LINCOLN
 COMPANY: GIBSON TRAFFIC CONSULTANTS
 ADDRESS: 2802 WETMORE AVE #220
 EVERETT, WA 8201
 PHONE: 425-339-8266
 EMAIL: BRADL@GIBSONTRAFFIC.COM

SURVEYOR:

CONTACT: DAVID FULTON, PLS
 COMPANY: PACE ENGINEERS, INC.
 ADDRESS: 11255 KIRKLAND WAY
 KIRKLAND, WA 98033
 PHONE: 425-827-2014

GEOTECH:

CONTACT: KRISTINA M. WELLER, PE
 COMPANY: THE RILEY GROUP, INC
 ADDRESS: 17522 BOTHELL WAY NORTHEAST
 BOTHELL, WA 98011
 PHONE: 425-415-0551

QA/QC APPROVAL
 THESE DOCUMENTS HAVE BEEN REVIEWED BY:
 NAME: [Signature] DATE: 10/23/17

Oct 23, 2017



SHEET: **C0.0**
 SHEET 1 OF 15

PP16-00001

FILE NAME: P:\14\14499 BERGSMA ISSAQUAH\CAD\ENGINEERING\SHEETS\PRE-PLAT\14499-CVR.DWG
 SAVE TIME: 10/23/2017 1:21:34 PM
 PLOT TIME: 10/23/2017 1:22 PM
 XREF FILES: PACE\XREF

A PORTIONS OF: NW1/4, SECTION 29, T. 24 N., R. 6 E., W.M.
NE1/4, SECTION 29, T. 24 N., R. 6 E., W.M.

A = 6.7ac (on City property)
B = 11.32 ac
C = 0.37 ac
TOTAL 18.39

TRACT AREAS		
TRACT	TRACT USE	TRACT AREA
TRACT A	NGPE-CRITICAL AREA	836,357 SQ. FT.
TRACT B	NGPE-CRITICAL AREA	493,466 SQ. FT.
TRACT C	NGPE-CRITICAL AREA	16,226 SQ. FT.
TRACT D	STORM DRAINAGE	12,094 SQ. FT.
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TRACT G	PRIVATE ACCESS	1,868 SQ. FT.
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TRACT K	ACCESS/UTILITY	2,424 SQ. FT.
TRACT L	ACCESS PRIVATE ROAD A,B,C	140,495 SQ. FT.

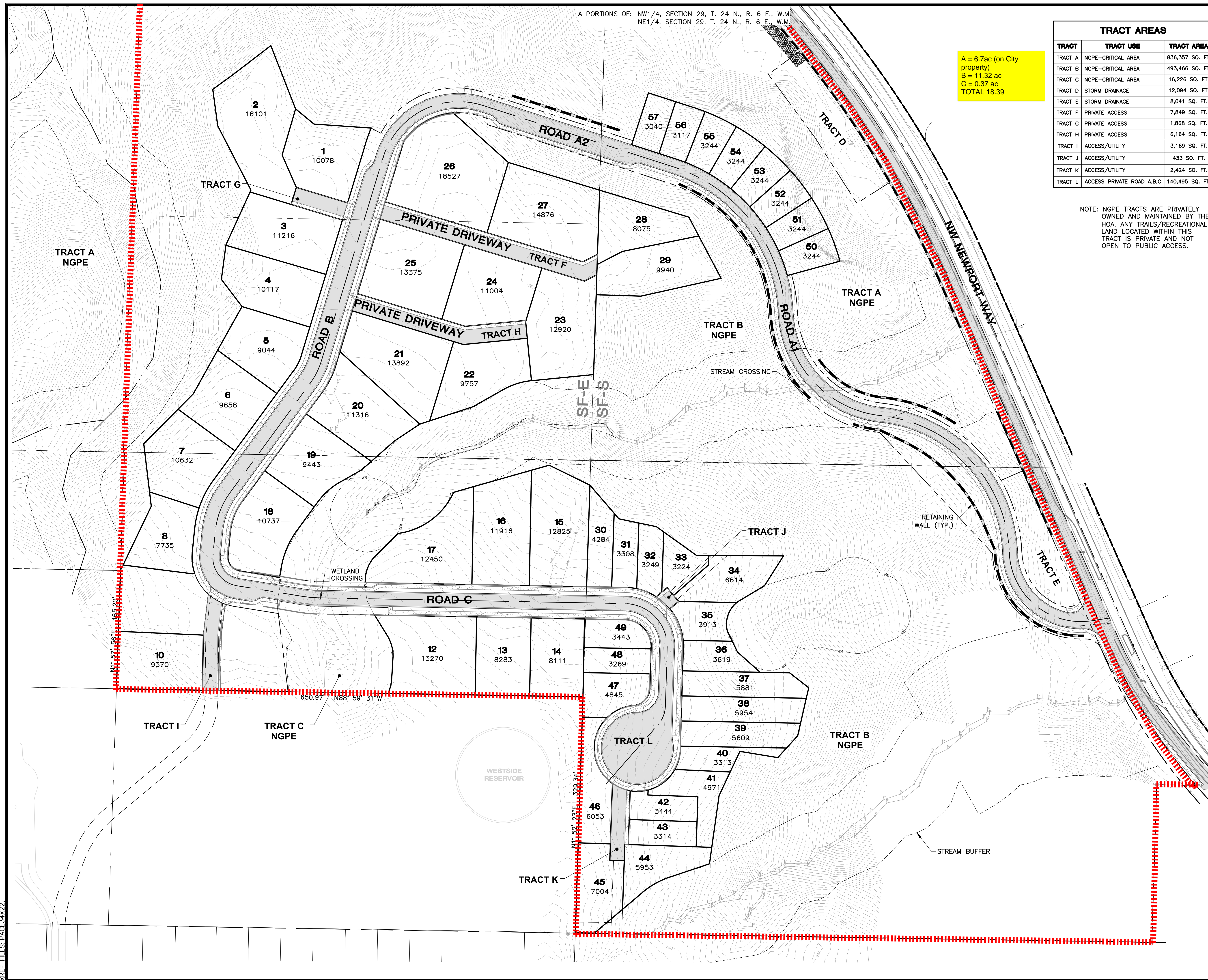
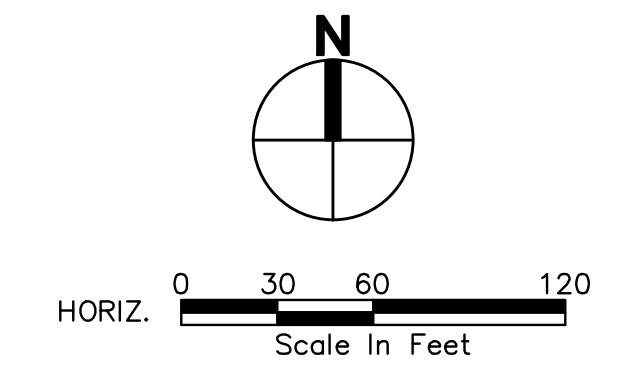
NOTE: NGPE TRACTS ARE PRIVATELY OWNED AND MAINTAINED BY THE HOA. ANY TRAILS/RECREATIONAL LAND LOCATED WITHIN THIS TRACT IS PRIVATE AND NOT OPEN TO PUBLIC ACCESS.

LOT AREAS SF-E		
LOT #	LOT AREA SQ. FT.	ALLOWABLE IMPERVIOUS SQ. FT.
1	10,078	3,023
2	16,101	4,830
3	11,216	3,365
4	10,117	3,035
5	9,044	2,713
6	9,658	2,897
7	10,632	3,190
8	7,735	2,321
9	10,419	3,126
10	9,370	2,811
11	9,799	2,940
12	13,270	3,981
13	8,283	2,485
14	8,111	2,433
15	12,825	3,848
16	11,916	3,575
17	12,450	3,735
18	10,737	3,221
19	9,443	2,833
20	11,316	3,395
21	13,892	4,168
22	9,757	2,927
23	12,920	3,876
24	11,004	3,301
25	13,375	4,013
26	18,527	5,558
27	14,876	4,463

LOT AREAS SF-S		
LOT #	LOT AREA SQ. FT.	ALLOWABLE IMPERVIOUS SQ. FT.
28	8,075	3,230
29	9,940	3,976
30	4,284	1,714
31	3,308	1,323
32	3,249	1,300
33	3,224	1,290
34	6,614	2,646
35	3,913	1,565
36	3,619	1,448
37	5,881	2,352
38	5,954	2,382
39	5,609	2,244
40	3,313	1,325
41	4,971	1,988
42	3,444	1,377
43	3,314	1,326
44	5,953	2,381
45	7,004	2,801
46	6,053	2,421
47	4,845	1,938
48	3,269	1,308
49	3,443	1,377
50	3,244	1,298
51	3,244	1,298
52	3,244	1,298
53	3,244	1,298
54	3,244	1,298
55	3,244	1,298
56	3,117	1,247
57	3,040	1,216

ALLOWABLE IMPERVIOUS SHOWN IS BASED ON CODE ALLOWANCE OF 30 PERCENT FOR SF-E ZONE LOTS AND 40 PERCENT FOR SF-S LOTS.

LEGEND
WETLAND BUFFER ————
STREAM BUFFER ————



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PLOT TIME: 10/23/2017 1:24 PM
XREF FILES: PACE.XYZ

DATE	
REVISION	
SYN	
 An Engineering Services Company 11255 Kirkland Way, Suite 300 Kirkland, WA 98033 P: 425.827.2014 F: 425.827.5043 Civil Structural Planning Survey paceengrs.com	
 DAVID R. FULLON STATE OF WASHINGTON 35459 REGISTERED PROFESSIONAL LAND SURVEYOR	
WINDWARD REAL ESTATE SERVICES, INC 805 KIRKLAND AVE., SUITE 200 KIRKLAND, WA 98033 CONTACT: GREG KRABBE PHONE: 425.750.8400	
BERGSM SUBDIVISION PRELIMINARY PLAT NEWPORT WAY NW, ISSAQUAH WA PRELIMINARY SITE PLAN	
SCALE:	DATE:
AS SHOWN	10/23/2017
DESIGNED BY:	CHECKED BY:
TC	SS
JOB NUMBER:	14499.00
SHEET:	
C2.0	
SHEET	3 OF 15

PP16-00001

FINAL
MITIGATED DETERMINATION OF NON-SIGNIFICANCE
SEP 17-00002

DESCRIPTION OF PROPOSAL: The proposal is to develop the site as 78 single-family homes through a clustered subdivision. The 46-acre property is currently covered by forest. The project fronts the existing right-of-way along Newport Way NW.

PROPONENT Greg Krabbe, Windward Real Estate Services, Inc.

LOCATION: 1763 Newport Way NW
Parcels: 292406-9003, 292406-9004, 292406-9008, 292406-9009, 292406-9010, 292406-9013
Section 29, Township 24 North, Range 6 East, W.M.

LEAD AGENCY: City of Issaquah

The Responsible Official of the City of Issaquah hereby makes the following Findings of Fact based upon impacts identified in the environmental checklist and the "Final Staff Evaluation for Environmental Checklist No. SEP 17-00002", and Conclusions of Law based upon the Issaquah Comprehensive Plan, and other Municipal policies, plans, rules and regulations designated as a basis for the exercise of substantive authority under the Washington State Environmental Policy Act Rules pursuant to RCW 43.21C.060.

FINDINGS OF FACT:

1. The proposed action includes:

Building construction and the proposal includes stream crossing, landscaping, utilities, wetland mitigation and paving for roads and maneuvering areas and a possible street connection to Talus. The project will occur on approximately 46 acres. Construction will require the export of approximately 88,000 cubic yards of material for the final site grading and to achieve proper slopes for drainage. Frontage improvements will be provided on the north and south side of Newport.

2. Soil movement, generated through grading activities, could potentially cause erosion and sedimentation impacts on the area water courses, wetlands and surface water system unless mitigation measures are implemented.

3. A Geo-technical Analysis was prepared by the Riley Group, on 26 August 2016, in order to evaluate existing soils conditions and potential impacts. This analysis showed that the proposed site will support the proposed development. Based on the analysis performed, mitigation measures will be required to offset potential adverse impacts.

4. Temporary truck trips generated by the hauling operations will likely cause adverse impacts to traffic operations on local streets during peak traffic hours and thus generate increased levels of local suspended particulate emissions unless mitigation measures are implemented; and, cause degradation to the pavement on Newport due to hauling activities.

5. Removal of tree cover will adversely affect the site's ability to filter suspended particulates from the air and its overall aesthetic character. The action proposes removal of existing vegetation over 34% of the site.

6. A Wetland delineation was provided by Wetland Permitting Services on April 3, 2015. The project site contains 6 wetlands as described below:

Wetland	Size (sq. ft.)	Category	Buffer
A	4,363	IV	40'
B	7,123	IV	40'
C	679	IV	0
D	5,546	III	50'
E	823	IV	0
F	1,489	IV	0

The Checklist identifies 4,050 sf of wetlands will be filled and additional buffer will be impacted by roads. Mitigation measures will be required.

7. A stream report was submitted by Confluence Environmental Company dated 10 November 2014. The report identified the following:

Stream 1: Class 2 with salmonids (100 ft buffer) in lower portion, Class 3 (50 ft buffer) in upper portion

Stream 2: Class 3 – intermittent and not used by salmonids (50 ft buffer)

Stream 3: Class 2 with salmonids (100 ft buffer) in lower portion, Class 3 (50 ft buffer) in upper portion (above ~300 ft).

(See Finding 25)

8. The project could potentially cause disruption to the functions and values of the on-site wetlands and streams by adding pollutants and creating human intrusions not currently present.

9. The construction of paved surfaces will adversely impact the area's water quality unless mitigating measures are implemented.

10. Proper location, design, construction and maintenance of the project's storm drainage facilities is necessary to ensure protection of water quality while avoiding adverse aesthetic impacts.

11. The creation of expanses of impervious surfaces will increase the quantity of storm water discharge from the site. The project's storm drainage facilities must be properly designed and constructed to accommodate the increased runoff.

12. The proposal will require removal of existing vegetation over approximately 34 percent of the site. Cleared areas will be highly visible and mitigation measures will be required.

13. Due to the project's location, given the historical significance waterways have played in past cultures, there exists the potential for historic and/or cultural artifacts to be located on the property.

14. The proposal will add approximately 200 residents to the area which will increase the need for recreational facilities.

15. The site is proximate to a heavily-traveled, recreational trail. Development of the site will change the character of the area and has the potential of resulting in adverse visual impacts unless mitigation measures are incorporated into the project's design.

16. A traffic study was prepared for this project by Gibson Traffic Consultants in August 2016 and updated in February 2017. The purpose of this study was to evaluate existing traffic conditions, the addition of traffic based on the proposed development and identify impacts resulting from this addition of traffic. Based on this analysis, it is not anticipated that the project will generate an adverse traffic impact on the City's street network. However, improvements adjacent to the site will be required to ensure adequate access to the site is provided.

17. The proposal will increase pedestrian traffic in the area.

18. Utilities are generally available in the vicinity. The proposed action will result in an increased demand for sewer and water services.
19. Water system extensions including system connections and pressure control will be required to adequately serve the proposed development.
20. The "Final Staff Evaluation for Environmental Checklist No. SEP 17-00002" is hereby incorporated by reference as though set forth in full.
21. The City received comments from Public Works Engineering and Operations Departments, Ms. Connie Marsh and Mr. David Kappler, Ms. Geraldine Carey, Ms. Karen Walter and Mr. Jon Francis. Their comments have been incorporated into this Final Determination and address the following issues:
 - a) Trail connectivity
 - b) Critical area impacts
 - c) Street grade
 - d) Hauling impacts
 - e) Visual impacts
 - f) Traffic impacts
22. A revised layout (Attachment 1) was provided in response to the comments from City departments.
23. Updated wetland information (Attachment 2) was provided for the revised layout.
24. Updated traffic analysis was provided dated 2 February 2017. The Executive Summary is attached as Attachment 3 to this Decision.
25. At the close of the comment/appeal period, the applicant and the Muckleshoot tribe were in conversations about the Stream typing.

CONCLUSIONS OF LAW:

Staff have concluded that a MDNS may be issued. This decision is based upon the environmental checklist and its attachments, and the "Final Staff Evaluation for Environmental Checklist". The MDNS is supported by plans and regulations formally adopted by the City for the exercise of substantive authority under SEPA. The following are City-adopted policies which support the MDNS:

Encourage efficient use of land by allowing clustering of buildings within developments, consistent with the City's development and design standards, to provide the maximum consolidated pervious surface, open space, efficient extension of urban services, and protection of critical areas and their buffers. (LU A-3)

Continue to implement off-site transfer of development rights, on-site density transfers and variances to protect the property rights of landowners with critical areas; and as an incentive for protecting forested hillsides that are not defined as Steep Slopes by the Land Use Code. (LU A-4)

Maintain the forested character of older developed hillsides such as Squak Mountain, Cougar Mountain (not including Talus) Tiger Mountain and the Plateau (such as Overdale Park) by requiring that new and infill development should be made compatible through: limited clearing/grading provisions; protection and preservation of existing tree canopy; limiting size of development and number of buildings within clusters; limiting lot size and height provisions; and providing links to sidewalks and bike paths since a vehicular grid may be difficult in hillside development. For those hillside neighborhoods that have recently undergone dense urban development, such as Issaquah Highlands, Talus and Lakeside, protect and preserve the remaining forested hillsides and restore the area over time so that it once again attains the forested character so valued by the community. Restoration adds to habitat, erosion protection and offsetting the urban heat island effects and can include tree plantings in parks, critical area buffers, and other locations where appropriate. (LU A-5)

Identify permanent open spaces and designate them as areas of permanent low density or no development. These lands shall not be redesignated in the future to other urban uses or higher densities. (LU A-9)

Continue to prohibit the inappropriate conversion of undeveloped land into sprawling, low density development through clustering uses and structures, on-site density transfers, and considering the establishment of minimum densities. (LU A-10)

Retain existing trees in critical areas and their buffers, along designated pedestrian corridors and in other green spaces. Increase and enhance the City's Tree Canopy through a program of tree planting in public areas, including street trees in planter strips, public parks, open spaces and City facilities. Consider programs that create incentives for residents and businesses to plant trees on their private property. (LU B-2)

Require new development and substantial redevelopment to comply with adopted standards and buffers to protect critical areas. (LU C-3)

Identify and implement stormwater solutions that promote development and redevelopment, while also protecting receiving streams and groundwater, within the requirements of the NPDES Phase 2 Municipal Stormwater Permit (Phase II Permit) and other state and federal regulations. (LU D-3)

Connect natural areas to stream corridors and open spaces. (LU E-2)

Enhance Riparian corridors and wetlands to integrate the views and open space they provide into all developments, where applicable. (LU E-4)

Promote elements of sustainability in the natural environment such as expanding non-motorized and alternative transportation modes, sustainable building programs similar to Built Green, LEED™ Certification (Leadership in Energy and Environmental Design), energy and other codes and incentives, recycling, integrated pest management, low impact stormwater measures, aquifer recharge, water conservation, habitat restoration, open space acquisition and other programs. (LU G-1)

Encourage elements of the social environment including affordable housing by promoting community participation in the implementation of the Strategic Work Program and other programs. (LU G-3)

Ensure the design of arterials through neighborhoods does not take precedence over the preservation of the character of residential neighborhoods, open space and safety. (LU H-6)

Minimize the view impact of hillside development from the valley floor and other hillsides by strategically integrating the architecture, siting and landscaping into the natural environment. Techniques might include:

- using color hues which help buildings blend into the forested hillsides;
- using non-reflective surfaces to reduce glare;
- shifting buildings so they are not in a horizontal row; or
- strategically locating trees and other landscaping to reduce perceived bulk and retain the forested hillside appearance. (LU H-10)

Strive to create connected wildlife corridors that link to protected areas adjacent to the City limits. Wildlife corridors include the City's stream buffers, shoreline areas, natural open spaces, Native Growth Protection Areas, wetlands, steep slopes, forested hillsides and other natural areas. (LU H-11)

Consider requiring affordable housing (or land donations or mitigation fees dedicated to affordable housing) when evaluating rezones and other changes to land use or development regulations that increase development capacity. (H C-1)

Provide active and passive park and recreational facilities to as many persons as possible. Where appropriate, provide multi-use active recreational opportunities within park facilities consistent with the intended use of the particular park facilities. (P B-6)

Developers shall mitigate or offset the impacts of their new development by providing parkland and park facilities, and/or payment of impact fees in lieu of such land or facilities, through the process established by the City. Additional on-site design requirements are also appropriate for larger subdivisions and multifamily developments. In the commercial areas of the City, developers shall mitigate by providing public spaces and facilities such as plazas, courtyards, and pedestrian connections on-site through Land Use Code development requirements and/or incentives. When private development is required to provide a public space, such as urban plazas, parks and/or trails, they are to remain as part of the public realm and should remain accessible and function as if publically owned. Area wide improvement districts are also supported to address the needs for commercial area park facilities. (P C-8.2)

Give special attention to the celebration of native cultures and the community's heritage and diversity. (C A-5)

Foster a mobility system that reduces the negative effects of transportation infrastructure and operation on the climate and natural environment. (T B-3)

Provide access from every neighborhood to the adjacent City trail system, transit facilities and all City parks and recreation facilities. (T D-3)

Design streets to ensure a safe and comfortable pedestrian environment that includes pedestrian and bicycle facilities and gathering spaces. (T E-1)

Incorporate transit supportive and multimodal/nonmotorized friendly design features in new and re-development through the development review process. (T F-2)

Maintain continuity of the street pattern by avoiding dead-end and half-streets not having turn-around provisions. (T G-3)

Require and enforce safe, comfortable and convenient access in and around construction zones. (T I-4)

CONDITIONS:

The lead agency for this proposal has determined that it does not have a probable, significant adverse impact on the environment, and an environmental impact statement (EIS) will not be required under RCW 43.21C.030(2)(c), only if the following conditions are met. This decision was made after the review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

1. All design and construction will follow the Critical Area Evaluation and Geotechnical Engineering Report prepared by The Riley Group, Inc. dated August 31, 2016.
2. Site preparation and grading will be scheduled for the drier summer and early fall months from April to October and undertaking activities that expose soil during periods of little or no rainfall.
3. Stripping efforts shall include removal of vegetation, organic materials, and deleterious debris from areas slated for building, pavement, and utility construction. The borings encountered 6 to 12 inches of topsoil and rootmass. Deeper areas of stripping may be required in forested or heavily vegetated areas of the site and will be determined with site work permits.
4. To minimize dirt tracking onto Newport, establish a quarry spall construction entrance

5. Installing siltation control fencing or anchored straw or coir wattles on the downhill side of work areas
6. During construction covering soil stockpiles with anchored plastic sheeting.
7. Revegetating or mulching exposed soils with a minimum 3-inch thickness of straw if surfaces will be left undisturbed for more than one day during wet weather or one week in dry weather.
8. Directing runoff away from exposed soils and slopes.
9. Minimizing the length and steepness of slopes with exposed soils and cover excavation surfaces with anchored plastic sheeting (Graded and disturbed slopes should be tracked in place with the equipment running perpendicular to the slope contours so that the track marks provide a texture to help resist erosion and channeling. Some sloughing and raveling of slopes with exposed or disturbed soil should be expected.)
10. Inspecting and maintaining erosion and sediment control measures frequently (The contractor should be aware that inspection and maintenance of erosion control BMPs is critical toward their satisfactory performance. Repair and/or replacement of dysfunctional erosion control elements should be anticipated.)
11. All temporary cut slopes associated with the site and utility excavations shall be adequately inclined to prevent sloughing and collapse. Temporary slopes shall be laid back with a minimum slope inclination of 1H:1V (Horizontal:Vertical).
12. No traffic, construction equipment parking, stockpiles or building supplies are allowed at the top of cut slopes within a distance of at least (15) feet from the top of the cut.
13. For grading on the top of steep slope critical areas, stockpiles are not allowed at the top of slopes within a distance of at least 50 feet from the top of the steep slope.
14. Exposed soil along the slope will be protected from surface erosion during construction using waterproof tarps and/or plastic sheeting.
15. Construction activities are scheduled so that the length of time the temporary cut is left open is minimized.
16. Surface water will be diverted away from areas of the excavation.
17. The general condition of slopes shall be observed periodically during construction, as directed by the City, by a geotechnical engineer to confirm adequate stability and erosion control measures
18. Upon completion of stripping, grubbing, and prior to placement of structural fill, proofrolling building and pavement subgrades and areas to receive structural fill. These areas shall be proofrolled under the observation of RGI and compacted to a firm and unyielding condition in order to achieve a minimum compaction level of 95 percent of the modified proctor maximum (MDD) dry density as determined by the American Society of Testing and Materials D1557-09 Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (ASTM D1557)
19. Where fill is placed in areas of the site where existing slopes are steeper than 5:1 (Horizontal: Vertical), the area shall be benched to reduce the potential for slippage between existing slopes and fills. Benches shall be wide enough to accommodate compaction and earth moving equipment, and to allow placement of horizontal lifts of fill.
20. Subgrade soils that become disturbed due to elevated moisture conditions shall be overexcavated to reveal firm, non-yielding, non-organic soils and backfilled with compacted structural fill.
21. Structural fill materials shall be placed in uniform loose layers not exceeding 12 inches and compacted as specified in Table 5 of the geotechnical report. The soil's maximum density and optimum moisture shall be determined by American Society of Testing and Materials D1557-09 Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (ASTM D1557). The native soil contains a large percentage of fines and is moisture sensitive, it may necessary to import structural fill if the construction occurs in wet season. Import structural fill

shall meet the gradation requirements listed in Table 4 of the geotechnical engineering report for wet weather conditions

22. Minimum compaction for foundation, retaining walls backfill, slab-on-grade subgrade soils and roadway subgrade shall be 95% MDD. The minimum compaction requirement for general fill areas (nonstructural fill) is 90% MDD.
23. All permanent cut and fill slopes shall be graded with a finished inclination no greater than 2H:1V. Upon completion of construction, the slope face shall be trackwalked, compacted and vegetated, or provided with other physical means to guard against erosion.
24. Final exterior grades shall promote free and positive drainage away from building areas. A minimum drainage gradient of 3 percent for a minimum distance of 10 feet from the building perimeter.
25. In paved locations, a minimum gradient of 1 percent shall be provided unless provisions are included for collection and disposal of surface water adjacent to the structure.
26. Install perimeter foundation drains for all buildings. The retaining wall drains, perimeter foundation drain, and roof downspouts shall be tightlined separately to an approved discharge facility. Subsurface drains must be laid with a gradient sufficient to promote positive flow to a controlled point of approved discharge.
27. Utility pipes shall be bedded and backfilled in accordance with American Public Works Association (APWA) specifications. For site utilities located within the right-of-ways, bedding and backfill shall be completed in accordance with City of Issaquah specifications.
28. Retaining walls over six feet tall in steep slope critical area shall be soldier pile or tieback walls designed by a structural engineer. Retaining walls over six feet tall not in steep slope critical area shall be soldier pile or tieback walls, or as otherwise approved by the City. Retaining walls with an exposed face of greater than 10 feet shall be visually mitigated by either stepping the walls; providing landscaping to both grow in from of the walls and trail down from above; or, other approaches as approved by the City.
29. Further geotechnical exploration shall be performed during design phase to verify the soil condition. At least one test boring or test pit be performed every 200 feet along the roadway, one each stormwater vault area, one in lot with major excavation or filling.
30. No construction access will be allowed through Talus.
31. Prior to the issuance of site work permits, a hauling plan will be approved by the City. The plan will propose measures to manage and minimize the impacts of hauling material from the site. Efforts could include amending excavated soils to allow them to be reused on site. Where hauling exceeds 1,000 trips on any segment of City street, the applicant shall perform a pavement indexing analysis prior to, and post, hauling activity. Should the activity result in a measurable degradation of the pavement on Newport, the applicant shall reimburse the City for the fiscal impact of shortened pavement life.
32. Designation of a protected 100-foot riparian buffer in perpetuity for the lower portion of Stream 2 designated as a Type 2S stream will promote downstream habitat functions in Tibbetts Creek.
33. Prior to the issuance of any site work permits, a wetland mitigation plan shall be prepared consistent with IMC 18.10.490. This plan will be reviewed by the City's River & Streams Board prior to its approval.
34. Should any items of archaeological or cultural significance be found during construction, the applicant will cease further site work and notify the Washington Department of Archaeology and Historic Preservation, the Muckleshoot and Snoqualmie tribes, and the City.
35. Wall aesthetics (e.g. wall block color, etc.) for any exposed wall sections must be approved by the City.

36. All disturbed areas shall be replanted with evergreen trees and other vegetation, as directed by a forester or other qualified professional, and approved by the City. Plantings will be selected to stabilize disturbed areas, screen cut or fill slopes, and discourage the establishment of invasive species. Revegetated areas will be maintained for up to 5 years, as determined by the City, to ensure the establishment of vegetation.
37. The owner shall allow plant salvage on the property prior to the issuance of construction permits. Salvage shall be staged from Harvey Manning Park and not Newport.
38. Pedestrian facilities will be constructed on Newport to connect the project to the King County trailhead; and, along the north side to improve pedestrian and bicycle mobility.
39. During the preliminary plat process, the applicant shall provide public easements through open space to allow for trail connections to regional trails located on adjacent parcels.
40. Any trails built through open space areas shall minimize impact to critical areas and significant trees.
41. Undeveloped portions of the property will be conserved by a Native Growth Protection Easement.
42. Prior to the issuance of any building or grading permits, a temporary grading, drainage, erosion and sedimentation control plan is required. This plan shall show: quantities and locations of excavations, and embankments; the design of storm drainage retention/detention system; and, methods of preventing drainage, erosion and sedimentation from impacting adjacent properties, natural and public storm drainage systems. The measures shall be implemented prior to beginning on-site filling, grading or construction activities. In addition, the plan shall include a construction sequence element which clearly identifies the timing and methodology required to:
 - ❖ Contain areas of active earthwork to prevent uncontrolled discharge of stormwater
 - ❖ Minimize the extent and time soils are exposed on-site; and,
 - ❖ Address seasonal variations in weather conditions (the period of greatest concern is October 1 through April 1).
43. The contractor shall be required to water the site, as necessary, to reduce dust emissions as a result of construction activity. The contractor shall also be responsible for sweeping of public streets which may become soiled as part of construction or hauling activities.
44. The purpose and intent of the following condition is to discourage the uncontrolled intrusion of humans into the wetland mitigation area, provide a passive recreation opportunity and to ensure long-term protection. The following information and improvements shall be provided:
 - a. A minimum of two (2) interpretive signs shall be installed and maintained as part of the wetland buffer establishment. These signs shall indicate the wetland boundaries, the wetland's role in the ecosystem and restrictions related to the use of the wetland mitigation area.
 - b. The wetland and buffer shall be encumbered by a public open space, conservation easement granted to the City of Issaquah. The easement shall state that any uses within the easement shall be as approved by the Development Services Director. The uses shall be consistent with the wetland purposes and the general benefit to the public. Evidence that the easement has been recorded will be required prior to the issuance of a certificate of occupancy.
45. Prior to the issuance of preliminary plat approval, the applicant will submit plans for review and approval illustrating proposed recreational amenities (i.e., benches, play equipment, trails, etc.) to be located on site. Neighborhood trails will be connected to the King County Trail system and signage will be provided.
46. To reduce the visual impacts of buildings from offsite views, homes will be finished using natural materials and earth-tones as the primary building color; no finished, reflective metals will be used; and windows will be low reflectivity.
47. The applicant will design the project and stormwater facilities to minimize impacts on fish-bearing streams and fish populations both on site and off site on connected waterways to the satisfaction

of WA DFW and the Tribes. This Condition will be implemented with the preliminary plat and Site Work permits.

This MDNS is issued under 197-11-340(2); the lead agency issued a Proposed MDNS on 13 January 2017 and did not act on this proposal for 21 days from the date of issuance. Comments were to be submitted by 5:00 pm on 3 February 2017 and were incorporated into this Final decision.

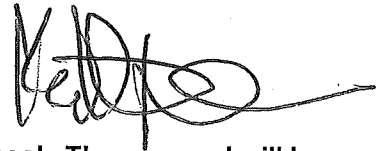
No appeals were received.

RESPONSIBLE OFFICIAL:
POSITION/TITLE:

Keith Niven, AICP, CEcD
Director of Economic Development &
Development Services
1775 – 12th Ave NW
Issaquah, Washington 98027
(425) 837-3430

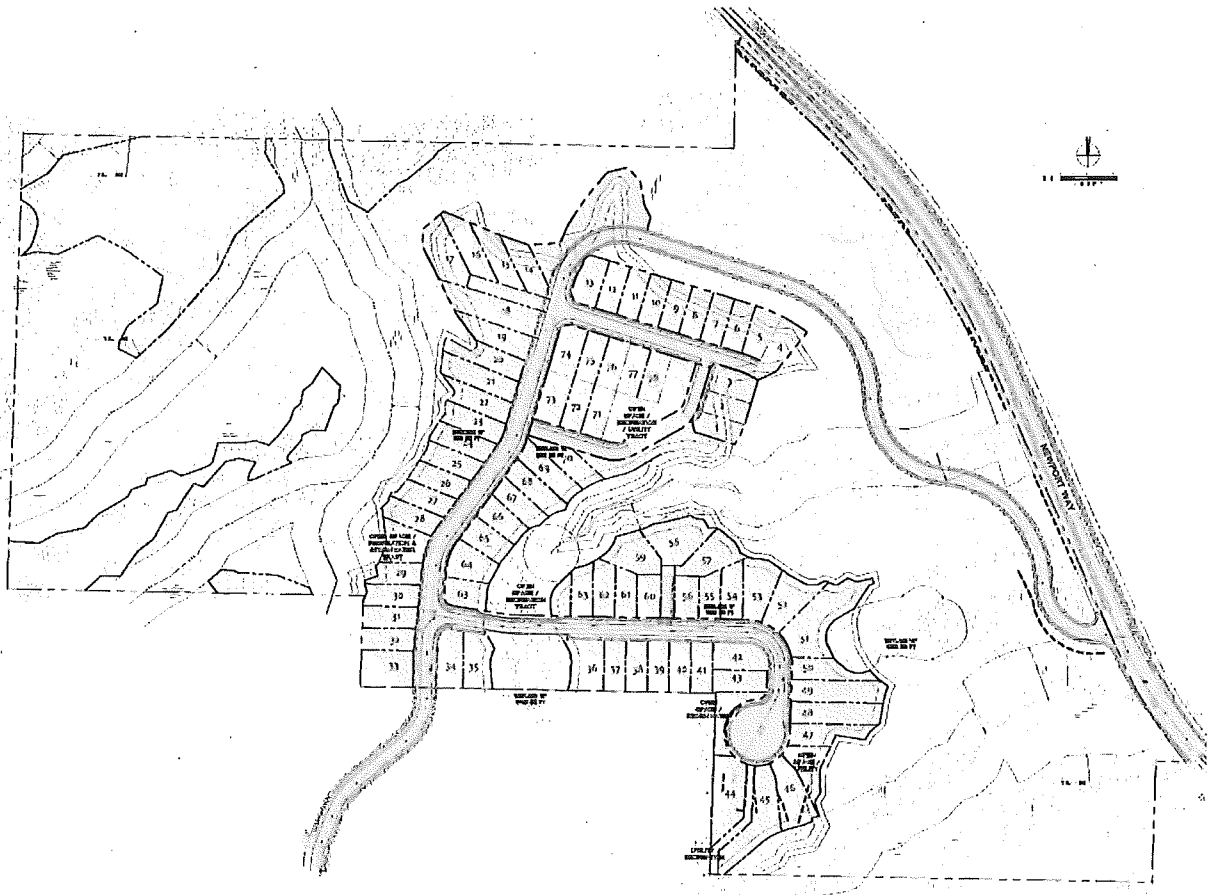
DATE ISSUED: 9 February 2017

SIGNATURE:

A handwritten signature in black ink, appearing to read 'Keith Niven', written over a horizontal line.

NOTE: this determination does not constitute approval of the proposal. The proposal will be reviewed for and required to meet all appropriate City development requirements.

Attachment 1



- Delimitation
- Reconnaissance evaluations
- Permit applications and agency coordination
- Professional report preparation
- Impact analysis and re-grading



- Mitigation planning and monitoring
- Linear projects (road, power and gas lines)
- Historic wetland mapping during construction
- Peer review and permit conditioning
- Wetland inventories

January 31, 2017

Keith Niven
Environmental Planner
City of Issaquah
1775 12th Ave NW
Issaquah, WA 98027

Re: Bergsma Plat
Revised Plat Layout Wetland Impacts

Dear Keith:

Greg Krabbe has asked me to provide you with a statement regarding proposed wetland impacts that would occur as a result of a revised plat layout (attached).

I have reviewed the new layout and concluded that no changes to wetland or wetland buffers are proposed.

Thank you for the opportunity to provide you with this information. Please do not hesitate to call with questions or concerns.

Sincerely,

Celeste Botha

Attachment:

Site Plan for SEPA

Except from updated traffic report:

1. EXECUTIVE SUMMARY

Gibson Traffic Consultants, Inc. (GTC) was hired to provide a traffic analysis of the 78-unit Bergsma Development. The development is located on the west side of Newport Way, west of SR-900. The analysis was scoped with City of Issaquah staff to include the intersections of SR-900 at Newport Way and Newport Way at the site access. This report incorporates comments received from the City of Issaquah and WSDOT in May 2016 and August 2016. The analysis has been performed for the AM and PM peak-hour and also includes an analysis with the reassignment of trips from the Talus Development with a connection through the Bergsma Development. The analysis shows that the intersection of SR-900 at Newport Way and the site access will operate at acceptable levels of service during the AM and PM peak-hour with the development and with the reassignment of the Talus Development trips. The only exception to this is the driveway(s) on the opposite side of the site access will operate at a deficient level of service with the Talus Development trips. Frontage improvements and payment of the appropriate traffic impact fee is all that should be required to mitigate the impacts of the development. The current traffic impact fee, \$7,904.10 per unit, results in a total traffic mitigation fee of \$616,519.80.

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for Lead Agencies:

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals:

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

A. Background

1. Name of proposed project, if applicable: ***Bergsma Plat***
2. Name of applicant: ***Windward Real Estate Services, Inc.,***
3. Address and phone number of applicant and contact person:
Attn: Greg Krabbe
805 Kirkland Ave, Suite 200,

Kirkland, Washington 98033

4. Date checklist prepared: **December 2016**
5. Agency requesting checklist: **City of Issaquah**
6. Proposed timing or schedule (including phasing, if applicable):
Construction 2017/2018
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. **No.**
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. **None.**
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. **None.**
10. List any government approvals or permits that will be needed for your proposal, if known.
NPDES, site development grading permit, building permit, ROW use permit.
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The proposal is to develop the site as 78 single-family homes. The 46-acre property is currently covered by forest. The project fronts the existing right-of-way along Newport Way NW; therefore, the project will require frontage improvements.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The project site is located at 1763 Newport Way NW in the City of Issaquah, King County, Washington. Specifically, the project is in Section 29, Township 24 North, Range 6 East, W.M. The site is bordered by Talus to the south, and park open spaces to the north and west of the project.

B. ENVIRONMENTAL ELEMENTS

1. Earth

- a. General description of the site:

(circle one): Flat, rolling, hilly, steep slopes, mountainous, other

- b. What is the steepest slope on the site (approximate percent slope)? **50%**
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

The site is generally underlain by loose to medium dense deposits of silty sand with varying amounts of gravel, sand with varying amounts of silt and gravel, and sandy gravel with varying amounts of silt, and soft to medium stiff deposits of sandy silt, clayey silt, and silt to depths of 15 to 20 feet. Below 15 to 20 feet, the deposits become very dense silty sand with varying amounts of gravel and silty sandy gravel, and hard clay.

- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. **No.**
- e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.
***The site will be graded so that the homes can be placed on flat pads. Anticipated volumes are as follows:
Cut: 134,500 CY
Fill: 46,500 CY
Net: 88,000 CY (Export)
Fill material will be provided by material on site.***
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.
Yes. Due to moderate slopes, potential erosion may occur.
- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?
The proposed site has 16.2% impervious surfaces.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:
Silt fences, interceptor swales, underground vault.

2. Air

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known. **Dust, automobile.**
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. **No.**
- c. Proposed measures to reduce or control emissions or other impacts to air, if any:
N/A

3. Water

- a. Surface Water:
- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.
Yes, please refer to the Critical Areas Report.
 - 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.
Yes, please refer to the site plan/grading plan and associated mitigation plan and report.
 - 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected.
Indicate the source of fill material.
Approximately 4,050 SF of wetlands on site will be filled with excess material generated from cut on site.
 - 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. **No.**
 - 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. **No.**

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. **No.**

b. Groundwater:

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. **No.**
- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. **None.**

c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow?
Will this water flow into other waters? If so, describe.
Surface runoff will be collected and detained on site in detention facilities. The facilities will discharge to existing drainage basins.
- 2) Could waste materials enter ground or surface waters? If so, generally describe. **No.**
- 3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe. **No.**

- d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any: **Collect surface runoff in the underground piped system.**

4. Plants

- a. Check the types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
 evergreen tree: fir, cedar, pine, other
 shrubs
 grass
 pasture
 crop or grain
 Orchards, vineyards or other permanent crops.

- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

- b. What kind and amount of vegetation will be removed or altered? **Trees.**
- c. List threatened and endangered species known to be on or near the site.
None.
- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: **Lawns and street trees.**
- e. List all noxious weeds and invasive species known to be on or near the site.
Those typical of Northwest forests, such as Hymalian Blackberry, etc..

5. Animals

- a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

birds: , heron, eagle, , other: _____
 mammals: , bear, elk, beaver, other: _____
 fish: bass, salmon, trout, herring, shellfish, other: _____

- b. List any threatened and endangered species known to be on or near the site.
None Identified.
- c. Is the site part of a migration route? If so, explain. **No.**
- d. Proposed measures to preserve or enhance wildlife, if any:
Preservation of natural areas on site.
- e. List any invasive animal species known to be on or near the site.
None.

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
Electricity and gas (TBD) are available to the site.
- b. Would your project affect the potential use of solar energy by adjacent properties?
If so, generally describe. **No.**

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Energy efficient fixtures, appliances, windows and doors. Homes will be insulated to industry standards.

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe. **None have been identified.**

- 1) Describe any known or possible contamination at the site from present or past uses. **N/A**
- 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity. **None.**
- 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project. **None.**
- 4) Describe special emergency services that might be required. **Those typical of residential urban developments.**
- 5) Proposed measures to reduce or control environmental health hazards, if any: **None.**

- b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? **Traffic.**
- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
Short-term: Construction noise from 7 a.m. to 5 p.m.
Long-term: Residential/urban activity
- 3) Proposed measures to reduce or control noise impacts, if any: **Sound mitigation equipment will be utilized on machinery.**

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.
Single family residences.
- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? **N/A**
- 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how: **No.**
- c. Describe any structures on the site. **None on site.**
- d. Will any structures be demolished? If so, what? **N/A**
- e. What is the current zoning classification of the site? **Split zoned: SF-S and SF-E.**
- f. What is the current comprehensive plan designation of the site? **Residential.**
- g. If applicable, what is the current shoreline master program designation of the site? **N/A**
- h. Has any part of the site been classified as a critical area by the city or county? If so, specify. **Yes, please refer to the Critical Areas Report reviewed by the City.**
- i. Approximately how many people would reside or work in the completed project?
78 DUs x 2.5 people per unit = 195 ±
- j. Approximately how many people would the completed project displace?
None.
- k. Proposed measures to avoid or reduce displacement impacts, if any: **N/A**
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
Suburban development is consistent with adjoining properties and the context of the Urban Growth Plan.
- m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any: **N/A**

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
78 homes as mid/high income housing.
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. **None.**
- c. Proposed measures to reduce or control housing impacts, if any: **None.**

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
Building height will be consistent with current regulations, with wood siding.
- b. What views in the immediate vicinity would be altered or obstructed? **None.**
- c. Proposed measures to reduce or control aesthetic impacts, if any:
Contextually appropriate architecture.

11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur? **None.**
- b. Could light or glare from the finished project be a safety hazard or interfere with views? **No.**
- c. What existing off-site sources of light or glare may affect your proposal? **Street lights.**
- d. Proposed measures to reduce or control light and glare impacts, if any: **None.**

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?
Community parks and regional parks.
- b. Would the proposed project displace any existing recreational uses? If so, describe. **No.**
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:
Per IMC, park requirements will be met.

13. Historic and cultural preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.
No.
- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources. **No.**
- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc. **N/A**
- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required. **N/A**

14. Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.
Project connects to Newport Way NW.
- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?
Yes, a bus stop is located approximately ¼ mile from the property.
- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?
Thirty-two are proposed. None are eliminated.
- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).
Project will require improvements to Newport Way NW and will widen the paved area of the existing R.O.W.
- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. **No.**
- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates? **Please refer to traffic report.**

- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe. **No.**
- h. Proposed measures to reduce or control transportation impacts, if any:
Transportation mitigation fees will be paid.

15. Public Services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe. **Yes.**
- b. Proposed measures to reduce or control direct impacts on public services, if any. **No.**

16. Utilities

- a. Circle utilities currently available at the site:
electricity, natural gas, water, refuse service, telephone, sanitary sewer,
septic system, other _____
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.
Water & Sewer: Sammamish Plateau Water & Sewer District
Electricity & Gas: PSE
Garbage: Waste Management

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: _____

Name of signee _____

Position and Agency/Organization _____

Date Submitted: _____

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF ISSAQUAH**

In the Matter of the Application of)	No. VAR16-00001
)	
Greg Krabbe, on behalf of)	Windward Development
Windward Real Estate Services)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of Variances</u>)	AND DECISION

SUMMARY OF DECISION

The request for three variances from City of Issaquah Critical Areas Regulations associated with the proposed Windward Development Preliminary Plat at 1763 Newport Way NW is conditionally **APPROVED**. The variances shall only be deemed approved if the City Council declines to open alternate access to the site. Conditions are necessary to mitigate project impacts and to ensure compliance with the Issaquah Municipal Code, including a condition to re-open review of the variance requests at the time of preliminary plat review.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held a public hearing on the request on February 14, 2017.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Keith Niven, City Economic Development Services Director
Doug Schlepp, City Engineering Consultant
Greg Krabbe, Applicant Representative
Steve Pereira
Tim Kimble
David Kappler
Kay Haynes
Marira Subbaiah
Kasy Schlick
Rigel Rierson
Dan Elmer
Jack Goldberg

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, undated
2. Vicinity Map, dated January 2016
3. Variance narratives, dated January 2016

*Findings, Conclusions, and Decision
City of Issaquah Hearing Examiner
Windward Development Variance, No. VAR16-00001*

4. Public Notices
 - a. Affidavit of Service of Mailing Notice of Application & Public Hearing, dated January 11, 2017
 - b. Notice of Application & Notice of Public Hearing, dated December 16, 2016
5. Public Hearing Notice, *Issaquah Reporter*, dated January 27, 2017
6. Final Mitigated Determination of Nonsignificance, issued February 9, 2017, with three attachments; and SEPA Environmental Checklist, unsigned and undated
7. Email from Jon Francis to Keith Niven, undated
8. Email from Geraldine Carey to Keith Niven, dated February 9, 2017; email from Geraldine Carey to Keith Niven, dated February 11, 2017
9. Email from Connie Marsh to Keith Niven, dated February 12, 2017
10. Bergsma Critical Area Variance PowerPoint (10 slides), dated February 14, 2017
11. Letter from Issaquah Alps Trails Club to Hearing Examiner, undated
12. Letter from Mary Lynch to Keith Niven, dated February 12, 2017
13. Email from Geraldine Carey to Keith Niven, dated February 14, 2017 12:24 AM; email from Geraldine Carey to Keith Niven, dated February 14, 2017 7:26 AM
14. Testimony in Opposition to the Proposed Bergsma Variances from Kay Haynes, undated

The Hearing Examiner enters the following findings and conclusions based upon the admitted testimony and exhibits:

FINDINGS

Application and Notice

1. Greg Krabbe, on behalf of Windward Real Estate Services (Applicant), requests approval of three¹ Critical Areas Variances (Requests 2, 3 and 4) in order to construct site preparation and 78 clustered single-family homes.² The property is located at 1763 Newport Way NW.³ *Exhibit 1, Staff Report, pages 1 through 3; Exhibit 3.*

¹ The Applicant requested four variances. However, the Notice of Application & Notice of Public Hearing identified only three requested variances. Therefore, the request to modify the definition and location of the “Top of Slope” will not be addressed in this decision because of lack of adequate notice of hearing. In addition, the Staff Report references a wetland buffer variance, but the Applicant did not apply for a wetland buffer variance. Any need for a variance from wetland buffers can be addressed at the time of preliminary plat review. *Exhibit 1, Staff Report, pages 2, 5 and 6; Exhibit 3; Exhibit 4.b.*

² The staff report refers to the “Windward Development Variance Request,” and also to the proposed “Bergsma Variances.” *Exhibit 1, Staff Report, page 6.* The Hearing Examiner will refer to the variance requests as those related to the Windward Development proposal.

³ The Notice of Application & Notice of Public Hearing identified the property by Tax Assessor Parcel Nos. 2024069003, -9008, -9009, -9010, -9013, and -9017. *Exhibit 4.b.* The Mitigated Determination of Nonsignificance identified the property as including -9004, but not -9017. *Exhibit 6.* The staff report identified the property as including -9004, but not -9010. *Exhibit 1, Staff Report, page 1.* The exact parcels impacted by the three variance requests should be clarified prior to final approval of the variances following any additional review during the preliminary plat hearing.

2. The City of Issaquah (City) received the application for the variances on January 25, 2016, and determined the application was complete on February 3, 2016. The City mailed a Notice of Application to adjacent property owners within 300 feet of the site on November 30, 2016. The City posted notice of the application and public hearing on the site with a revised hearing date on January 10, 2017, and the next day mailed notice to adjacent property owners and parties of record. The City published notice in the *Issaquah Report* on January 27, 2017. The notice provided by the City prompted a number of comments from neighboring property owners, as discussed more fully below. *Exhibit 1, Staff Report, page 3; Exhibit 4; Exhibit 5.*

State Environmental Policy Act

3. The City acted as lead agency and analyzed the environmental impacts of the underlying preliminary plat proposal under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW. The City issued a Proposed Mitigated Determination of Nonsignificance (MDNS) on January 13, 2017, with a comment deadline of February 3, 2017. *Washington Administrative Code (WAC) 197-11-340(2)*. The City reviewed the Applicant's Environmental Checklist⁴ and other information on file including comments from Public Works Engineering and Operations Departments, as well as comments from Connie Marsh, David Kappler, Geraldine Carey, Karen Walter, and Jon Francis concerning issues related to trail connectivity, critical area impacts, street grade, hauling impacts, visual impacts, and traffic impacts. The City addressed these comments as part of the MDNS and determined that, with mitigation measures, the proposed variances would not have probable significant adverse impacts on the environment. The City issued a Mitigated Determination of Nonsignificance (MDNS) on February 9, 2017, and determined that the proposal to develop the site as 78 single-family homes through a clustered subdivision would not require the preparation of an environmental impact statement if 47 conditions were met. The MDNS was not appealed. The MDNS conditions are proposed as variance conditions. *Exhibit 1; Staff Report, pages 3 and 6; Exhibit 6.*

Comprehensive Plan, Zoning, and Surrounding Property

4. The City identified the Comprehensive Plan designation for the property as Low Density Residential. The City's Comprehensive Plan sets out polices including those to retain existing trees in critical areas and buffers (LU B-2); require new development to comply with adopted standards and buffers to protect critical areas (LU C-3); and identify and implement stormwater solutions that promote development, while also protecting

⁴ The Applicant's Environmental Checklist was neither signed nor dated. Greg Krabbe, Applicant Representative, testified that he prepared the Environmental Checklist around January of 2016. *Exhibit 6; Testimony of Mr. Krabbe.*

receiving streams and groundwater (LU D-3).⁵ *Comprehensive Plan (updated June 30, 2015). Exhibit 1, Staff Report, page 2; Exhibit 6.*

5. The property is split zoned Single Family – Suburban Estates (SF-E) (1.24 du/acre) and Single Family - Suburban (SF-S) (4.5 du/acre).⁶ The primary purpose of the SF-E zone is to provide for single family neighborhoods and hobby farms in a setting of larger lots, while protecting environmentally critical areas including wetlands, steep slopes and flood hazard areas. Permitted uses include detached single family homes. *IMC 18.06.100.B.* The primary purpose of the SF-S district is to provide for single-family neighborhoods in an urban setting, while buffering those neighborhoods from commercial services. Permitted uses include detached single family homes. *IMC 18.06.100.C.* Land uses to the north include Cougar Mountain Park and to the southwest include Harvey Manning Park and undeveloped residential. The Talus subdivision and Puget Sound Energy property are located to the south while Newport Way NW fronts the property on the east. *Exhibit 1, Staff Report, page 2; Exhibit 6.*

Existing Property

6. The 46-acre property is covered by forest. Steep slopes are located along the west, north, east and south eastern portions of the property, with a plateau in the upper portion of the property. A steep slope critical area where slopes exceed 40 percent is located near the intersection of the proposed preliminary plat entry road and Newport Way NW. Three streams are located in the property, including Stream 3 which would be impacted by one of the proposed variances. Stream 3, located in the southeastern portion of the property, is a Type F/Class 2 resource, with a 100-foot buffer at the lower area of the site.⁷ The Applicant’s Environmental Checklist identified hawks, songbirds, and deer as having been observed or are known to be on or near the site. *Exhibit 1, Staff Report, page 2; Exhibit 2; Exhibit 3; Exhibit 6.*

Proposed Variances

7. The City code defines a variance as “[a] modification of the regulations of the City [Land Use] Code as applied to a specific property when authorized by the Hearing Examiner after he/she finds that the literal application of the provisions of this Code would cause undue and unnecessary hardship in view of the facts and conditions applying to a

⁵ The City identified the following Comprehensive Plan polices as relevant to the underlying preliminary plat as part of its MDNS review: LU A-3 through A-5, A-9, A-10, B-2, C-3, E-2, E-4, G-1, G-3, H-6, H-10; H C-1; P B-6, P C-8.2; C-5; T-B-3, D-3, E-1, F-2, G-3, and I-4. *Exhibit 6.*

⁶ City Engineering Development Services Director Keith Niven testified that the Notice of Application & Notice of Public Hearing switching the Comprehensive Plan designation and Zoning districts was a technical inadequacy, and would not be considered as lack of reasonable notice of the hearing. *Exhibit 4.b; Testimony of Mr. Niven.*

⁷ Finding 25 of the MDNS notes: “At the close of the comment/appeal period, the applicant and the Muckleshoot tribe were in conversations about the Stream typing.” *Exhibit 6.* The Muckleshoot Tribe did not provide any comments for the public hearing. Any issue involving stream typing should be resolved prior to final approval of the variances following any additional review during the preliminary plat hearing.

building or lot.” *IMC 18.02.240*. Of the three variance requests, two would impact the steep slope critical area in the eastern portion of the property. Variance Request 2 would allow for the location of a stormwater detention vault in the steep slope critical area. The detention vault would be located near the intersection of the proposed entry road and Newport Way NW, and would impact approximately 800 square feet of steep slope critical area. Variance Request 3 would allow for the location of the entry road from Newport Way NW up a portion of the site where slopes exceed 40 percent. The proposed entry road would traverse the slope with two lanes and a pedestrian sidewalk. The centerline grade would not exceed 12 percent and would impact approximately 29,310 square feet. City Economic Development Services Director Keith Niven clarified that Variance Requests 2 and 3 seek relief from *IMC 18.10.580*, which governs steep slope areas. Variance Request 4 would allow the entry road to intrude in the outer 50 percent of Stream 3 for a distance of approximately 200 linear feet. Mr. Niven clarified that Variance Request 4 seeks relief from *IMC 18.10.775*, which governs alterations to streams and buffers. *Exhibit 1, Staff Report, pages 2 and 3; Exhibit 3; Testimony of Mr. Niven.*

Public Comment and Response⁸

8. Jon Francis submitted written comments opposing any variances. He referred to development done on steep slopes in Talus Parcel 9 and urged that any access to the proposed plat be through the Talus subdivision where ingress/egress has already been developed. *Exhibit 7*. Geraldine Carey submitted written comments concerning the location of the entry road and mudslides from development in the steep slope area. *Exhibit 8; Exhibit 13*. Mary Lynch submitted written comments requesting that the variances be denied. She noted that the access road and detention vault would require major soil removal, infill, and grading through 40 percent steep slopes and would be contrary to Comprehensive Plan land use policies. *Exhibit 12*. David Kappler, Issaquah Alps Trail Club Vice-President, testified with reference to his written comments suggesting using the Talus Subdivision for access or a shorter access at 15 percent grade. He objected to the City’s proposed Condition 4 to explore turning the detention vault lid into a recreational amenity for the area due to potential litter and graffiti problems. He also requested that any road across the steep slope or within the stream buffer minimize clearing and tree damage, with landscaping of native plantings and elimination of non-native invasive plants. *Exhibit 11; Testimony of Mr. Kappler*. Kay Haynes testified with reference to her written comments opposing the variances so as to preserve critical areas and forested hillsides. She testified that the variance impacts could be avoided if access was provided from the Talus Subdivision. *Exhibit 14; Testimony of Ms. Haynes.*

Steve Pereira expressed opposition to the project because of vegetation removal, traffic concerns, and the amount of wetland filling. Tim Kimble testified in opposition to the project because of the amount of grading and cut removal, as well as traffic, flooding and habitat impacts. He supported alternative access through Harvey Manning Park. Marira

⁸ The City received several public comment letters. Some letters contain comments on impacts from the associated preliminary plat proposal, for which a hearing has not yet been held.

Subbaiah also testified in opposition to the proposed project because of the amount of soil removal and traffic on Newport Way NW. Kasy Schlick testified he owns property at the bottom of the hill where the access road would come into Newport Way NW. He suggested that all approach the project with an open mind, while learning from past mistakes at other area developments. Rigel Rierson testified that the variances are incompatible with the environmental goals of the Comprehensive Plan. Don Elmer testified that he is not opposed to the development, but is concerned that the road down to Newport Way NW would be an invitation to other developments along that road. Jack Goldberg testified concerning the impacts from the proposed stormwater vault and to the stream buffer. *Testimony of Mr. Pereira; Mr. Kimble; Ms. Subbaiah; Mr. Schlick; Ms. Rierson; Mr. Elmer; and Mr. Goldberg.*

9. Applicant representative Mr. Krabbe responded that many of the public comments appeared to be directed at the proposed preliminary plat development, rather than the variances. He testified that a significant portion of the site would be transferred to City Parks and that they were in discussions with the City concerning traffic impacts. He testified that at this point access through City property to the Talus Subdivision is not available, but that he is not opposed to it. He testified that he looked at various access points with the City, but that the City requires no more than a 12 percent grade which makes alternatives difficult to find. He agreed that the proposed detention vault would not be suitable for recreation and that a more detailed soil hauling plan is needed, which he stated could be addressed at the preliminary plat review stage. City Engineer Consultant Doug Schlepp testified that a hauling route cannot be determined until a contractor is chosen, which typically occurs following preliminary plat approval as a condition of that approval. *Testimony of Mr. Krabbe and Mr. Schlepp.*
10. City Economic and Development Services Director Mr. Niven noted that the variances would only be effective if the City Council approved a Development Agreement⁹ and if a preliminary plat was approved by the Hearing Examiner. Mr. Niven referenced LU Goal A of the Comprehensive Plan as relevant to the proposed variances, as it states a goal to “maintain and enhance the natural systems and features of the City and surrounding area from the potentially negative impact of human activities, including but not limited to, land development.” *Comprehensive Plan, page LU-7.* He also referenced Land Use policy LU A-5, which provides that new and infill development should be made compatible through such measures including limited clearing/grading provisions, protection and preservation of existing tree canopy, and limiting the size of development and number of buildings within clusters. *Comprehensive Plan, page LU-8.* He noted that the proposed development is allowed through clustered development and that 66 percent of the existing tree canopy would remain. He explained that a secondary access for either the public or emergency vehicles could possibly be provided through the neighboring

⁹ City code on cluster housing standards provides for Development Agreements, which “must be approved by the City Council prior to or concurrently with a plat decision and/or other land use decision located on commonly owned, contiguous parcels of land totaling five (5) or more acres of land.” *IMC 18.07.420.C.*

Talus Subdivision, although there is an intervening piece of City Utility property that is partially used by the City Parks Department (Harvey Manning Park) such that City Council approval would be required. He testified that cumulative impacts from additional requests for like actions in the area were considered, but he determined that there were no other properties in the area with this type of steep slopes. He also noted that the Applicant is not requesting a variance for the filling of wetlands at this time.
Testimony of Mr. Niven.

Staff Recommendation

11. City staff recommended approval of the variances, with conditions. These conditions require the Applicant to comply with the conditions of the MDNS issued for the project; provide a restoration and enhancement plan for stream buffer impacts prior to final plat approval; provide a mitigation plan to address visual impacts for steep slope grading; and conceal the presence of the vault. *Exhibit 1, Staff Report, page 6.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide variance applications. The Hearing Examiner may approve, approve with conditions, or deny a variance application based on the decision criteria, staff report, public comments, and discussion of the issues. *IMC 18.04.490.B.*

Criteria for Review

Variances from critical areas regulations are decided using approval criteria found in IMC 18.04.490.B.2 and IMC 18.10.430.D. *IMC 18.04.490.B.2; IMC 18.10.430.C.* Before any variance may be granted, the Applicant must show:

- a. The variance is in harmony with the purpose and intent of the relevant City ordinances and the Comprehensive Plan;
- b. The variance shall not constitute a grant of special privilege which would be inconsistent with the permitted uses, or other properties in the vicinity and zone in which the property is located;
- c. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the property, and such variance will provide use rights and privileges permitted to other properties in the vicinity, located in the same zone as the property, and developed under the same land use regulations as the property requesting the variance;
- d. The granting of such variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;
- e. Alternative development concepts in compliance with the existing Code have been evaluated and undue hardship would result if such strict adherence to Code provisions is required;
- f. The variance granted is the minimum amount necessary to comply with the approval criteria listed above and the minimum necessary to

accommodate the permitted uses proposed by the application; in addition, the scale of the use has been reduced as necessary to meet this requirement; and

- g. The basis for the variance request is not the result of deliberate actions of the applicant or property owner.

IMC 18.04.490.B.2; IMC 18.10.430.D.

In addition, the City Council requires the Hearing Examiner to undertake the following review:

In the granting to variances from this Code, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies and intent set forth in this chapter.

IMC 18.10.430.G.

The criteria for review adopted by the Issaquah City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

- 1. With conditions, a variance from IMC 18.10.580 to allow the location of a stormwater detention vault within a steep slope critical area would satisfy the variance criteria established by the City Council and thus should be approved. Conditions are necessary to ensure that the presence of the stormwater vault is concealed and to ensure compliance with MDNS conditions.**

The Comprehensive Plan specifies goals and policies to protect and preserve existing tree canopy by reducing clearing and grading and by limiting the size of development and the number of buildings within clusters. Although several residents testified to their opinions of inconsistency with the Comprehensive Plan due to removal of up to 34% of the tree canopy, the Director of Economic and Development Services testified that the proposed development, including the variance requests, would be consistent with the applicable Comprehensive Plan goals and policies identified during the City's review of the variance requests. Specifically, it was noted that 66% of the tree canopy would be preserved, and that cluster housing would result in less disturbance of the land, as contemplated by the Comprehensive Plan and the zoning adopted in accord with that plan. The Hearing Examiner must give substantial weight to the testimony of those charged with the administration and implementation of the Comprehensive Plan. Here, Mr. Niven as the Director of Economic and Development Services, testified that his professional opinion is that the proposed development, including the variances, is consistent with the Comprehensive Plan and the purpose and intent of the underlying ordinances. Therefore, this criterion has been met.

*Findings, Conclusions, and Decision
City of Issaquah Hearing Examiner
Windward Development Variance, No. VAR16-00001*

The variance requests, if approved, would not grant the Applicant a special privilege inconsistent with the permitted uses on other properties in the vicinity. The Applicant requests the variances to allow a use of the property in a manner consistent with the surrounding properties, including existing subdivisions that are developed with single-family residences. The Applicant is proposing a cluster housing project, which is consistent with the City code. Therefore, this criterion has been met.

The need for the variances arises from special circumstances relating to the shape and topography of the parcel. The wetlands, steep slopes, streams and associated buffers would prevent the Applicant from developing the property with single-family residences without the requested variances, unless alternative access is provided. With a condition, this criterion would be met.

Approval of the variances would not be materially detrimental to public welfare or injurious to nearby properties. The City determined when it issued its MDNS that, with 47 conditions, the proposal would not have significant adverse environmental impacts. The conditions address development of the site, including many of the concerns raised by the public at the hearing on the variances including hauling of material, removal of non-native vegetation, timing of development during the dry season, siltation control, erosion and sedimentation control, protection of exposed soil, placement of fill, construction of retaining walls, approval of a wetland mitigation plan, construction of pedestrian facilities, preservation of undeveloped portions of the site, protection from intrusion into mitigation areas, development of recreational amenities, use of natural materials and earth tones to minimize visual impact from homes, and protection of fish-bearing streams. The MDNS determination was not appealed. With conditions related to alternative access and further review during the preliminary plat review process, this criterion would be met.

Alternative development concepts have not been fully considered. Other development concepts may be considered by the City Council as part of any Development Agreement with the Applicant for the development of the property. Alternative development concepts may also evolve through the preliminary plat review process. Therefore, any approval of these variance requests must be conditioned subject to the adoption of a Development Agreement with the City Council and the review of any proposed preliminary plat for the property. With such conditions, this criterion would be met.

The variances requested are the minimum variance necessary given the current restrictions on development of an access road. The Applicant examined other shorter access points along Newport Way NW, but was required to select a route to maintain a 12 percent grade in accord with City requirements. Although the Applicant is open to other access road locations, those are not currently available to him. Alternative access points may become available to the Applicant during any review of a Development Agreement

by the City Council and during review of any preliminary plat proposal. Therefore, with conditions, this criterion would be met.

The need for the variance did not result from the actions of the Applicant or the previous owners of the property. The variance is necessary because of the presence of the wetlands, steep slopes, and streams on the property. Neither the Applicant nor previous owners created the wetlands, steep slopes, or streams.

In addition to conditions related to City Council approval of a Development Agreement, and further review during the preliminary plat review process, conditions are necessary to ensure that the Applicant complies with the conditions of the MDNS issued for the proposed project and provides a design to conceal the presence of the vault to be approved by the City prior to final plat approval.

Findings 1-11.

2. **With conditions, a variance from IMC 18.10.580 to allow the location of the portion of an access road within a steep slope critical area would satisfy the variance criteria established by the City Council and thus should be approved. Conditions are necessary to ensure compliance with MDNS conditions, and to ensure that the proposed access road is consistent with any Development Agreement approved by the City Council and with any proposed preliminary plat yet to be reviewed by the City.**

The Comprehensive Plan specifies goals and policies to protect and preserve existing tree canopy by reducing clearing and grading and by limiting the size of development and the number of buildings within clusters. Although several residents testified to their opinions of inconsistency with the Comprehensive Plan due to removal of up to 34% of the tree canopy, the Director of Economic and Development Services testified that the proposed development, including the variance requests, would be consistent with the applicable Comprehensive Plan goals and policies identified during the City's review of the variance requests. Specifically, it was noted that 66% of the tree canopy would be preserved, and that cluster housing would result in less disturbance of the land, as contemplated by the Comprehensive Plan and the zoning adopted in accord with that plan. The Hearing Examiner must give substantial weight to the testimony of those charged with the administration and implementation of the Comprehensive Plan. Here, Mr. Niven as the Director of Economic and Development Services, testified that his professional opinion is that the proposed development, including the variances, is consistent with the Comprehensive Plan and the purpose and intent of the underlying ordinances. Therefore, this criterion has been met.

The variance requests, if approved, would not grant the Applicant a special privilege inconsistent with the permitted uses on other properties in the vicinity. The Applicant requests the variances to allow a use of the property in a manner consistent with the surrounding properties, including existing subdivisions that are developed with single-

family residences. The Applicant is proposing a cluster housing project, which is consistent with the City code. Therefore, this criterion has been met.

The need for the variances arises from special circumstances relating to the shape and topography of the parcel. The wetlands, steep slopes, streams and associated buffers would prevent the Applicant from developing the property with single-family residences without the requested variances, unless alternative access is provided. With a condition, this criterion would be met.

Approval of the variances would not be materially detrimental to public welfare or injurious to nearby properties. The City determined when it issued its MDNS that, with 47 conditions, the proposal would not have significant adverse environmental impacts. The conditions address development of the site, including many of the concerns raised by the public at the hearing on the variances including hauling of material, removal of non-native vegetation, timing of development during the dry season, siltation control, erosion and sedimentation control, protection of exposed soil, placement of fill, construction of retaining walls, approval of a wetland mitigation plan, construction of pedestrian facilities, preservation of undeveloped portions of the site, protection from intrusion into mitigation areas, development of recreational amenities, use of natural materials and earth tones to minimize visual impact from homes, and protection of fish-bearing streams. The MDNS determination was not appealed. With conditions related to alternative access and further review during the preliminary plat review process, this criterion would be met.

Alternative development concepts have not been fully considered. Other development concepts may be considered by the City Council as part of any Development Agreement with the Applicant for the development of the property. Alternative development concepts may also evolve through the preliminary plat review process. Therefore, any approval of these variance requests must be conditioned subject to the adoption of a Development Agreement with the City Council and the review of any proposed preliminary plat for the property. With such conditions, this criterion would be met.

The variances requested are the minimum variance necessary given the current restrictions on development of an access road. The Applicant examined other shorter access points along Newport Way NW, but was required to select a route to maintain a 12 percent grade in accord with City requirements. Although the Applicant is open to other access road locations, those are not currently available to him. Alternative access points may become available to the Applicant during any review of a Development Agreement by the City Council and during review of any preliminary plat proposal. Therefore, with conditions, this criterion would be met.

The need for the variance did not result from the actions of the Applicant or the previous owners of the property. The variance is necessary because of the presence of the

wetlands, steep slopes, and streams on the property. Neither the Applicant nor previous owners created the wetlands, steep slopes, or streams.

In addition to conditions related to City Council approval of a Development Agreement, and further review during the preliminary plat review process, conditions are necessary to ensure that the Applicant complies with the conditions of the MDNS issued for the proposed project and that the Applicant provides a mitigation plan that addresses the visual impacts of the disturbed cut and fill and the walls, to be approved by the City prior to final plat approval. *Findings 1-11.*

3. **With conditions, a variance from IMC 18.10.775 to allow for modification of stream buffers to allow the intrusion of an access road into the outer 50 percent of Stream 3 would satisfy the variance criteria established by the City Council and thus should be approved. Conditions are necessary to ensure compliance with MDNS conditions, and to ensure that the proposed access road is consistent with any Development Agreement approved by the City Council and with any proposed preliminary plat yet to be reviewed by the City.**

The Comprehensive Plan specifies goals and policies to protect and preserve existing tree canopy by reducing clearing and grading and by limiting the size of development and the number of buildings within clusters. Although several residents testified to their opinions of inconsistency with the Comprehensive Plan due to removal of up to 34% of the tree canopy, the Director of Economic and Development Services testified that the proposed development, including the variance requests, would be consistent with the applicable Comprehensive Plan goals and policies identified during the City's review of the variance requests. Specifically, it was noted that 66% of the tree canopy would be preserved, and that cluster housing would result in less disturbance of the land, as contemplated by the Comprehensive Plan and the zoning adopted in accord with that plan. The Hearing Examiner must give substantial weight to the testimony of those charged with the administration and implementation of the Comprehensive Plan. Here, Mr. Niven as the Director of Economic and Development Services, testified that his professional opinion is that the proposed development, including the variances, is consistent with the Comprehensive Plan and the purpose and intent of the underlying ordinances. Therefore, this criterion has been met.

The variance requests, if approved, would not grant the Applicant a special privilege inconsistent with the permitted uses on other properties in the vicinity. The Applicant requests the variances to allow a use of the property in a manner consistent with the surrounding properties, including existing subdivisions that are developed with single-family residences. The Applicant is proposing a cluster housing project, which is consistent with the City code. Therefore, this criterion has been met.

The need for the variances arises from special circumstances relating to the shape and topography of the parcel. The wetlands, steep slopes, streams and associated buffers

would prevent the Applicant from developing the property with single-family residences without the requested variances, unless alternative access is provided. With a condition, this criterion would be met.

Approval of the variances would not be materially detrimental to public welfare or injurious to nearby properties. The City determined when it issued its MDNS that, with 47 conditions, the proposal would not have significant adverse environmental impacts. The conditions address development of the site, including many of the concerns raised by the public at the hearing on the variances including hauling of material, removal of non-native vegetation, timing of development during the dry season, siltation control, erosion and sedimentation control, protection of exposed soil, placement of fill, construction of retaining walls, approval of a wetland mitigation plan, construction of pedestrian facilities, preservation of undeveloped portions of the site, protection from intrusion into mitigation areas, development of recreational amenities, use of natural materials and earth tones to minimize visual impact from homes, and protection of fish-bearing streams. The MDNS determination was not appealed. With conditions related to alternative access and further review during the preliminary plat review process, this criterion would be met.

Alternative development concepts have not been fully considered. Other development concepts may be considered by the City Council as part of any Development Agreement with the Applicant for the development of the property. Alternative development concepts may also evolve through the preliminary plat review process. Therefore, any approval of these variance requests must be conditioned subject to the adoption of a Development Agreement with the City Council and the review of any proposed preliminary plat for the property. With such conditions, this criterion would be met.

The variances requested are the minimum variance necessary given the current restrictions on development of an access road. The Applicant examined other shorter access points along Newport Way NW, but was required to select a route to maintain a 12 percent grade in accord with City requirements. Although the Applicant is open to other access road locations, those are not currently available to him. Alternative access points may become available to the Applicant during any review of a Development Agreement by the City Council and during review of any preliminary plat proposal. Therefore, with conditions, this criterion would be met.

The need for the variance did not result from the actions of the Applicant or the previous owners of the property. The variance is necessary because of the presence of the wetlands, steep slopes, and streams on the property. Neither the Applicant nor previous owners created the wetlands, steep slopes, or streams.

In addition to conditions related to City Council approval of a Development Agreement, and further review during the preliminary plat review process, conditions are necessary to ensure that the Applicant complies with the conditions of the MDNS issued for the proposed project and provides conditions are necessary to ensure that the Applicant

complies with the conditions of the MDNS issued for the project and provides a restoration and enhancement plan for stream buffer impacts to be approved by the City prior to final plat approval.

Findings 1-11.

4. **Consideration has been given to the cumulative impact of additional requests for like actions in the area.** City staff testified that there were no other similar properties with steep slopes and no possibility of like actions in the area or possible cumulative impacts. *IMC 18.10.430.G.* The IMC requires only consideration of project cumulative impacts during the variance approval process. It does not require any particular methodology for that consideration or any particular decision if the analysis reveals the likelihood of cumulative impacts. Here, City staff examined the possibility of other steep slope and stream variance requests near the property. The City issued a Mitigated Determination of Nonsignificance (MDNS) with 47 conditions for this proposed project. That determination, which was not appealed, means that the project, as conditioned, would not have probable significant adverse environmental impacts. City standards and regulations mitigate the effects of development, and the Applicant would need to comply with those standards. Reasonably foreseeable future actions may contribute to cumulative impacts. *IMC 18.10.430.G* requires that these reasonably foreseeable future actions be “like actions.” Accordingly, the Hearing Examiner must look to whether it is reasonably foreseeable that another applicant would seek a variance for a cluster subdivision in the area. No evidence was provided that indicates that such a request is reasonably foreseeable. Therefore, the requirements of *IMC 18.10.430.G* have been satisfied. *Findings 10-11.*

DECISION

Based on the preceding findings and conclusions, the request for three variances from City of Issaquah Critical Areas Regulations associated with the proposed Windward Development Preliminary Plat at 1763 Newport Way NW is conditionally **APPROVED**, with the following conditions:

Conditions Applicable to All Three Variance Approvals

1. Each variance approval is conditioned up and incorporates all of 47 conditions from the Mitigated Determination of Nonsignificance issued for the proposal (MDNS SEP 17-00002).
2. Each variance shall be deemed approved only if there is approval of a Development Agreement between the Applicant and the City Council that does not provide for alternate access to the proposed development. If the City Council approves a Development Agreement which accepts and confirms the proposed access road off of Newport Way NW, then each variance shall be approved subject to further conditions as specified below, and shall be noted on any preliminary plat application.

*Findings, Conclusions, and Decision
City of Issaquah Hearing Examiner
Windward Development Variance, No. VAR16-00001*

3. Variance Requests 3 and 4, related to the proposed road location, shall be subject to further review during the preliminary plat review process and may be modified or further conditioned as part of that preliminary plat review process.

Conditions Applicable to Specific Variance Approvals

4. Variance Request 2 is approved for placement of a stormwater detention vault which may disturb up to 800 square feet within the steep slope critical area. In addition to the conditions applicable to all variance approvals as specified above, this approval is also conditioned upon City approval, prior to approval of a final plat, of a design submitted by the Applicant to conceal the presence of the vault so it does not add to the visual impact of the proposal.
5. Variance Request 3 is approved for placement of an access road, to be detailed in any approval of a Development Agreement by the City Council and in any preliminary plat approval by the Hearing Examiner. In addition to the conditions applicable to all variance approvals as specified above, this approval is also conditioned upon the Applicant providing a mitigation plan that addresses the visual impacts of the disturbed cut and fill slopes and the walls, to be approved by the City prior to final plat approval.
6. Variance Request 4 is approved for up to a 50% intrusion into the stream buffer of Stream 3 for a distance of approximately 200 feet. In addition to the conditions applicable to all variance approvals as specified above, this approval is also conditioned upon the Applicant providing a restoration and enhancement plan which must be approved by the City prior to final plat approval. The plan must include removal of invasive species and restoration of disturbed areas with native plantings including evergreen trees.

Decided this 27th day of February 2017.



THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center

CITY OF ISSAQUAH
COUGAR MOUNTAIN – HARVEY MANNING PARK ADDITION PROJECT
THE BERGSMA PARCEL

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Agreement is made as of the date this instrument is fully executed by and between THE TRUST FOR PUBLIC LAND, a California nonprofit public benefit corporation ("Seller"), and THE CITY OF ISSAQUAH, a Washington municipal corporation ("Buyer"), for purchase and sale of that certain property situated in King County, Washington, described on Exhibit "A", and all rights appurtenant (the "Property").

1. **PURCHASE PRICE:** The purchase price for the Property is **Ten Million Six Hundred Forty Four Thousand Five Hundred Sixty Four Dollars (US \$10,644,564.00)** ("Purchase Price"). The Purchase Price is payable at closing as follows:

- a. **Seven Million Six Hundred Forty Four Thousand Five Hundred Sixty Four Dollars (US \$7,644,564.00)** in cash; and
- b. **Three Million Dollars (US \$3,000,000.00)** in the form of a promissory note made by Buyer and payable to Seller substantially in the form attached to this Agreement as Exhibit B (the "Note").

2. **TITLE:**

2.1 **Deed:** At closing, Seller will execute and deliver to Buyer a Statutory Warranty Deed conveying and warranting good and marketable title to the Property free and clear of all defects or encumbrances except for the lien of real estate taxes and drainage service charges not yet due and payable and those defects and/or encumbrances (if any) identified on Exhibit "C" (collectively, "Permitted Exceptions").

2.2 **Title Insurance:** At closing, Buyer shall receive (at Seller's expense) an owner's Standard ALTA policy of title insurance, dated as of the closing date and insuring Buyer in the amount of the Purchase Price against loss or damage by reason of defect in Buyer's title to the Property subject only to the printed exclusions appearing in the policy form and any Permitted Exceptions.

3. **CONTINGENCIES:**

3.1 **Environmental Review Contingency:** The sale of the Property is contingent on a determination by Buyer based upon an Environmental Site Assessment that there are not and have not been any significant releases of hazardous materials on the Property. Seller hereby grants Buyer's employees, agents or contractors a right of entry onto the Property for any site inspections performed in connection with such Assessment. In

connection with such inspections, Buyer agrees to hold harmless, indemnify and defend Seller, its officers, agents and employees, from and against all claims, losses, or liability, for injuries, sickness or death of persons, including employees of Buyer caused by or arising out of any act, error or omission of Buyer, its officers, agents, contractors, subcontractors or employees in entering Seller's property for the above purposes, to the extent not caused by or arising out of any act, error or omission of Seller, its officers, agents and employees.

3.2 **Removal of Environmental Contingency:** Buyer shall have through December 21, 2018 to remove the environmental review contingency set forth in Section 3.1 above. Buyer may remove such contingency by sending written notice thereof to Seller pursuant to Paragraph 7 herein. If the environmental review contingency is not removed within this period, then Buyer may terminate this Agreement by sending written notice to Seller. Upon Seller's receipt of such notice, this Agreement shall be null and void.

4. **RISK OF LOSS:** Seller will bear the risk of loss of or damage to the Property prior to closing. In the event of such loss or damage to the Property, Seller shall promptly notify Buyer thereof and Buyer may, in its sole discretion, terminate this Agreement by giving notice of termination to the Seller.

5. **SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS:** Seller represents warrants and covenants to the Buyer at the date of execution of this Agreement and the date of closing that:

5.1 **Authority:** Seller, and the person(s) signing on behalf of Seller, has full power and authority to execute this Agreement and perform Seller's obligations, and if Seller is a corporation, all necessary corporate action to authorize this transaction has been taken;

5.2 **No Leases:** To the best of Seller's actual knowledge, the Property is not subject to any leases, tenancies or rights of persons in possession that will not be removed at closing;

5.3 **No Material Defect:** Seller is unaware of any material defect in the Property;

5.4 **Contamination:** Seller represents and warrants that it has not caused or allowed the generation, treatment, storage, or disposal of hazardous substances on the property, except in accordance with local, state, and federal statutes and regulations, nor caused or allowed the release of any hazardous substance onto, at, or near the Property. Seller is in compliance with all applicable laws, rules, and regulations regarding the handling of hazardous substances, has secured all necessary permits, licenses and approvals necessary to its operation on the Property, and is in compliance with such permits. Seller has not received notice of any proceedings, claims, or lawsuits arising out of its operations on the Property and, to the Seller's knowledge, the property is not, nor has it ever been subject to the release of hazardous substances. Seller's knowledge of the environmental condition is based on the completion of a Phase I Environmental Site Assessment of the Property performed by Index Environmental Services, a copy of which report Seller has provided

to Buyer.

5.5 Fees and Commissions: Seller shall pay for any broker's or other commissions or fees incurred by the Seller in connection with the sale of the Property and Seller shall indemnify and hold Buyer harmless from all such claims for commission and/or fees.

5.6 Indemnification: Seller agrees to indemnify, defend, and hold harmless Buyer, its employees, agents, heirs and assigns, from and against any and all damage, claim, liability, or loss, including reasonable attorney's and other fees, arising out of or in any way connected to the breach of any representation or warranty contained herein. Such duty of indemnification shall include, but not be limited to damage, liability, or loss pursuant to all federal environmental laws, Washington State environmental laws, strict liability and common law.

6. CLOSING:

6.1 Time for Closing: The purchase of the Phase I Property will be closed in the office of the Closing Agent not later than February 28, 2019, subject to the satisfaction of all contingencies set forth in Paragraph 3 herein, or as soon thereafter as practicable. Buyer and Seller shall deposit in escrow with the Closing Agent all instruments, documents and moneys necessary to complete the sale in accordance with this Agreement. As used in this Agreement, "closing" and "date of closing" means the date on which all appropriate documents are recorded and proceeds of the sale are available for disbursement to Seller. The Closing Agent shall be:

Chicago Title Company of Washington
10500 NE 8th Street, Suite 600
Bellevue, WA 98004

6.2 Prorations: Closing Costs: Seller will pay real estate excise taxes (if any are due). Seller shall pay real property taxes prorated through the date of closing. Seller will pay the premium on a standard owner's title insurance policy. Buyer shall pay the cost of recording the Statutory Warranty Deed. Buyer and Seller shall each pay one-half of the Closing Agent's escrow fees.

6.3 Possession: Buyer shall be entitled to possession of the Property at Closing.

7. NOTICES: Any notices required herein shall be given to the parties at the addresses listed below:

TO SELLER:
The Trust for Public Land
901 Fifth Avenue, Suite 1520
Seattle, WA 98164
Attn: Thomas E. Tyner

TO BUYER:
The City of Issaquah
301 Rainier Boulevard South
P.O. Box 1307
Issaquah, WA 98027

8. **GENERAL:** This is the entire agreement of the Buyer and Seller with respect to the Property and supersedes all prior or contemporaneous agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller. Any waivers under this agreement must be in writing. A waiver of any right or remedy in the event of a default will not constitute a waiver of such right or remedy in the event of any subsequent default. This Agreement is for the benefit of, and binding upon, Buyer and Seller and their heirs, personal representatives, successors and assigns. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision. Time is of the essence in this agreement.

9. **WASTE; ALTERATION OF PROPERTY:** Seller shall not commit waste on the Property, nor shall Seller remove trees or other vegetation, coal, minerals or other valuable materials nor shall Seller substantially alter the surface or subsurface of the Property without the express written consent of Buyer.

10. **SURVIVAL OF WARRANTIES:** The terms, covenants, representations and warranties shall not merge in the deed of conveyance, but shall survive closing.

11. **TERMINATION OF OFFER:** This offer shall terminate if not accepted by Seller on or before December 21, 2018.

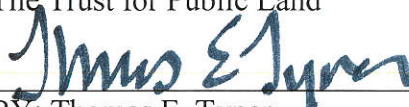
Signed in duplicate original.

BUYER: The City of Issaquah, a Washington municipal corporation

BY: _____
Mary Lou Pauly
Mayor

Date: _____

SELLER:
The Trust for Public Land



BY: Thomas E. Tyner

Title: Division Legal Director

Date: 12/18/2018

EXHIBITS: **Exhibit A**, Legal Description
Exhibit B, Permitted Exceptions/Title Report

LEGAL DESCRIPTION

That portion of the Southwest Quarter of the Southeast Quarter of Section 20, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, lying Southwesterly of the most Westerly margin of Southeast Newport Way (SSH No. 2-D).

Assessor's Parcel No.: 202406-9017-04

The South Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington

Assessor's Parcel No.: 292406-9009-05

That portion of the North Half of the North Half of the Northeast Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, lying Westerly of the western margin of Southeast Newport Way (SSH No. 2-D).

Together with that portion of vacated Southeast Newport Way, vacated May 9, 1932 by commissioner records, which would attach thereto by operation of law.

Assessor's Parcel No.: 292406-9013-01

The North Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington.

Assessor's Parcel No.: 292406-9008-06

The North Half of the Southeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington.

Assessor's Parcel No.: 292406-9003-09

That portion of the South Half of the Northwest Quarter of the Northeast Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, and of the Vacant County Road No. 941 adjoining as may attach by operation of Law, lying Westerly of the Newport-Issaquah Road; Except that portion lying within the South 200 feet of the East 528 feet of said South Half.

Assessor's Parcel No.: 292406-9004-00

EXHIBIT B B

Form of Promissory Note

PROMISSORY NOTE

\$3,000,000.00 (Three Million Dollars)

February __, 2019

Seattle, Washington

FOR VALUE RECEIVED, the undersigned, **THE CITY OF ISSAQUAH**, a political subdivision of the State of Washington (“Borrower”), promises to pay in lawful money of the United States of America to the order of **THE TRUST FOR PUBLIC LAND**, a California nonprofit public benefit corporation (“Lender”), or the holder of this Note, or to such other persons or at such other places as the holder of this Note may designate, the principal sum of **THREE MILLION DOLLARS** (U.S. \$3,000,000.00), together with interest thereon at the rate equal to amounts set forth below.

- a. For the period beginning on the date of this Note and continuing through February __, 2020 (the twelve-month anniversary of the Note), the Note shall not bear interest on the unpaid principal balance.
- b. For the period beginning on February __, 2020, and continuing thereafter until the Note and any accrued interest has been repaid in full, the Note shall bear interest at the rate of 7.25% (seven and a quarter percent) per annum on the unpaid principal balance of the Note.

1. Payments. The entire principal balance of this Note and all accrued and unpaid interest shall be due and payable on February __, 2020 (the date one year from the date of this Note). Interest on this Note as set forth above shall be payable quarterly, beginning on March __, 2020, and continuing quarterly thereafter until the Note is repaid in full. Repayment of this Note is backed by the full faith and credit of the City of Issaquah. In the event Borrower receives grant funds from any source that are available to be applied toward the repayment of this Note, Borrower shall use such grant funds to repay or be applied to the balance due under this Note prior to using such grant funds for any other permissible civic purpose.

2. Prepayment. Borrower, at its option and at any time, may prepay all or any part of the principal of this Note, without penalty. Any such prepayment shall include all accrued but unpaid interest through the date of such prepayment.

3. Default and Acceleration. If Borrower fails to make any payment or principal or interest when due hereunder, Borrower shall be deemed to have committed an Event of Default in which case, then, or at any time thereafter, at the option of the holder of this Note, the principal sum and all accrued interest then outstanding shall become immediately due and payable without further notice and, whether or not this option is exercised, this Note shall thereafter bear interest at a per annum rate equal to twelve percent (12%), and the holder of this Note may pursue any and all other remedies available to it hereunder, at law and in equity. Failure to exercise this option, or any other right the holder may in such event be entitled to, shall not constitute a waiver of the right to exercise such option, or any other right, in the event of any subsequent default.

4. Waiver of Presentment, Etc. Borrower hereby waives presentment, demand, protest, notice of nonpayment hereof, any release or discharge arising from any extension of time, discharge of a prior party, or cause other than an actual payment in full hereof, and promises to pay, in addition to the full sum of principal and interest, all costs of collection, including reasonable attorneys' fees and court costs, incurred by the holder in protecting or enforcing its rights under this Note, including any and all bankruptcy and appellate claims, actions or proceedings.

5. Business Purpose. Borrower hereby warrants to the holder hereof that this Note is given in connection with a transaction entered into exclusively for commercial or business purposes.

6. Governing Law. Borrower agrees that this Note shall be deemed to have been made under and shall be governed by the laws of the State of Washington in all respects, including matters of construction, validity and performance and that none of its terms or provisions may be waived, altered, modified or amended except as the holder of this Note may consent thereto in writing.

7. Time is of Essence. Time is of the essence of this Note and of the payments and performances hereunder.

Executed as of the day and year first above written.

THE CITY OF ISSAQUAH,

a political subdivision of the State of Washington

By: _____

Name: _____

Title: _____

Approved as to form: _____

EXHIBIT C

PERMITTED EXCEPTIONS/TITLE REPORT

Those special exceptions listed on Chicago Title Company of Washington Title Report #0128958-06 dated June 20, 2018, and any supplements thereto (which Title Report and Supplements are incorporated into this Agreement by this reference) numbered 1 (utility easement), 2 (road easement), 3 (telecommunication easement), 4 (utility easement), 5 (State highway access), 6 (reservation of coal and iron), 7 (slope cuts), 8 (slope cuts), 9 (lack of access to public road) and 12-18 (property taxes, all paid current).

Buyer's Estimated Settlement Statement

Settlement Date: February 28, 2019
Disbursement Date: February 28, 2019
Order Number: 190301-SC
Escrow Officer: Paula Adams
Buyer: The City of Issaquah, a Washington municipal corporation
 301 Rainier Blvd S, PO Box 1307
 Issaquah, WA 98027
Seller: The Trust for Public Land, a California nonprofit public benefit corporation
 901 5th Ave, Suite 1520
 Seattle, WA 98164
Lender:
Property: Issaquah, WA 98027

	Buyer	
	Debit	Credit
Financial Consideration		
Purchase Price	10,644,564.00	
Prorations/Adjustments		
Note due Seller		3,000,000.00
Recording Charges		
Excise Tax Processing Fee to King County Treasurer	0.00	
Subtotals	10,644,564.00	3,000,000.00
Balance Due FROM Buyer		7,644,564.00
Totals	10,644,564.00	10,644,564.00

See signature page to follow

Buyer's Estimated Settlement Statement

I have carefully reviewed the Settlement Statement, and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements to be made on my account or by me in this transaction. I further certify that I have received a copy of the Settlement Statement.

BUYER

The City of Issaquah

BY: _____
Mary Lou Pauly
Mayor

PROMISSORY NOTE

\$3,000,000.00 (Three Million Dollars)

February 28, 2019

Seattle, Washington

FOR VALUE RECEIVED, the undersigned, **THE CITY OF ISSAQUAH**, a Washington municipal corporation (“Borrower”), promises to pay in lawful money of the United States of America to the order of **THE TRUST FOR PUBLIC LAND**, a California nonprofit public benefit corporation (“Lender”), or the holder of this Note, or to such other persons or at such other places as the holder of this Note may designate, the principal sum of **THREE MILLION DOLLARS (U.S. \$3,000,000.00)**, together with interest thereon at the rate equal to amounts set forth below.

- a. For the period beginning on the date of this Note and continuing through February 28, 2020 (the twelve-month anniversary of the Note), the Note shall not bear interest on the unpaid principal balance.
 - b. For the period beginning on February 29, 2020, and continuing thereafter until the Note and any accrued interest has been repaid in full, the Note shall bear interest at the rate of 7.25% (seven and a quarter percent) per annum on the unpaid principal balance of the Note.
1. Payments. The entire principal balance of this Note and all accrued and unpaid interest shall be due and payable on February 28, 2020 (the date one year from the date of this Note). Interest on this Note as set forth above shall be payable quarterly, beginning on March 31, 2020, and continuing quarterly thereafter until the Note is repaid in full. Repayment of this Note is backed by the full faith and credit of the City of Issaquah. In the event Borrower receives grant funds from any source that are available to be applied toward the repayment of this Note, Borrower shall use such grant funds to repay or be applied to the balance due under this Note prior to using such grant funds for any other permissible civic purpose.
 2. Prepayment. Borrower, at its option and at any time, may prepay all or any part of the principal of this Note, without penalty. Any such prepayment shall include all accrued but unpaid interest through the date of such prepayment.
 3. Default and Acceleration. If Borrower fails to make any payment or principal or interest when due hereunder, Borrower shall be deemed to have committed an Event of Default in which case, then, or at any time thereafter, at the option of the holder of this Note, the principal sum and all accrued interest then outstanding shall become immediately due and payable without further notice and, whether or

not this option is exercised, this Note shall thereafter bear interest at a per annum rate equal to twelve percent (12%), and the holder of this Note may pursue any and all other remedies available to it hereunder, at law and in equity. Failure to exercise this option, or any other right the holder may in such event be entitled to, shall not constitute a waiver of the right to exercise such option, or any other right, in the event of any subsequent default.

4. Waiver of Presentment, Etc. Borrower hereby waives presentment, demand, protest, notice of nonpayment hereof, any release or discharge arising from any extension of time, discharge of a prior party, or cause other than an actual payment in full hereof, and promises to pay, in addition to the full sum of principal and interest, all costs of collection, including reasonable attorneys' fees and court costs, incurred by the holder in protecting or enforcing its rights under this Note, including any and all bankruptcy and appellate claims, actions or proceedings.

5. Business Purpose. Borrower hereby warrants to the holder hereof that this Note is given in connection with a transaction entered into exclusively for commercial or business purposes.

6. Governing Law. Borrower agrees that this Note shall be deemed to have been made under and shall be governed by the laws of the State of Washington in all respects, including matters of construction, validity and performance and that none of its terms or provisions may be waived, altered, modified or amended except as the holder of this Note may consent thereto in writing.

7. Time is of Essence. Time is of the essence of this Note and of the payments and performances hereunder.


Executed as of the day and year first above written.

THE CITY OF ISSAQUAH,
a Washington municipal corporation

By: 

Name: Mary Lou Pauly

Title: Mayor

Approved as to form: 

Return Address:

City of Issaquah
Attn: City Clerk
PO Box 1307
Issaquah, WA 98027

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document must be filled in)

1. Declaration of Development Restrictions 2. _____
3. _____ 4. _____

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page 1 of document

Grantor(s) Exactly as name(s) appear on document

1. City of Issaquah, Washington, _____
2. _____, _____

Additional names on page 1 of document.

Grantee(s) Exactly as name(s) appear on document

1. City of Issaquah, Washington, _____
2. _____, _____

Additional names on page 1 of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Additional legal is on page 1 of document.

Assessor's Property Tax Parcel/Account Number
assigned

Assessor Tax # not yet assigned

202406-9017-04; 292406-9009-05; 292406-9003-01; 292406-9008-06; 292406-9013-09; 292406-9004-00

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

"I am signing below and paying an additional \$50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."

Signature of Requesting Party

Note to submitter: Do not sign above nor pay additional \$50 fee if the document meets margin/formatting requirements

When Recorded Return to:

CITY OF ISSAQUAH
Attn: City Clerk
PO Box 1307
Issaquah, WA 98027

DECLARATION OF DEVELOPMENT RESTRICTIONS

Grantor:	<u>City of Issaquah</u>
Grantee:	<u>City of Issaquah</u>
Legal Description (abbreviated):	<u>PTN NE NW & NW NE SEC 29-24-6; PTN SW SE SEC 20-24-6</u>
<input checked="" type="checkbox"/> Complete legal on <u>EXHIBIT A</u>	
Assessor's Tax Parcel Identification No(s):	<u>202406-9017-04; 292406-9009-05; 292406-9003-01; 292406-9008-06; 292406-9013-09; 292406-9004-00</u>
Reference No. of Related Documents:	<u>20190228001113; 20191118000925 and 20211202000888</u>

THIS DECLARATION OF DEVELOPMENT RESTRICTIONS (the "DECLARATION") is made this 10th day of December, 2021, by the City of Issaquah, a Washington municipal corporation ("Declarant"), for the purpose of clarifying the development restrictions on property at PTN NE NW & NW NE SEC 29-24-6; PTN SW SE SEC 20-24-6 in Issaquah, Washington.

RECITALS

A. Declarant is the owner of certain property in the City of Issaquah, County of King, State of Washington, addressed as Harvey Manning Park Expansion Preservation Project and more particularly described in EXHIBIT A attached hereto and incorporated by reference ("Parcel A"). Parcel A shall be referred to as the "Property" hereafter.

B. Declarant purchased the Property from the Trust for Public Land on February 28, 2019.

C. Declarant has developed a Climate Action Plan that assesses many elements of the City's climate impacts and describes potential climate actions to mitigate climate impacts or improve the City's resiliency in addressing the effects of climate change. The City's work includes assessing carbon emissions from City operations and identifies actions that could be taken to reduce those emissions. The plan also addressed the importance of tree canopy retention.

D. Declarant recognizes the value of the Property as a climate asset, particularly the mature forest. The trees on the Property can potentially store CO₂, reduce storm water runoff, improve air quality, provide energy savings from cooling and heating effects, and improve human health by providing cleaner air and a place for recreation, exercise and the public health benefits of exposure to nature. Removing the trees for other uses, such as parking lots, playfields or other improved uses would seriously impair the climate value of the Property.

E. Declarant has been working with King County to preserve the Property since 1989. Declarant has been aware since at least December 2018 of the County's efforts to develop a forest carbon program, whereby the County will preserve forested stands and earn carbon credits for those preserved trees. Declarant has been in discussions with a non-profit carbon registry, City Forest Credits, which has developed carbon protocols and issues credits for qualifying tree-preservation and tree-planting projects in urban areas.

F. Declarant intends by this Declaration to preserve the trees on the Property. It understands that this Declaration will bar the clearing or removing of trees for parking lots, picnic shelters, playfields, visitor centers, or any reason other than forest health, hazard, disease, fire, and small, non-motorized recreational trails.

DECLARATION

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant, as owner of the Property, hereby declares, grants, imposes, conveys, establishes, and accepts the following development restrictions and covenants which shall run with the land and be binding upon all owners of the Property:

1. *Removal of Trees.* Declarant shall not cut down, destroy, or remove trees located on the Property, except as necessary to control or prevent hazard, disease or fire or to improve forest health. Recreational non-motor-use trails have negligible or de minimis impacts on biomass and carbon stock and are permissible.

GENERAL PROVISIONS

2. Run with land. The covenants and restrictions declared, granted, conveyed and established under this Declaration shall run with the land and inure to the benefit of, and be binding upon, Declarant and its heirs, beneficiaries, successors and assigns, and all future owners of the Property.

3. Term and modification. The covenants and restrictions declared, granted, conveyed and established under this Declaration shall remain in effect as long as it is needed to satisfy the requirements of any applicable carbon protocol under which carbon credits may be issued for the carbon preserved in the trees on the Property.

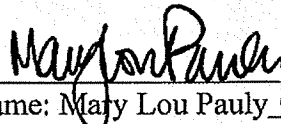
4. Governing law and venue. The terms and provisions of this Declaration shall be governed, construed, and enforced in accordance with the laws of the State of Washington. Venue for any lawsuit arising out of this Declaration shall be in King County, Washington.

5. Severability. In case any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Declaration, but this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Dated this 6 day of December, 2021.

CITY OF ISSAQUAH

By



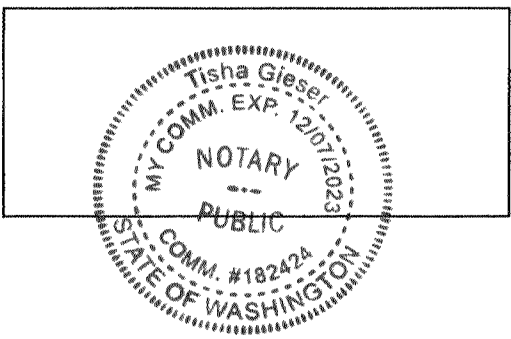
Name: Mary Lou Pauly

Title: Mayor

STATE OF WASHINGTON }
COUNTY OF King } ss.

I certify that I know or have satisfactory evidence that Mary Lou Pauly is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Mayor of Issaquah to be the free and voluntary act of such for the uses and purposes mentioned in the instrument.

Dated this 6th day of Dec., 2021.



Tisha Gieser

Printed Name Tisha Gieser
NOTARY PUBLIC in and for the State of Washington,
residing at Issaquah, WA
My Commission Expires 12/7/23

EXHIBIT A
LEGAL DESCRIPTION

That portion of the Southwest Quarter of the Southeast Quarter of Section 20, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, lying Southwesterly of the most Westerly margin of Southeast Newport Way (SSH No. 2-D).

Assessor's Parcel No.: 202406-9017-04

The South Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington

Assessor's Parcel No.: 292406-9009-05

That portion of the North Half of the North Half of the Northeast Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, lying Westerly of the western margin of Southeast Newport Way (SSH No. 2-D).

Together with that portion of vacated Southeast Newport Way, vacated May 9, 1932 by commissioner records, which would attach thereto by operation of law.

Assessor's Parcel No.: 292406-9003-01

The North Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington.

Assessor's Parcel No.: 292406-9008-06

The North Half of the Southeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington.

Assessor's Parcel No.: 292406-9013-09

That portion of the South Half of the Northwest Quarter of the Northeast Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, and of the Vacant County Road No. 941 adjoining as may attach by operation of Law, lying Westerly of the Newport-Issaquah Road;

Except that portion lying within the South 200 feet of the East 528 feet of said South Half.

Assessor's Parcel No.: 292406-9004-00

CITY FOREST CREDITS - PRESERVATION CARBON QUANTIFICATION CALCULATOR
 Credit calculator for use with standard carbon stock tables (Section 10.1.A)

Project Name **Harvey Manning Park Expansion Project**
 Project Location **Issaquah, WA**
 Project Operator **City of Issaquah**

	6-Dec-21	Date of estimate
	15.14	Total acres in the project
	0	Not clearable, per code, acres
	0	Developable area to be kept in trees not counted in the line above, acres
	15.14	Net potential clearable, per code, and to be preserved, acres
B21 - Alder/Maple (89%) and B22 - Doug Fir (11%)		Table number and forest type & region from Appendix B, US Forest Service General Technical Re Fractions based on Dec. 3, 2021 on-site canopy sampling
	105	Stand age (years)
	199.924	Biomass tC/ac
	733.1	Biomass tCO2e/ac
	100%	Percent cover, from i-Tree Canopy
	11,098	Project Stock, tCO2e (Section 10.1.A.)
	8,879	Accounting Stock, tCO2e
	90%	Fraction at risk of tree removal (Section 10.2)
	7,991	Avoided Biomass Emissions, tCO2e
	47%	Avoided impervious surface, percent (Section 10.4)
	7.08	Avoided impervious surface, acres
	850	Avoided Soil Carbon Emissions, tCO2e
	18.3%	Displacement: fraction of avoided development that cannot be served by development or re-development of existing non-treed properties within the urban area (Section 10.5.A)
	1,462	Displaced Biomass Emissions, tCO2e
	257	Displaced Soil Emissions (assumes that redevelopment causes increase in impervious surface on reveveloped parcels)
	6,529	Credits from Avoided Biomass Emissions, tCO2e
	592	Credits from Avoided Soil Emissions, tCO2e
	7,121	Total Credits attributed to the project, tCO2e
	712	Registry reversal pool (10%), tCO2e
	6,409	Total credits issued to the project, tCO2e
	423	Total credits issued to the project, tCO2e/acre

Year	Credits Issued This Year	Cumulative Credits
1	6409	6409
2	0	6409
3	0	6409
4	0	6409
5	0	6409

Assumptions:

Stand Map

Harvey Manning Park Expansion Area

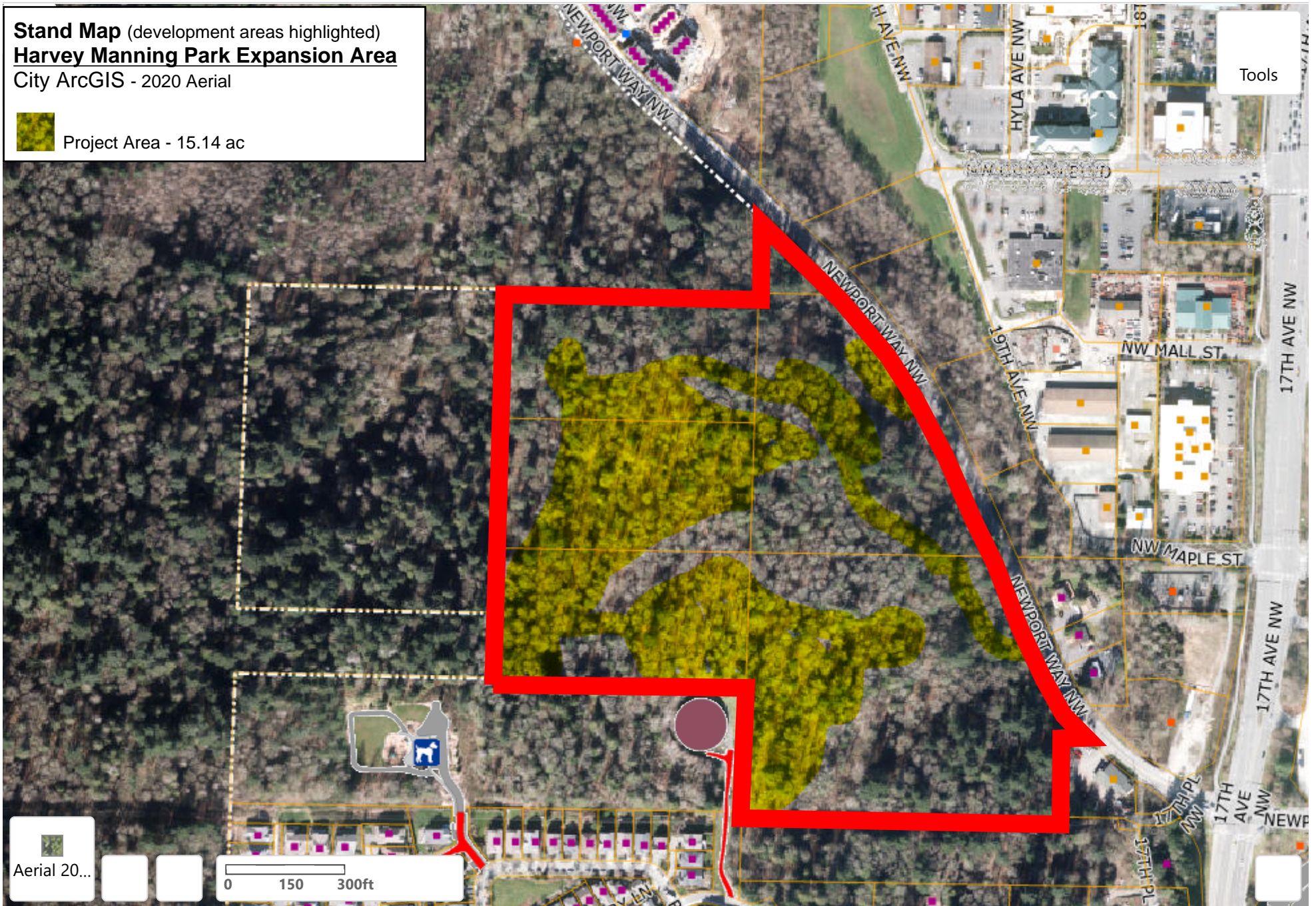
King County Parcel Viewer - 2019 Aerial



Stand Map (development areas highlighted)
Harvey Manning Park Expansion Area
City ArcGIS - 2020 Aerial

 Project Area - 15.14 ac

Tools



Forest Age
Harvey Manning Park Expansion Area
dated 1946

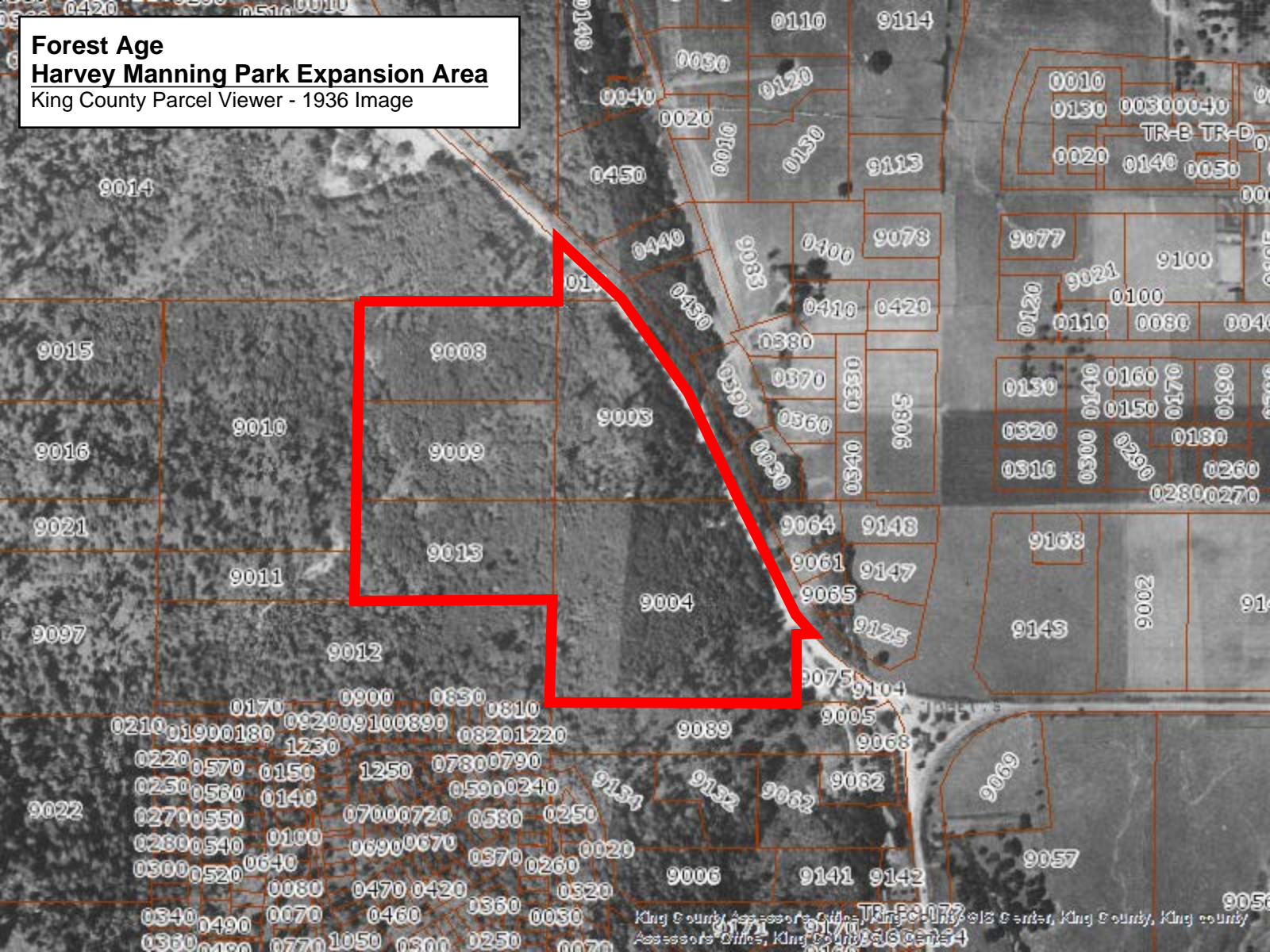


Issaquah, Washington

1 9 4 6

Photo of Johnson 47/250

Forest Age
Harvey Manning Park Expansion Area
King County Parcel Viewer - 1936 Image



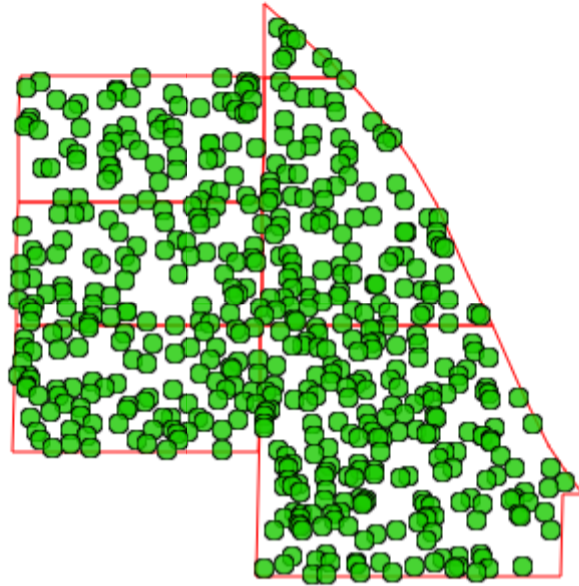




i-Tree Canopy v7.1

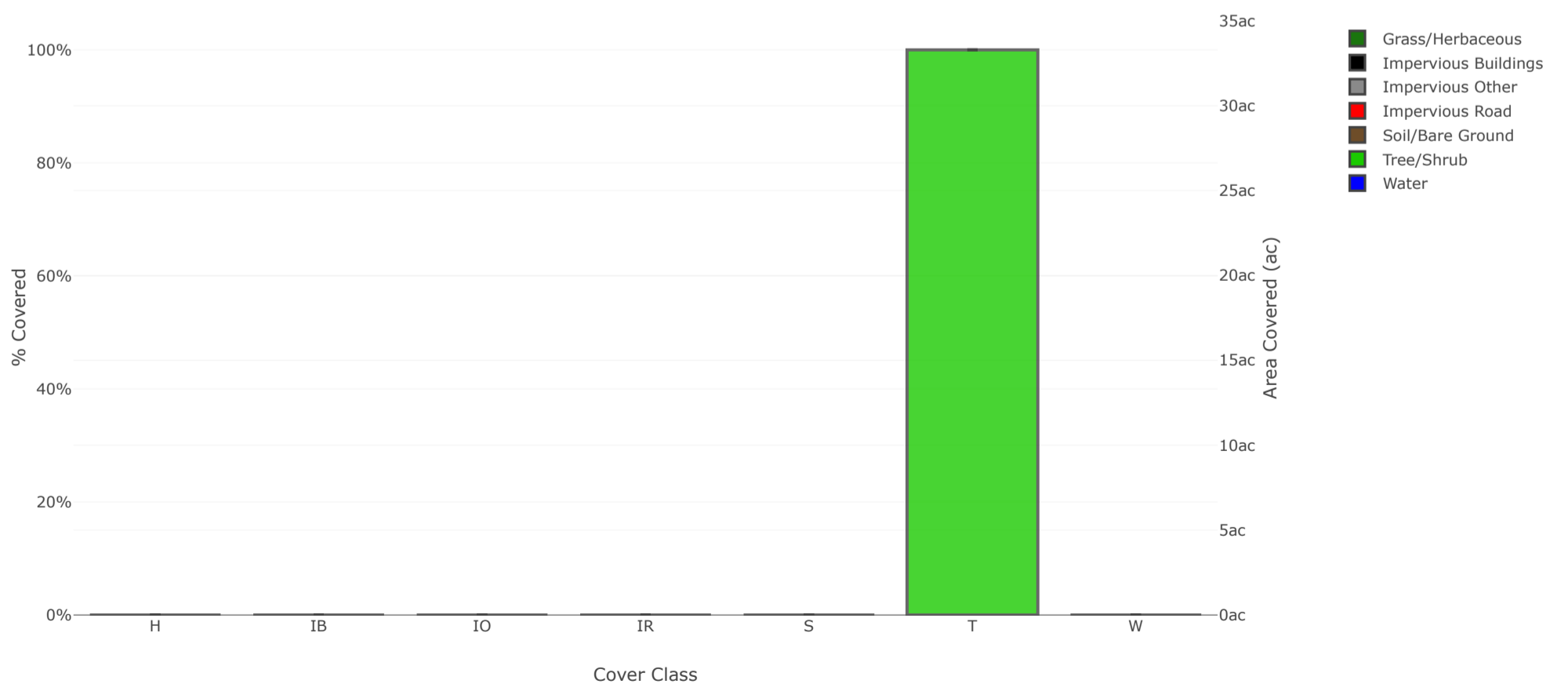
Cover Assessment and Tree Benefits Report

Estimated using random sampling statistics on 10/5/2021



Google

Land Cover



Abbr.	Cover Class	Description	Points	% Cover ± SE	Area (ac) ± SE
H	Grass/Herbaceous		0	0.00 ± 0.00	0.00 ± 0.00
IB	Impervious Buildings		0	0.00 ± 0.00	0.00 ± 0.00
IO	Impervious Other		0	0.00 ± 0.00	0.00 ± 0.00
IR	Impervious Road		0	0.00 ± 0.00	0.00 ± 0.00
S	Soil/Bare Ground		0	0.00 ± 0.00	0.00 ± 0.00
T	Tree/Shrub		522	100.00 ± 0.00	33.29 ± 0.00
W	Water		0	0.00 ± 0.00	0.00 ± 0.00
Total			522	100.00	33.29

Tree Benefit Estimates: Carbon (English units)

Description	Carbon (oz)	±SE	CO ₂ Equiv. (oz)	±SE	Value (USD)	±SE
Sequestered annually in trees	0.00	±0.00	0.00	±0.00	\$0	±0
Stored in trees (Note: this benefit is not an annual rate)	36,643,647.10	±0.00	134,360,039.35	±0.00	\$0	±0

Currency is in USD and rounded. Standard errors of removal and benefit amounts are based on standard errors of sampled and classified points. Amount sequestered is based on 0.000 oz of Carbon, or 0.000 oz of CO₂, per ac/yr and rounded. Amount stored is based on 1100880.205 oz of Carbon, or 4036560.751 oz of CO₂, per ac and rounded. Value (USD) is based on \$0.00/oz of Carbon, or \$0.00/oz of CO₂ and rounded. (English units: oz = ounces, ac = acres)

Tree Benefit Estimates: Air Pollution (English units)

Abbr.	Description	Amount (oz)	±SE	Value (USD)	±SE
CO	Carbon Monoxide removed annually	0.00	±0.00	\$0	±0
NO2	Nitrogen Dioxide removed annually	0.00	±0.00	\$0	±0
O3	Ozone removed annually	0.00	±0.00	\$0	±0
SO2	Sulfur Dioxide removed annually	0.00	±0.00	\$0	±0
PM2.5	Particulate Matter less than 2.5 microns removed annually	0.00	±0.00	\$0	±0
PM10*	Particulate Matter greater than 2.5 microns and less than 10 microns removed annually	0.00	±0.00	\$0	±0
Total		0.00	±0.00	\$0	±0

Currency is in USD and rounded. Standard errors of removal and benefit amounts are based on standard errors of sampled and classified points. Air Pollution Estimates are based on these values in oz/ac/yr @ \$/oz/yr and rounded:

CO 0.000 @ \$0.00 | NO2 0.000 @ \$0.00 | O3 0.000 @ \$0.00 | SO2 0.000 @ \$0.00 | PM2.5 0.000 @ \$0.00 | PM10* 0.000 @ \$0.00 (English units: oz = ounces, ac = acres)

Tree Benefit Estimates: Hydrological (English units)

Abbr.	Benefit	Amount (oz)	±SE	Value (USD)	±SE
AVRO	Avoided Runoff	0.00	±0.00	\$0	±0
E	Evaporation	0.00	±0.00	N/A	N/A
I	Interception	0.00	±0.00	N/A	N/A
T	Transpiration	0.00	±0.00	N/A	N/A
PE	Potential Evaporation	0.00	±0.00	N/A	N/A
PET	Potential Evapotranspiration	0.00	±0.00	N/A	N/A

Currency is in USD and rounded. Standard errors of removal and benefit amounts are based on standard errors of sampled and classified points. Hydrological Estimates are based on these values in oz/ac/yr @ \$/oz/yr and rounded:

AVRO 0.000 @ \$0.00 | E 0.000 @ N/A | I 0.000 @ N/A | T 0.000 @ N/A | PE 0.000 @ N/A | PET 0.000 @ N/A (English units: oz = ounces, ac = acres)

About i-Tree Canopy

The concept and prototype of this program were developed by David J. Nowak, Jeffery T. Walton, and Eric J. Greenfield (USDA Forest Service). The current version of this program was developed and adapted to i-Tree by David Ellingsworth, Mike Binkley, and Scott Maco (The Davey Tree Expert Company)

Limitations of i-Tree Canopy

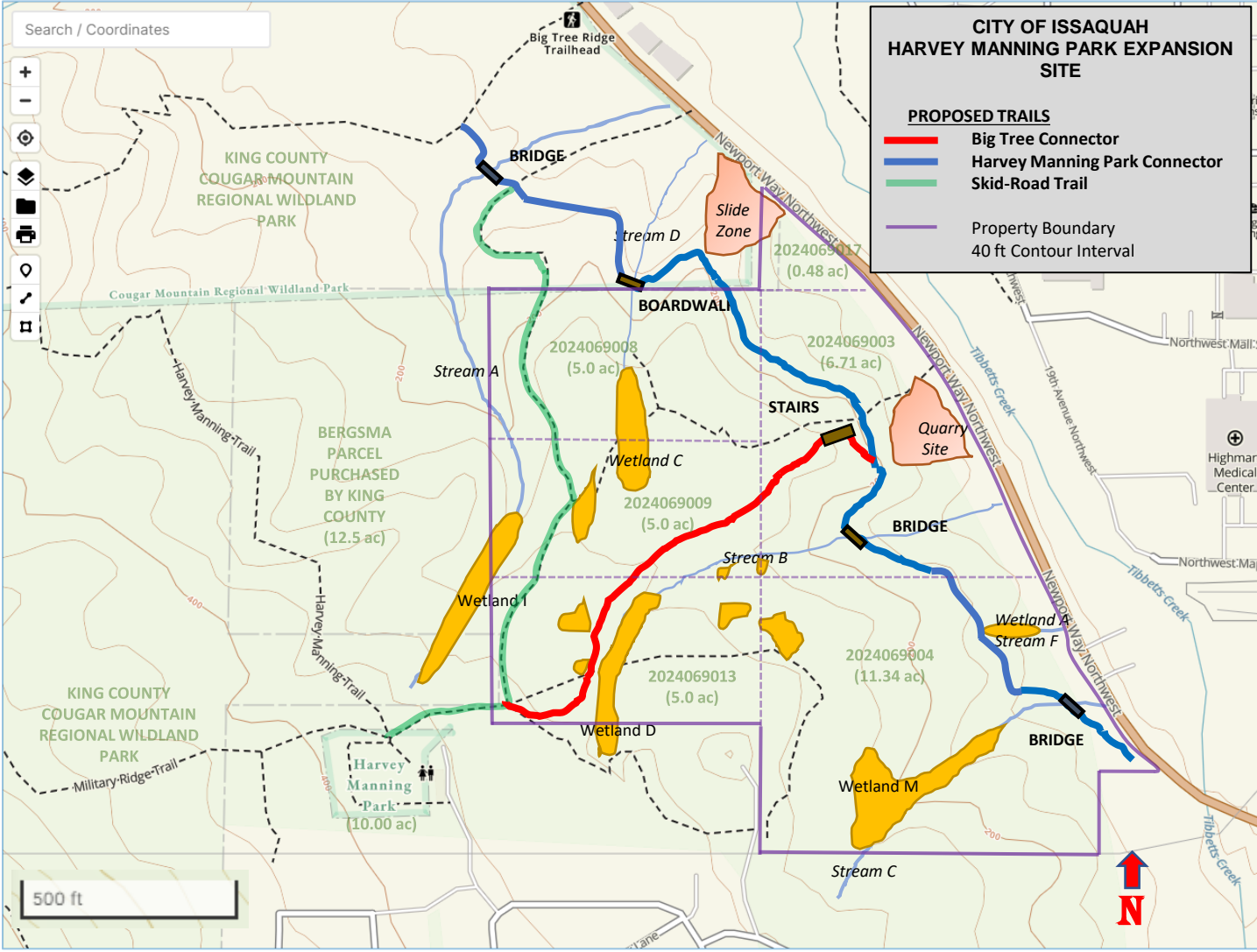
The accuracy of the analysis depends upon the ability of the user to correctly classify each point into its correct class. As the number of points increase, the precision of the estimate will increase as the standard error of the estimate will decrease. If too few points are classified, the standard error will be too high to have any real certainty of the estimate.



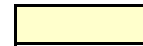
Additional support provided by:



Use of this tool indicates acceptance of the [EULA](#).



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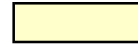


Directions
1) Use i-Tree Canopy, or another tool, to estimate the amount of deciduous and coniferous tree cover area (acres) (Cell C18 and D18).
2) Use i-Tree Canopy, or another tool, to estimate the amount of non-tree cover area (acres) (Cell F18) in the project area.
3) In Cell G18 the total area of the project is calculated (acres). Prompt i-Tree Canopy to provide an estimate of the project area by clicking on the gear icon next to the upper right portion of the image and selecting "Report By Area."
4) Total Project Area, cell G15 should equal 100%.

Table 1. Tree Cover

	Deciduous Tree Cover	Coniferous Tree Cover	Total Tree Cover	Non-Tree Area	Total Project Area
Percent (%)	89%	11%	100%	0%	100%
Area (sq miles)	0.021	0.003	0.024	0.000	0.02
Area (m2)	54,511	6,758	61,269	0	61,269
Area (acres)	13.47	1.67	15.14	0.00	15.14

Light pink background denotes an input cell ->



- Directions**
- 1) Use i-Tree Canopy, or another tool, to estimate the amount of deciduous and coniferous tree cover area (acres) (Cell C18 and D18).
 - 2) Use i-Tree Canopy, or another tool, to estimate the amount of non-tree cover area (acres) (Cell F18) in the project area.
 - 3) In Cell G18 the total area of the project is calculated (acres). Prompt i-Tree Canopy to provide an estimate of the project area by clicking on the gear icon next to the upper right portion of the image and selecting "Report By Area."
 - 4) Total Project Area, cell G15 should equal 100%.

Table 1. Tree Cover

	Deciduous Tree Cover	Coniferous Tree Cover	Total Tree Cover	Non-Tree Area	Total Project Area
Percent (%)	89%	11%	100%	0%	100%
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Area (m2)	54,511	6,758	61,269	0	61,269
Area (acres)	13.47	1.67	15.14	0.00	15.14

Using the information you provide on tree canopy cover, the tool provides estimates of co-benefits in Resource Units and \$ per year.

Table 2. Co-Benefits per year with current tree canopy cover.

Ecosystem Services	Res Units Totals	Res Unit/Acre Tree Canopy	Total \$	\$/Acre Tree Canopy
Rain Interception (m3/yr)	3,084.0	203.7	\$22,642.86	\$ 1,495.57
CO2 Avoided (t, \$20/t/yr)	7.8	0.5	\$155.02	\$ 10.24
Air Quality (t/yr)				
O3	0.1122	0.0074	\$47.82	\$ 3.16
NOx	0.0367	0.0024	\$15.66	\$ 1.03
PM10	0.0538	0.0036	\$40.73	\$ 2.69
Net VOCs	-0.5544	-0.0366	-\$88.01	\$ (5.81)
Air Quality Total	-0.3517	-0.0232	\$16.20	\$1.07
Energy (kWh/yr & kBtu/yr)				
Cooling - Elec.	8,464	559	\$433.37	\$ 28.62
Heating - Nat. Gas	31,865	2,105	\$362.75	\$ 23.96
Energy Total (\$/yr)			\$796.12	\$52.58
Grand Total (\$/yr)			\$23,610.19	\$1,559.46

\$944,407.65



HARVEY MANNING PARK EXPANSION PRESERVATION PROJECT

Attestation of No Net Harm

I am the Mayor of the City of Issaquah and make this attestation regarding the regarding no net harm from this tree preservation project Harvey Manning Park Expansion Preservation Project.

1. Project Description

The Project that is the subject of this attestation is described more fully in both our Application and our Project Design Document (PDD), both of which are incorporated into this attestation.

2. No Net Harm

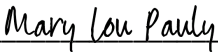
The trees preserved in this project will produce many benefits, as described in our Application and PDD. Like almost all urban trees, the project trees are preserved for the benefits they deliver to people, communities, and the environment in a metropolitan area.

The project trees will produce many benefits and will not cause net harm. Specifically, they will not:

- Displace native or indigenous populations
- Deprive any communities of food sources
- Degrade a landscape or cause environmental damage

I

Signed on November 19 in 2021, by Mary Lou Pauly, Mayor for City of Issaquah.

DocuSigned by:

 Signature 65FF0E862CD7468...

Mary Lou Pauly
 Printed Name

425-837-3021
 Phone

Mayor@issaquahwa.gov
 Email

Exhibit A

Specification of Property (can be maps, legal description, and/or other reasonably specific delineations of the property upon which the project is taking place)



HARVEY MANNING PARK EXPANSION PRESERVATION PROJECT

Attestation of No Double Counting of Credits

I am the Mayor of the City of Issaquah and make this attestation regarding the no double counting of credits from tree preservation project, Harvey Manning Park Expansion Preservation Project.

1. Project Description

The Project that is the subject of this attestation is described more fully in both our Application and our Project Design Document (PDD), both of which are incorporated into this attestation.

2. No Double Counting by Applying for Credits from another registry

City of Issaquah will not seek credits for CO₂ for the project trees or for this project from any other organization or registry issuing credits for CO₂ storage.

3. No Double Counting by Seeking Credits for the Same Trees or Same CO₂ Storage

City of Issaquah will not apply for a project including the same trees as this project nor will it seek credits for CO₂ storage for the project trees or for this project in any other project or more than once.

Signed on November 19 in 2021, by Mary Lou Pauly, Mayor, for City of Issaquah.

DocuSigned by:

Mary Lou Pauly
Signature

Mary Lou Pauly

Printed Name

425-837-3021

Phone

Mayor@issaquahwa.gov

Email

Exhibit A

Specification of Property (can be maps, legal description, and/or other reasonably specific delineations of the property upon which the project is taking place)

That portion of the Southwest Quarter of the Southeast Quarter of Section 20, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, lying Southwesterly of the most Westerly margin of Southeast Newport Way (SSH No. 2-D).

Assessor's Parcel No.: 202406-9017-04

The South Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington

Assessor's Parcel No.: 292406-9009-05

That portion of the North Half of the North Half of the Northeast Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, lying Westerly of the western margin of Southeast Newport Way (SSH No. 2-D).

Together with that portion of vacated Southeast Newport Way, vacated May 9, 1932 by commissioner records, which would attach thereto by operation of law.

Assessor's Parcel No.: 292406-9013-01

The North Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington.

Assessor's Parcel No.: 292406-9008-06

The North Half of the Southeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington.

Assessor's Parcel No.: 292406-9003-09

That portion of the South Half of the Northwest Quarter of the Northeast Quarter of Section 29, Township 24 North, Range 6 East, Willamette Meridian, King County, Washington, and of the Vacant County Road No. 941 adjoining as may attach by operation of Law, lying Westerly of the Newport-Issaquah Road; Except that portion lying within the South 200 feet of the East 528 feet of said South Half.

Assessor's Parcel No.: 292406-9004-00