VAR2023-0009: List of Attachments

Attachment A - Proposed Site Plan
Attachment B - Vicinity Maps
Attachment C - Zoning Map
Attachment D - Pre application Site Plan
Attachment E - Notice of Application and Public Hearing
Attachment F - Critical Area Assessment, NW Ecological (CAA)
Attachment G - Geotechnical Evaluation & Stormwater Feasibility by Element Solutions (GEO)
Attachment H - Variance Application
Attachment I - Critical Area Impact Assessment and Mitigation Plan by NW Ecological (MIT Plan)
Attachment J - Applicant's Narrative for Land Use Variance

EXHIBIT 1

CITY OF BELLINGHAM PLANNING AND COMMUNITY DEVELOPMENT
STAFF REPORT

HEARING EXAMINER

December 11, 2024

PROJECT NO.: 2302 Alabama St, Critical area permit (CAP2024-0024), Critical Area Variance (VAR2024-0008)

APPLICANT/OWNER: Edwin and Clover Goodsir, 360-734-6530, 1410 Iowa Street #102, MacandMacOffice@iCloud.com

I. OVERVIEW

A. PROPOSAL

The proposal includes a request for a variance from the Bellingham Municipal Code (BMC) to establish a development footprint for some form of residential use including an access driveway at Alabama Street, on-site maneuvering and a small open / usable space area within the 75-foot buffer of Fever Creek. The variance (VAR2024-0008) is from the Critical Area Ordinance (CAO), BMC 16.55 and associated with Critical Area Permit (CAP2024-0024). The specific request is for a reduction of the required 75-foot stream buffer of Fever Creek down to approximately 25' along the east side of the proposed footprint and down to approximately 56' along the south side of the proposed footprint. The intent of this variance request is to establish a reasonable development footprint on the subject property. (Attachment A).

B. GENERAL INFORMATION

Location:	2302 Alabama St, Bellingham WA 98229 (Attachment B)
Legal Description:	LOTS 18-19 BLK 8 WEST EUREKA ADD TO NEW WHATCOM
Assessor Parcel No:	380320540078 0000
Lot Area:	10,065 square feet
Zoning:	Roosevelt Neighborhood, Area 9, Residential-Multi, Transition Use qualifier, medium density designation (Attachment C).

II. STAFF RECOMMENDATION

Approve the critical area permit and variance request with conditions specified in Section IX of this report.

III. JURISDICTION

The Hearing Examiner is granted authority to hold hearings and make decisions on variances to the Critical Areas Ordinance pursuant BMC 16.55.120. In this circumstance, the applicant has requested that the Hearing Examiner issue a decision on the variance and the critical area permit itself.

IV. BACKGROUND

A. Application and Notice Chronology

1. November 30, 2023: Pre-Application Conference request (Attachment D).
2. February 27, 2024: Pre-application meeting held with City staff. (PRE2023-0119)
3. April 12, 2024: The applicant submitted application materials for Critical Area Permit. This included the application itself, a Conceptual Mitigation Memo, A Geotech/Stormwater evaluation, and a site plan.
4. May 31, 2024: the Planning and Community Development Department (PCDD) issued a Request for Information (RFI -1). Specifically, a comprehensive site plan, a critical area report, significant tree analysis, revised mitigation to meet BMC 16.55, and proposed measures for permanent critical area protection.
5. June 27, 2024: RFI-1 materials were submitted.
6. June 27, 2024: RFI-2 was sent to applicant for variance application.
7. September 9, 2024: Variance application, variance narrative, variance attachment, HCA memo, and mitigation plan were submitted by applicant.
8. October 3, 2024: The PCDD issued a Notice of Complete Application to the applicant. (CAP2024-0024 and VAR2024-0008)
9. November 19, 2024: The PCDD issued a Notice of Application and notice of the public hearing to all property owners within 500 feet of the site, at least 15 days prior to the hearing, which is scheduled for December 11, 2024, at 6:00 in the City Council Chambers, City Hall, 210 Lottie Street, Bellingham. Please see Attachment E.

B. Public Comment

As of the date of writing this staff report, December 3, 2024, one comment was made regarding the proposal. The homeowner at 2300 Alabama called on December 3, 2024, and asked questions about the project. Some of the prime questions about the project included stormwater management, utilities, flooding, erosion, parking, location of the proposed development, wildlife habitat, greenspace along the Fever Creek riparian area. These questions were addressed in the phone call and recorded here, and they may attend the hearing in person.

V. EXISTING SITE CHARACTERISTICS

A. Existing Site Conditions

The approximately 10,065 SF subject property is a vacant parcel. Previously in the 1920's, a single-family home was established on the subject property. This homesite

burned in 2009, and a demolition permit was issued by the City (DEM2013-00022).

The northwestern portion of the property is flat and vegetated with meadow forbs and grasses, with sporadic non-native shrubs. The eastern and southern portions of the subject property are characterized by sloped banks to Fever Creek, and a frequently flooded zone in the creek bed. The Fever Creek riparian area of the subject property is more densely vegetated with mature evergreen and deciduous trees, various shrubs, and invasive species like blackberry. Critical areas and their buffers cover nearly the entire property.

B. BMC 16.55 – Critical Area Ordinance (CAO)

Critical areas on the subject site include a fish and wildlife habitat conservation area (Fever Creek and its associated buffer), a geologic erosion hazard area, and a frequently flooded area, which are regulated by BMC 16.55, Critical Areas. Critical areas are described in more detail in the Critical Area Assessment (CAA) (Attachment F) and Geotechnical and stormwater report (GEO) (Attachment G).

C. BMC Title 20 – Land Use and Zoning Designation

The subject property is in Area 9 of the Roosevelt Neighborhood. The zoning designation is Residential-Multi, it has a "transition" use qualifier, with a "medium" density designation. BMC Title 20.32 – Residential Multi Development includes specifications for future development.

VI. APPLICATION

Please refer to **Attachment H** for the submitted land use application.

A. APPLICABLE SECTIONS OF THE BELLINGHAM MUNICIPAL AND PLANS

Critical Areas Ordinance: BMC 16.55 and specifically BMC 16.55.120, Variances
Residential Single Development: BMC 20.30
Roosevelt Neighborhood Plan and Zoning Regulations in BMC 20.00.140
Bellingham Comprehensive Plan

B. DEPARTMENT REGULATORY ANALYSIS

1. BMC Chapter 16.55 – Critical Area Ordinance (CAO)

The purpose of BMC 16.55 is enumerated in subsection .010 A which reads, *"The purpose of this chapter is to designate and classify environmentally sensitive and hazardous areas as critical areas and to protect, maintain and restore these areas and their functions and values, while also allowing for reasonable use of public and private property."* In addition, letter F of this subsection states "*This chapter is to be administered with flexibility and attention to site-specific characteristics in the context of*

the watershed or other relevant ecosystem unit. It is not the intent of this chapter to make a parcel of property unusable by denying its owner all reasonable economic use of the property. It is not intended to prevent the provision of public facilities and services necessary to support existing and planned development for/by the community."

As specified above in the project description, the intent of this variance is to establish a reasonable development footprint, given that the future use will be some form of residential.

The applicant submitted a Critical Areas Assessment (CAA) dated January 11, 2024, by NW Ecological Services. NW Ecological Services meets the definition of qualified professional in BMC 16.55.510. The CAA includes the information required by BMC 16.55.210 and 480. The CAA is provided on Attachment F.

The CAA identifies Fever Creek as a regulated Habitat Conservation Area on the subject property. This reach of Fever Creek flows south then west along the east and south portions of the subject property (Attachment A). Fever Creek has been determined to be a fish bearing type F stream – in accordance with BMC 16.55.470 – which requires a 75-foot buffer. The 75-foot buffer associated with Fever Creek extends across nearly the entire property leaving approximately 25-30 square feet of developable area, as shown on Attachment A. Attachment A also shows the extent of the administratively reduced buffer of 56.25'. This reduced buffer appears to provide approximately 880 square feet of total area for structures, setbacks and on-site parking and maneuvering room. Buffer averaging, per BMC 16.55.500 D 4 is not feasible because the total buffer square footage must be equal to that of the standard buffer. The stream buffer is proposed to be reduced from 75 feet to 25 feet on the east side of the development and 75 feet to 42 feet on the south side.

The required 15-foot building setback pursuant to BMC 16.55.340(G) that extends from the stream buffer edge can be administratively reduced. It is proposed to be 5 feet on the east side of the property where the buffer will be most reduced but retained at 15 feet on the southern side of the development to allow for development construction and potentially, usable and/or open space. (Attachment A).

A Geotechnical Evaluation & Stormwater Feasibility Assessment was prepared by Element Solutions on March 26, 2024. This report identifies bank erosion potential on the slopes above Fever Creek. A minimum structural setback of 20 feet from the creek bank slope crest to the new foundation is recommended in this report. In addition, a minimum 10-foot non disturbance buffer is recommended to be maintained from the crest of the steep bank during and after construction. This Evaluation includes the information required in BMC 16.55.430 and .440 and is provided on Attachment G.

City of Bellingham City IQ maps indicate a frequently flooded area along this section of Fever Creek. However, no FEMA special flood hazard areas are mapped in the vicinity. The frequently flooded area appears to be limited to the bank full width of the stream, approximately 6 feet in elevation below the development site. No further recommendations were made by the qualified biologist or the geotechnical specialist.

A Critical Areas Impact Assessment and Mitigation Plan (MIT Plan) was prepared by NW Ecological Services, dated August 2024, and is provided as Attachment I. The Mitigation Plan includes the information required in BMC 16.55.260.

Mitigation sequencing, specified in BMC 16.55.250, is the method by which an applicant "demonstrates that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas and buffers." Staff concludes that the "3.0 - Impact Assessment" section of the MIT Plan satisfies BMC 16.55.250, mitigation sequencing.

The project *avoids* direct stream impacts. The proposed development area is outside of the recommended geohazard setback area and a frequently flooded area.

Buffer impacts have been *minimized* by proposing to locate the proposed structure as far north and west as feasible. The proposed residential structure includes approximately 4020 square feet of stream buffer impact. The impact occurs as far from the stream as feasible while consolidating the development as near to Alabama street as possible. The proposed structure is approximately 25 feet from the nearest edge of Fever Creek as shown in Attachment A.

Compensation for the 4020 sf of stream buffer impact is proposed in the form of enhancement of approximately 4550 square feet within the Fever Creek buffer. This is consistent with the buffer mitigation ratio requirement of 1:1 per BMC 16.55.340 E.

The approximately 5 – 15 feet of space between the residential structure and the proposed split rail fence is generally consistent with the buffer setback requirement in BMC 16.55.340 G. This building setback will allow the planting and preservation of mature trees within the buffer which is consistent with BMC 16.55.340 B.

2. BMC Title 20 – Land Use and Zoning Designation

The subject property is in the Roosevelt Neighborhood, in Area 9. The zoning designation is Residential-Multi, it has a transition use qualifier, with a medium density designation. BMC Title 20.32 – Residential Multi Development section describes specifications for development. There are many housing configurations that may be developed on the subject property per the zoning code. Some sections of the zoning code have exceptions for areas with environmentally sensitive areas.

Section 20.32.020 (B) describes the transition use qualifier and is stated as not generally applicable for areas containing environmentally sensitive areas, such as the subject property. It states:

> B. *Transition Designation.* The residential multi transition designation is intended to accommodate development in those areas which are better suited for slightly higher concentration of population than that allowed within areas designated residential single. Generally, the "transition" use qualifier designations are designed for those areas which are not located in environmentally sensitive areas or in areas which will serve as a transition between areas having a great differentiation in terms of permitted uses or density.

The standard development regulations outlined in Section 20.32.040 (3)(c), provide exceptions to minimum density for sites that are wholly or substantially encumbered by a critical area or critical area buffer, such as the subject property.

> 3. *Exceptions to Minimum Densities.* An exception to the minimum density requirement may be approved with or without conditions by the director through

the Type I application review process in Chapter 21.10 BMC if the applicant demonstrates an exception under this provision results in the highest possible density when one or more of the following are associated with the site:

c. The subject site is wholly or substantially encumbered by a critical area or critical area buffer (as defined in Chapter 16.55 BMC), which reduces the developable area and ability to achieve the minimum density;

Under the medium density zoning designation, the subject parcel would require a minimum of 2 multi-family units. (Parcel size of 10,065 square feet divided by a minimum density of 3,600 square feet per unit = 2.79 or 2 units.) The exception above could be utilized to develop a single-family residence with up to 2 accessory dwelling units. (ADUs do not count towards meeting a density requirement.).

The specific type of development proposed for this site is deferred to the building permit review. This will allow the applicant to work with architects, engineers and designers to design a proposal that will fit into the proposed development footprint that is consistent with all other applicable regulations in the BMC. The purpose of this variance request is to establish a reasonable development footprint on the subject property.

VII. CRITICAL AREA VARIANCE EVALUATION

A. APPLICANT'S REQUEST AND JUSTIFICATION FOR A CRITICAL AREA VARIANCE

In addition to the applicant's justification of the variance in Attachment J, staff provides the following additional analysis.

The subject property is significantly constrained by the required buffer associated with Fever Creek. Approximately 25 square feet of the 10,065 square feet parcel is unencumbered when the standard 75-foot regulated buffer of Fever Creek is applied. A 25% administrative reduction of the buffer down to 56.25 feet would only provide approximately 880 square feet of area on the property, which is complicated to achieve reasonable use of the site.

The proposed footprint of the *structure* has been calculated by taking the average square footage of single-family structures within 300 feet of the proposed parcel. The result is an average of approximately 1,415 square feet, which is reflected in this proposed development. It is important to note that the parcel abutting to the west is 5,156 sf in size and has a single-family residence built in 1920. The structural footprint is approximately 2,170 square feet. The parcel to the south is located across the creek and is a 10,137 square foot lot with a multifamily structure built in 1976. Its structural footprint is approximately 3,500 square feet. The parcel to the east, across Fever Creek, is 15,217 square feet in size and has 2 multifamily structures built in 1971. Each structure is approximately 3,050 square feet – 6,100 square feet total. All three adjacent structures are non-conforming to Critical Area code (BMC 16.55.130), were constructed prior to the Growth Management Act of 1991, and were not subject to Critical Area regulations.

This calculation does not include development *footprints* which – in addition to the structure – includes driveways, maneuvering areas and required open and/or usable space. Staff conducted an analysis of development *footprints* south of Alabama and

between Woburn and Yew Streets that are also within the regulated buffer of Fever Creek. The average development footprint of nine such properties is approximately 4,690 square feet. The applicant's proposed development footprint is approximately 4,020 square feet, slightly less than the average.

Please also note that the only legal access to the property is directly from Alabama Street, a designated primary arterial with significant traffic volume. Use of an arterial for maneuvering room is not allowed per BMC 20.30.060 C 4. Therefore, maneuvering room must be in the northern portion of the site which increases the development footprint as opposed to being able to use the abutting right-of-way if it were a non-arterial or alley. In addition, the driveway apron (within the Alabama Street right-of-way) is also within the buffer and is included in the proposed overall development footprint. It is anticipated that one fruit tree will be removed in the right of way to facilitate this action.

The overall footprint has been proposed as far into the northwest corner of the subject property as is possible given the other BMC constraints. This proposal is as far as feasible from critical areas while consolidating all development near Alabama Street. Since Alabama Street is a major city arterial and the only access to the subject property, a front yard variance request is NOT included with this project to provide opportunity for safe maneuvering in and out of the subject property. The applicant's site plan proposal is provided on Attachment A.

B. CRITICAL AREA VARIANCE ANALYSIS

The Hearing Examiner may grant a variance if the applicant can demonstrate the following criteria BMC 16.55.120.B.1-7 have been met. The burden of proof is strictly placed upon the applicant as specified in subsection .120 E. The applicant's justification is provided in Attachment J. Staff has reviewed this justification and provides additional responses to the following criteria.

1) **Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district:**

Staff Response: Special circumstances exist on the subject property. The subject parcel is the last lot along the south side of Alabama Street in this block to be developed under the current requirement for a 75-foot stream buffer for Fever Creek. The buffer consumes the majority of the parcel, and the remaining area is not reasonable in size to accommodate a typical SFR or for most multi-family structures.

All residential structures to the south, east and west were constructed prior to 1976. These units were constructed prior to Washington State's 1990 Growth Management Act which required cities to identify and protect wetland and streams by establishing buffer widths. The City's first "wetland and stream ordinance" (ORD #10267) was not adopted until 1991.

2) **The special conditions and circumstances do not result from the actions of the applicant:**

Staff Response: The circumstances on the subject property are not the result of any action by the applicant.

3) **A literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights:**

Staff Response: Applying the 75-foot stream buffer would deprive the applicant of any reasonable economic use of the property, as would administrative reduction or averaging of the buffer. Please see Attachment B. The unencumbered space on the subject property could not support a land use and building code compliant and reasonable residence that included facilities for sleeping, eating, bathing/sanitation, and safe access from Alabama Street.

Development standards and the critical areas ordinance provisions do not specify what the minimum standards are for a single-family residence nor whether building up versus building out or reducing the front yard setback to zero are required or preferred. There is an approximately 25 square foot area outside of the 75-foot stream buffer. With administrative buffer reduction, there would be only 880 square feet outside of regulated buffer. Staff concludes that the development footprint with the administrative reduction is not reasonable and not consistent with other developed properties in the area.

4) **Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances:**

Staff Response: Each CAO variance has its own set of circumstances regarding streams, associated buffer widths, lot size, development regulations, zoning and development proposals. Given this specific set of circumstances unique to the subject property, granting the variance to allow a development footprint less than the average of those specified above would not confer special privileges that would be denied elsewhere. Please note that Staff conducted another analysis on properties encumbered by Fever Creek between Barkley Boulevard to the north and Iowa Street to the south. Along nearly two miles of channel length, it appears that there are approximately 3-5 properties in the vicinity of the project, specifically near the East Illinois Street section of the analysis, that happen to be or appear to be compliant with any kind of buffer requirement.

Other proposals with similar site constraints would also be required to meet the CAO. Each site has the burden to show how the requirements of this chapter are met to the best extent possible.

5) **The granting of the variance is consistent with the general purpose and intent of this chapter, and will not have a significant adverse impact on functions and values of the associated critical area or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property:**

Staff Response: The purpose and intent of BMC 16.55 is clearly aimed at protecting critical areas (BMC 16.55.010.D) while administering the provisions with flexibility and attention to site-specific characteristics. The proposal will not be materially detrimental to the public or injurious to the surrounding properties.

The proposed mitigation associated with this request is provided in section 4.1 and 4.2 of the NES Mitigation Plan on Attachment I. Non-native species are proposed to be removed from the buffer area. The proposal will improve the function within the portion of the remaining buffer (between the split rail fence and the top of the bank) through implementation of the mitigation enhancement plan. Improved diversity and density of native vegetation within this area will provide additional habitat cover, cooling of the micro-climate and stormwater attenuation. Implementation of these elements helps to preserve the existing functions within Fever Creek which eventually flows into Whatcom Creek and then Bellingham Bay.

The purpose and intent of the CAO includes preventing cumulative adverse environmental impacts (BMC 16.55.010.D.4). Based upon the proposals intent to develop within the outer portion of the buffer and implement the mitigation plan, cumulative adverse environmental impacts are not expected. In fact, staff expect there to be a net ecological benefit to the resulting stream buffer and Fever Creek itself.

6) **The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat:**

Staff Response: Best available science was used in the project biologist's CAA of Fever Creek and the Mitigation Plan

Buffers are comprised of a vertical structure—the various heights of ground cover, shrubs, and trees—and horizontal structure—the distance between the critical area and the impact. These vertical and horizontal components, when intact, provide the needed protective measures for stream functions such as flood protection, habitat, water storage, water quality improvement, nutrient cycling and creek-bank stabilization.

The project biologist has determined that implementation of all the proposed mitigation elements specified in Section 4 of the mitigation plan on Attachment I will improve habitat and partially counteract potential impacts that may result from the proposed development footprint.

7) **The granting of the variance is consistent with the general purpose and intent of the comprehensive plan and adopted development regulations:**
Staff Response: The proposed development is supported by land use policies for infill development strategies to facilitate development on existing lots of record. The proposed development is required to comply with the CAO which ensures consistency with the comprehensive plan and adopted development regulations including protecting and restoring critical areas and incorporating best available science in critical areas management.

The following goals and policies are applicable from the Land Use (LU) and Environment (EV) chapters of the current Bellingham Comprehensive Plan.

Goal LU-5 Support the Growth Management Act's goal to encourage growth in urban areas.

Policy LU-66 Encourage design flexibility (e.g. clustering and low impact development) to preserve existing site features, including trees, wetlands, streams, natural topography, and similar features.

Goal EV-3 Protect and restore ecological functions and habitat.

Policy EV-10 Incorporate sustainable land use and design elements into projects early in the planning stages to avoid impacts to critical areas (see Land Use and Community Design Chapters).

Policy EV-12 Safeguard the long-term functions and values of critical areas through effective mitigation measures when avoidance is not feasible.

One of the Open Space goals from the Roosevelt Neighborhood Plan also applies:

FEVER CREEK SHOULD BE RESTORED TO ONCE AGAIN SUPPORT FISH. BUFFER ENHANCEMENTS AND REMOVING CULVERTS ARE NEEDED FOR FISH HABITAT IMPROVEMENTS.

VIII. CONCLUSION

Staff concludes that, as conditioned, and based upon the materials provided in Attachments for CAA, GEO, and MITIGATION, the proposal is consistent with the applicable sections of BMC 16.55 including, but not limited to, subsection .120; Variances, subsection .190; protection of critical areas, subsection .250; mitigation sequencing, subsection .500; buffers of fish and wildlife habitat conservation areas and specifically, BMC 16.55.010 F to be protective of Fever Creek and its associated buffers because:

- ✓ Is expected to result in equal or improved function of Fever Creek and its buffer;
- ✓ It avoids direct impacts to Fever Creek and the geologic hazard areas;
- ✓ It minimizes impacts to the buffers associated with Fever Creek and the geologic hazard areas;
- ✓ It is consistent with the variance criteria including proposing a reasonable and comparable use of the property when compared to the other properties within 300 feet of the parcel;
- ✓ It proposes to enhance the buffers on the subject site by eradicating invasive species and installing a diverse mix of native groundcover, shrubs and trees;
- ✓ Includes 5-years of maintenance and monitoring of the installed mitigation to ensure success; and
- ✓ Includes protective measures for the installed mitigation in the form of split-rail fencing, signage, and a recorded conservation easement across the buffer area.
- ✓

IX. CONDITIONS

After completing an analysis of the applicable sections of the BMC and specifically BMC 16.55.120.A-E, the Roosevelt Neighborhood Plan and the City's Comprehensive Plan staff recommends approval of the variance request and the critical area permit with the following conditions:

1. Prior to the issuance of a building permit, a pre-construction site visit shall be scheduled. Said site visit shall include a representative from the PCDD, a Public Works stormwater inspector, the property owner, qualified biologist, and the contractor developing the site. The purpose of the site visit is to specify the location and extent of the site work and to specify the mechanism for demarcation of the boundary between the construction area and the buffer enhancement area.

2. Prior to the issuance of a building permit, a permanent conservation easement for the prescribed stream buffer area shall be recorded with the Whatcom County Auditor. The easement area shall be shown as the stream and geohazard buffer area east of the proposed location of the split rail fence and is intended for stewardship and mitigation, according to a city-approved mitigation plan. To prepare the conservation easement, a legal description of the property (Exhibit A), a legal description of the conservation easement (Exhibit B), and a legal drawing of the conservation easement area (Exhibit C) shall be prepared by a licensed surveyor.

3. Prior to the issuance of a building permit, a financial surety that is generally consistent with section 4.4 of the mitigation plan or a bond quantity worksheet shall be fully executed. The surety (assignment of savings or bond) shall be provided on the surety form provided by the city. The party initially providing the surety shall remain responsible for maintaining the surety through the duration of the mitigation maintenance and monitoring period unless the city approves, in writing, the transfer of the responsibility for maintaining the surety to another party. The surety shall remain in place for the required five years of monitoring or longer until the goals, objectives, and performance standards for Year 5 are met. If an assignment of savings is used as surety, the specified amount for each monitoring year in the surety schedule may be released.

4. Prior to the final building inspection, a mitigation as-built report prepared by the project wetland biologist shall be submitted within 30 days of completion of the mitigation installation, and in no case later than December 31 of the development year. The as-built report shall include color photos of the mitigation planting area, fence and NGPA signs, a site plan of the planting, the list and quantity of plants installed, the installers name and contact information, and the type and source of mulch used. A site visit with the staff planner shall be scheduled by the applicant within 30 days of submittal of the as-built report. If an assignment of savings is used, the financial surety for amount specified for installation in the bond quantity worksheet may be released only after as-built approval by City staff.

5. Prior to the final building inspection by the PCDD, a “native growth protection area” (NGPA) sign shall be installed in one visible location at the buffer edge.

6. Prior to the final building inspection by the PCDD, a permanent wooden split-rail fence shall be installed along the entire stream buffer/conservation easement boundary on the subject property as approved by the PCDD.

7. Annual mitigation monitoring reports prepared by the project biologist shall be submitted to the City by November 30th of each monitoring year. The first monitoring report (Year 1 Report) shall be due at the end of the first full growing season that has occurred after as-built mitigation plan has been approved by the City. Annual monitoring reports shall include an assessment of the goals, objectives, and performance standards, narrative of maintenance tasks completed during the year, and recommendations for the next year of monitoring and maintenance.

8. Maintenance of the mitigation areas shall be conducted in accordance with the Mitigation Plan and the maintenance activities, and needed corrections, reported in the annual monitoring report.

9. The designated applicant/owner shall remain responsible for the mitigation project through the duration of the mitigation maintenance and monitoring period unless the city approves, in writing, the transfer of the mitigation responsibility to another party.

Prepared By:

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