



**City of Bellevue
Development Services Department
Land Use Staff Report**

Proposal Name: Pucher Driveway Expansion

Proposal Address: 2671 108th Avenue NE

Proposal Description: Application for a Critical Area Land Use Permit to construct an approximately 150 square foot driveway expansion into a top-of-slope buffer.

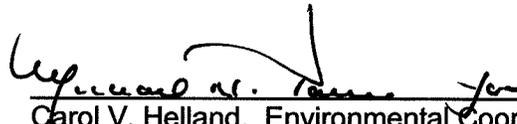
File Number: 08-122779-LO

Applicant: Duncan Pucher, Property Owner

Decisions Included: Critical Areas Land Use Permit
(Process II, LUC 20.30P)

Planner: Reilly Pittman, Associate Planner

**State Environmental Policy Act
Threshold Determination:** Exempt (development does not impinge on
critical slope)



Carol V. Helland, Environmental Coordinator
Development Services Department

Director's Decision: Approval with Conditions



Carol V. Helland, Land Use Director
Development Services Department

Application Date: 6/9/08
Notice of Application Publication Date: 7/3/08
Decision Publication Date: 7/31/08
Project/SEPA Appeal Deadline: 8/14/08

For information on how to appeal a proposal, visit Development Services at City Hall or call (425) 452-6800. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

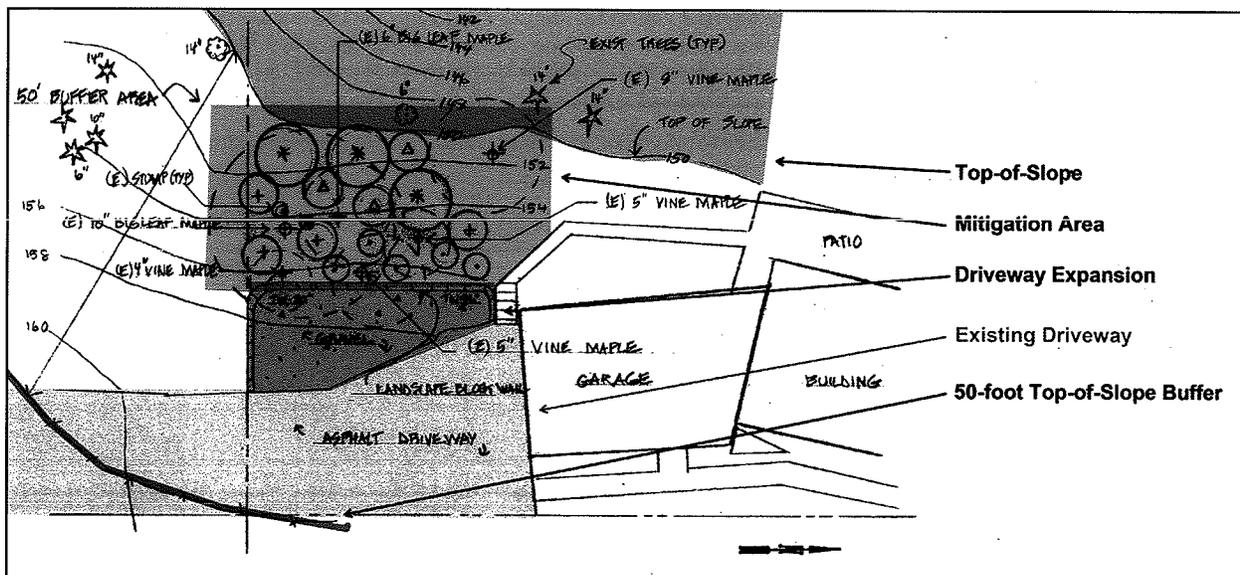
I. Background

A. Project Description

A Critical Area Land Use Permit (CALUP) to allow the expansion of an existing driveway into a 50-foot top-of-slope critical area buffer with associated mitigation planting installed on the steep slope. Driveway expansion is an allowed use within a buffer per LUC 20.25H.055, provided there is no feasible alternative as to placement. The applicant has demonstrated that no other technically feasible alternative exists other than the proposed location of the driveway expansion.

The driveway expansion is intended to provide an additional parking area for the occupants of the existing accessory dwelling unit which is attached to the existing single-family residence. Currently vehicles park in a stacked parking configuration which makes vehicular access for the property problematic. The driveway expansion has already been constructed without prior City approval which resulted in an open code enforcement action (#08-109979-EA), necessitating this CALUP request to bring the site into conformance with the City of Bellevue Land Use Code. The proposed mitigation will be carried out upon approval of this CALUP. See figure 1 below for depiction of work proposed.

Figure 1



B. Site Description

The project site is located at 2671 108th Avenue NE and is located in the SW quadrant of Section 20, Township 25 North, Range 5 East and is zoned single-family residential, R-4. The site is comprised of two separate parcels

(0251000055 and 0251000060) that share the same address and have the single-family residence and accessory dwelling unit resting on both parcels. The is accessed from 108th Avenue NE via an access easement which crosses the adjacent lot to the south. See figure 2 for existing site condition.

Figure 2



Other single-family zoned parcels surround the site to the north, west, south, and southeast. To the east/northeast of the site is an office complex on a property zoned OLB (Office and Limited Business). The majority of the site is comprised of steep slope critical areas of 40 percent or greater which slope down and away to the west from the existing residence. The steep slopes and their required top-of-slope buffers constrain almost the entire site.

The applicant is requesting a Critical Area Land Use Permit to accommodate the expansion of an existing driveway into the 50-foot top-of-slope buffer, see figure 3. Driveway expansion is an allowed use in a critical area buffer, provided that no other technically feasible alternative exists as to placement. The driveway expansion only impacted the top-of-slope buffer; this request does not impact any other critical area or buffer.

Figure 3



II. Critical Areas and Critical Area Buffers

A. Geologic Hazard Area - Steep Slopes

Geologic Hazard Areas (GHAs) are defined by the City of Bellevue Land Use Code as: those areas with slopes of 40 percent or more that have a rise of at least 10 feet and exceed 1,000 square feet in area. According to the Geotechnical Engineering Study for the site prepared by Geotech Consultants Inc. the western half of the subject site consists of steep slopes of 50-to-70 percent. These slopes meet the criteria above to be classified as a GHA. Any geologically hazardous area is designated as a critical area and per LUC 20.25H.120.B.1.b a 50-foot buffer from the top-of-slope is required. The applicant has constructed an approximately 150 square foot driveway expansion within this 50-foot top-of-slope buffer. Construction of a driveway expansion is an allowed use within a buffer per LUC 20.25H.055, provided that the applicant demonstrates there is no technically feasible alternative.

III. State Environmental Policy Act (SEPA)

A. SEPA Exempt

No work is proposed within a critical area as defined within BCC 22.02, which

contains the City of Bellevue's environmental procedures. As a result the project is exempt from SEPA review.

IV. Consistency with Land Use Code Requirements:

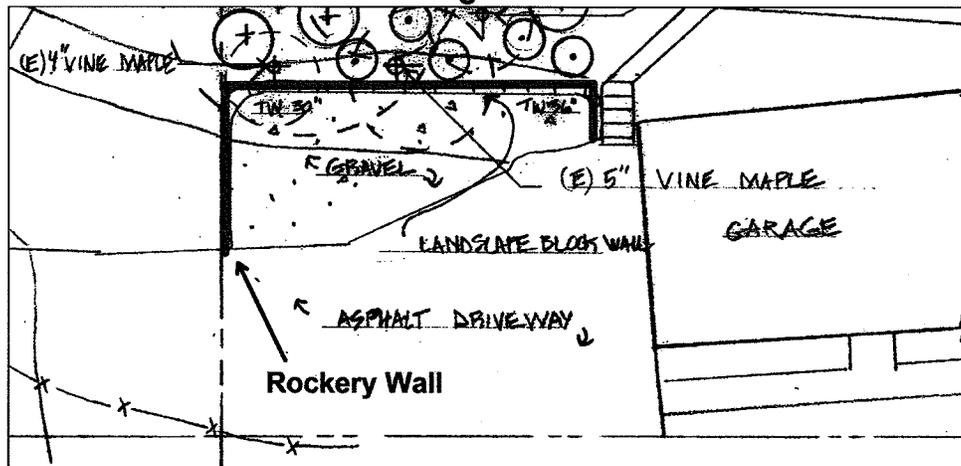
A. Zoning District Dimensional Requirements

The site is zoned R-4 which has the setbacks required in the table below:

DIMENSIONAL STANDARD	Minimum Required
Front Yard Setback (Can be measured from edge of easement)	20'
Rear Yard Setback	20'
Side Yard (2 Side Yards)	5' (15')
Setback from access easement	10'

Setbacks are reviewed at time of building permit, however, the driveway expansion required the construction of retaining/rockery walls to retain the expansion from the adjacent steep slopes. These walls are partially within the 20-foot front yard setback and as such are required to be less than 30 inches in height measured from existing grade and less than 48 inches to avoid requiring a building permit. The wall will be required to meet all zoning requirements including height limits. See figure 4 below. See Conditions of Approval in Section X of this report.

Figure 4



B. Critical Areas Requirements

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area or critical area buffer.

The Critical Areas Overlay District is a mechanism by which the City recognizes the existence of natural conditions which affect the use and development of a property. Through this section of the Land Use Code, the city imposes regulations on the use and development of affected property to protect the functions and values of these areas, the public health, safety and welfare, and to allow reasonable use of private property.

The site under proposal contains areas of steep slope that are designated as critical areas. Work proposed in steep slope critical areas and their required top-of-slope buffer is subject to certain performance standards in the Land Use Code. These performance standards are identified in the table below:

Critical Area	Geologic Hazard - Steep Slope
Performance Standards	20.25H.055.C.2 20.25H.125

The City of Bellevue Land Use Code (section 20.25H.120) designates areas with steep slopes of 40 percent or more that have a rise of at least 10 feet and exceed 1,000 square feet in area as a Critical Area. Under LUC 20.25H, development in a critical area or buffer is prohibited unless the proposal is identified as an allowed use. As a result the proposed development must meet the requirements identified in LUC 20.25H.055.C.2 and 20.25H.125. Per LUC 20.25H.055 a driveway expansion is an allowed use. However, LUC 20.25H.055.C.2 establishes performance standards for expansions of facilities within critical areas and critical area buffers, requiring the applicant to demonstrate that no other technically feasible alternative to their proposed development/use exists that would have lesser impact or avoid impacts altogether. LUC 20.25H.125 establishes performance standards specific to geological hazard areas. Approval of this proposal requires review for consistency with the Critical Areas Land Use Permit decision criteria listed in LUC 20.30P. These standards and requirements are analyzed in detail below.

V. Consistency With Land Use Code Critical Areas Performance Standards:

A. Consistency With LUC 20.25H.055.C.2

2. New and Expanded Uses or Development. As used in this section, “facilities and systems” is a general term that encompasses all structures and improvements associated with the allowed uses and development described in the table in subsection B of this section:
 - a. New or expanded facilities and systems are allowed within the critical area or critical area buffer only where no technically feasible alternative with less impact on the critical area or critical area buffer exists. A determination of technically feasible alternatives will consider:
 - i. **The location of existing infrastructure;**
 - ii. **The function or objective of the proposed new or expanded facility or system;**
 - iii. **Demonstration that no alternative location or configuration outside of the critical area or critical area buffer achieves the stated function or objective, including construction of new or expanded facilities or systems outside of the critical area;**
 - iv. **Whether the cost of avoiding disturbance is substantially disproportionate as compared to the environmental impact of proposed disturbance; and**
 - v. **The ability of both permanent and temporary disturbance to be mitigated.**

The applicant previously had widened the driveway along its eastern edge on land believed to belong to the applicant in order to keep the driveway expansion away from and outside of the top-of-slope buffer. However, the eastern property line was found to be immediately adjacent to the edge of the existing driveway, as a result the driveway expansion was actually located on property belonging to the adjacent office building to the east. The applicant was subsequently forced to remove the driveway expansion through litigation.

Due to the placement and location of the house, garage, and driveway on-site to avoid the steep slopes, the only other alternative to provide sufficient vehicle parking and improve access was to expand the driveway into the top-of-slope buffer. The area of buffer which was impacted consisted of invasive plants that provided little habitat value or slope stabilization. The applicant is proposing planting an area adjacent to the driveway as mitigation for the buffer encroachment which will enhance habitat value as well as increase slope stability. The applicant has demonstrated there is no other technically feasible

alternative to the proposed location of the driveway expansion and is mitigating for any impacts. Therefore the proposed work is consistent with LUC 20.25H.055.C.2.

B. Consistency With LUC 20.25H.125

In addition to generally applicable performance standards set forth in LUC 20.25H.055, development within a landslide hazard or steep slope critical area or the critical area buffers of such hazards shall incorporate the following additional performance standards in design of the development, as applicable. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function.

- a. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;**

The driveway expansion is supported by a rockery wall which was built to allow the existing natural slope to remain.

- b. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;**

The driveway expansion occurred in the top-of-slope buffer and did not impact the adjacent steep slopes which are the most critical landforms on-site. The only vegetation that was impacted was invasive plant species. Replanting is proposed consisting of native species that will provide habitat potential and increase slope stability.

- c. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;**

This project will not result in greater risk or a need for increase buffers on neighboring properties. There is on residence located to the south of the driveway expansion that is within the immediate proximity of the proposed slope modification that would be affected by this proposal. However, the adjacent residence is currently restricted by the same 50 foot top-of-slope buffer that is requested to be reduced by this proposal and is already located within the buffer.

- d. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes where graded slopes would result in increased disturbance as compared to use of retaining wall;**

A rockery wall was used to avoid excessive grading. No grading is proposed in the steep slope itself. See Conditions of Approval in Section X of this report.

- e. Development shall be designed to minimize impervious surfaces within the critical area and critical area buffer;**

The site is zoned R-4 and is restricted to a maximum impervious surface coverage of 50 percent, which the driveway expansion will not affect.

- f. Where change in grade outside the building footprint is necessary, the site retention system should be stepped and regrading should be designed to minimize topographic modification. On slopes in excess of 40 percent, grading for yard area may be disallowed where inconsistent with this criteria;**

This requirement is not applicable to this project. No steep slope is proposed to be modified; no significant change in site topography is proposed.

- g. Building foundation walls shall be utilized as retaining walls rather than rockeries or retaining structures built separately and away from the building wherever feasible. Freestanding retaining devices are only permitted when they cannot be designed as structural elements of the building foundation;**

This requirement is not applicable as no building is proposed.

- h. On slopes in excess of 40 percent, use of pole-type construction which conforms to the existing topography is required where feasible. If pole-type construction is not technically feasible, the structure must be tiered to conform to the existing topography and to minimize topographic modification;**

This requirement is not applicable as no construction is occurring on slopes of over 40 percent.

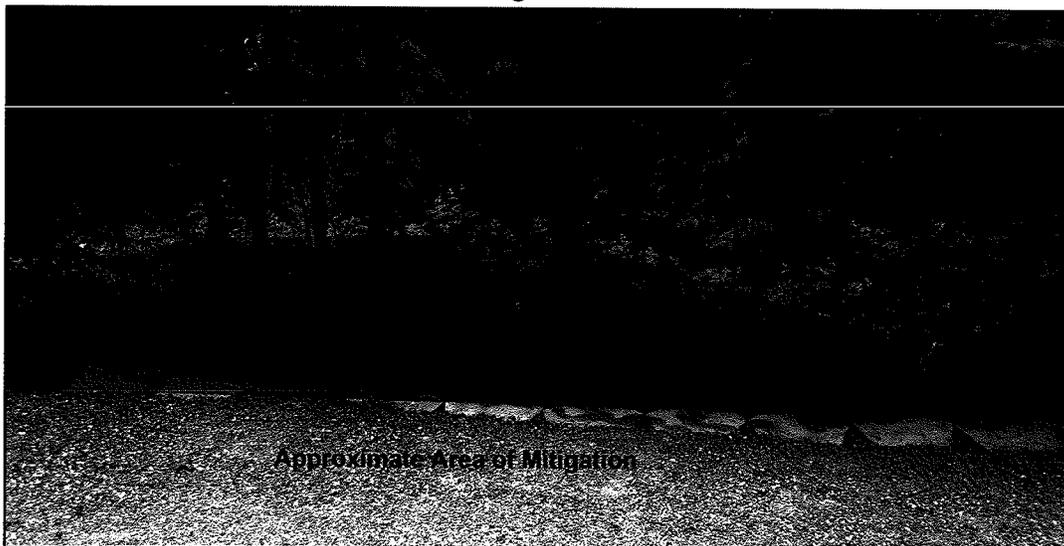
- i. On slopes in excess of 40 percent, piled deck support structures are required where technically feasible for parking or garages over fill-based construction types;**

This requirement is not applicable as no construction is occurring on slopes of over 40 percent.

- j. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.**

A clear and grade permit will be required to be approved for the proposed work. A restoration and replanting plan has been submitted and approved to restore an area next to the driveway expansion, see figure 5. The clear and grade permit submittal must include a cost estimate to be used in determining the amount of the assignment of savings financial security device that will be required prior to permit issuance. The assignment of savings shall be at least 50 percent of the cost of plants. See Conditions of Approval in Section X of this report.

Figure 5



VI. Public Notice and Comment

Application Date:	June 9, 2008
Public Notice (500 feet):	July 3, 2008
Minimum Comment Period:	July 17, 2008

The Notice of Application for this project was published in the Seattle Times and the City of Bellevue weekly permit bulletin on July 3, 2008. It was mailed to property owners within 500 feet of the project site. A comment letter was received on July 17, 2008 from a neighboring property owner concerning this driveway expansion. A response letter was sent dated July 18, 2008 which responded to all issues and questions raised in the comment letter. The response can be found in the project file.

VII. Decision Criteria

A. 20.30P.140 Critical Area Land Use Permit Decision Criteria – Decision Criteria.

The Director may approve, or approve with modifications an application for a Critical Area Land Use Permit if:

a. The proposal obtains all other permits required by the Land Use Code;

The applicant must obtain a clear and grade permit. See Conditions of Approval in Section X of this report.

b. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

The proposed mitigation will enhance the slopes by removing invasive plants and restoring the area with native species. No slopes are proposed to be modified as the driveway expansion occurred in the top-of-slope buffer only. See Conditions of Approval in Section X of this report.

c. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and ;

As discussed in Section V of this report, the proposal meets the performance standards of LUC Section 20.25H.055.C.2 for expansion of

facilities into a critical area or its buffer and LUC Section 20.25H.125 for areas of geological hazards.

d. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;

The proposed driveway expansion will improve the existing service level by providing improved driveway circulation for resident and visiting vehicles. The driveway expansion does not impact the demand on public services and facilities. In order for a clear and grade permit to be approved the site will be required to be in conformance with all applicable code requirements.

e. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and

The mitigation replanting plan will be required to be submitted as part of the clear and grade permit submittal and must include a cost estimate to be used in determining the amount of the assignment of savings financial security device that will be required prior to permit issuance. The assignment of savings shall be at least 50 percent of the cost of plants. See Conditions of Approval in Section X of this report.

f. The proposal complies with other applicable requirements of this code.

As discussed in Section IV, V, & VI of this report, the proposal complies with all other applicable requirements of the Land Use Code.

VIII. Summary of Technical Reviews

A. Clearing and Grading:

The Clearing and Grading Division of the Planning and Community Development Department has reviewed the proposed site development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development and concurred with the findings within the Geotechnical Report. A clear and grading permit will be required as the driveway expansion is in the vicinity of steep slope critical areas.

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director does hereby **approve with conditions** the proposal to expand the driveway in to the top-of-slope buffer. **Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. A clear and grade permit is required in addition to any other permits and all plans are subject to review for compliance with applicable City of Bellevue codes and standards.**

Note- Expiration of Approval: In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for a Clearing and Grading Permit or other necessary development permits within one year of the effective date of the approval.

X. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

<u>Applicable Ordinances</u>	<u>Contact Person</u>
Clearing and Grading Code- BCC 23.76	Tom McFarlane, 425-452-5207
Land Use Code- BCC Title 20	Reilly Pittman, 425-452-4350
Noise Control- BCC 9.18	Reilly Pittman, 425-452-2973

The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:

- 1. Clear and Grading Permit:** The applicant must apply for and receive a clearing and grading permit. Clearing and grading plans are subject to review by the applicable City departments.

Authority: Land Use Code 23.76

Reviewer: Tom McFarlane, Development Services Department

- 2. Critical Area Restoration and Replanting:** Mitigation and planting shall be consistent with the mitigation plan prepared by Foresight Inc. dated June 5, 2008. The proposed planting plan is Attachment 1 to this staff report. A Land Use inspection of the planting will be required with the clear and grade

permit.

Authority: Land Use Code 20.25H.220

Reviewer: Reilly Pittman, Development Services Department

3. **Assignment of Savings Financial Security Device:** A complete assignment of savings financial security device in the amount of 100 percent of the cost of plants must be submitted prior to clear and grade permit issuance for maintenance of the planting. Release of the assignment of savings can occur after three years, provided an inspection of the planting by Planning Staff finds the plants in a healthy and growing condition.

Authority: Land Use Code 20.25H.220.F

Reviewer: Reilly Pittman, Development Services Department

4. **Hold Harmless Agreement:**

The applicant shall sign a hold harmless agreement in a form approved by the City Attorney which releases the City from liability for any damage arising from the location of improvements within the critical area buffer in accordance with LUC 20.30P.170.

Authority: Land Use Code 20.30P.170

Reviewer: Reilly Pittman, Development Services Department

5. **Retaining Walls or Rockeries:** These structures will require building permits and may be subject to other requirements in LUC Title 20 if the height of any walls or rockeries is 48 inches or greater.

Authority: Land Use Code Title 20

Reviewer: Reilly Pittman, Development Services Department

6. **Rainy Season Restrictions:** Due to the proximity to a steep slope, no clearing and grading activity may occur during the rainy season, which is defined as November 1 through April 30 without written authorization of the Department of Planning and Community Development. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A,
Reviewer: Tom McFarlane, Development Services Department

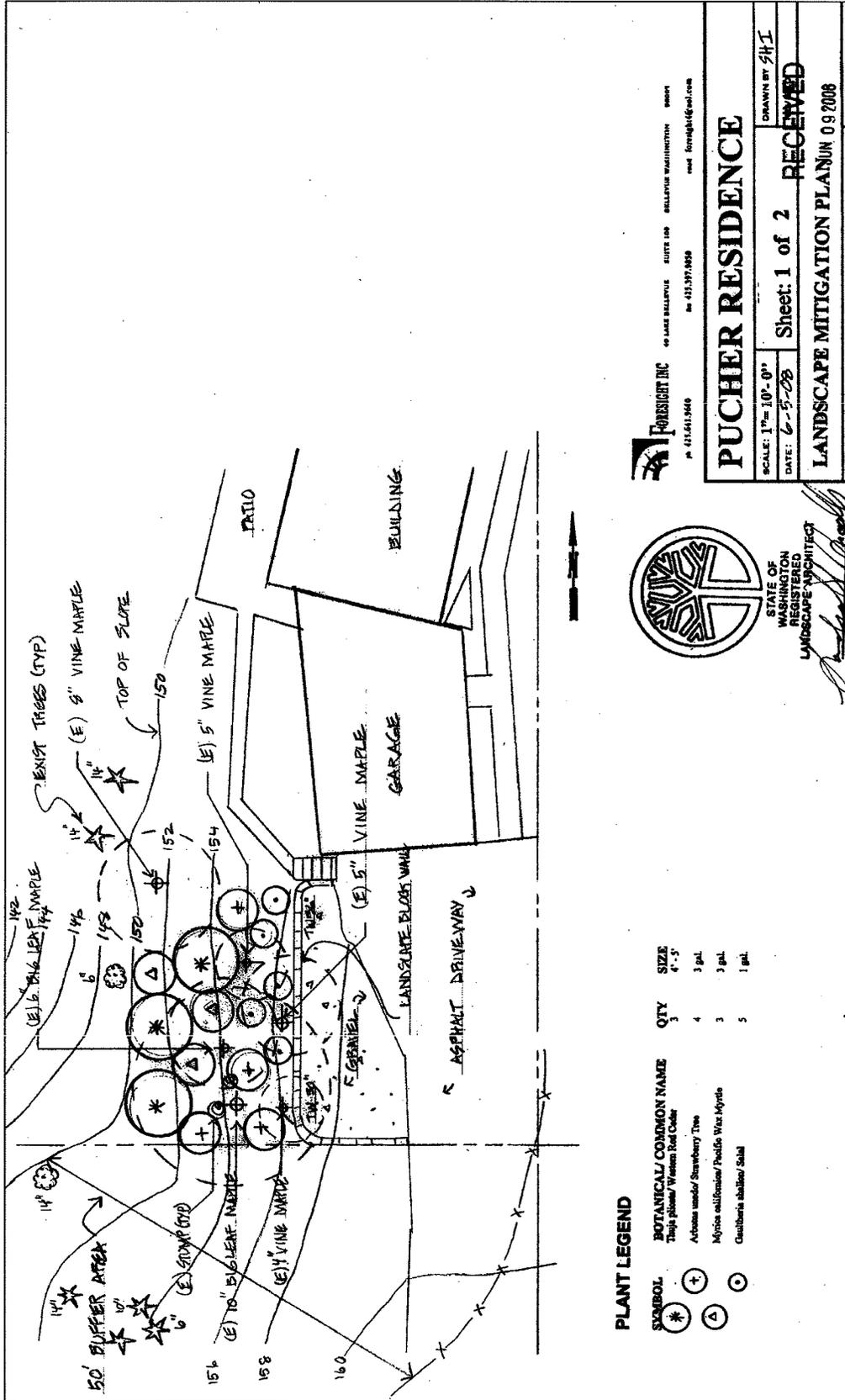
- 7. Noise Control:** Noise related to construction is exempt from the provisions of BCC 9.18 between the hours of 7 am to 6 pm Monday through Friday and 9 am to 6 pm on Saturdays, except for Federal holidays and as further defined by the Bellevue City Code. Noise emanating from construction is prohibited on Sundays or legal holidays unless expanded hours of operation are specifically authorized in advance. Requests for construction hour extension must be done in advance with submittal of a construction noise expanded exempt hours permit.

Authority: Bellevue City Code 9.18
Reviewer: Reilly Pittman, Development Services Department

XI. Attachments:

1. Mitigation Planting Plan – Attached to Staff Report and in file
2. Site Map and Plans- In File

Attachment 1



PLANT LEGEND

SYMBOL	BOTANICAL/ COMMON NAME	QTY	SIZE
(*)	16" Big Leaf Maple	3	4" - 5"
(+)	Arctostaphylos uva-ursi / Western Red Cedar	4	3 gal.
(x)	Myrica asplenifolia / Pacific Wax Myrtle	3	3 gal.
(.)	Gaultheria shallon / Salal	5	1 gal.



STATE OF WASHINGTON
REGISTERED
LANDSCAPE ARCHITECT
[Signature]
SUSAN WASHINGTON WATSON

FORNSIGHT INC
40 JAKE BALLENGUE SUITE 100 BELLAVUE WASHINGTON 98004
P 425.411.5648 F 425.377.9959 www.fornightllc.com

PUCHER RESIDENCE

SCALE: 1" = 10'-0"
DATE: 6-5-08
DRAWN BY: SHI
Sheet: 1 of 2 RECEIVED
LANDSCAPE MITIGATION PLAN JUN 09 2008
DRAWING NUMBER