City of Bellevue
Development Services Department
P.O. Box 90012, Bellevue, WA 98009-9012
(425) 452-6800 Fax (425) 452-5225

Shoreline Management Act of 1971
Permit for Shoreline Management Substantial Development
Conditional Use and/or Variance

Application No. 08-135849-WG

Date Received 11/26/08

[X] Approved / Date 2/26/09
[ ] Denied / Date

Type of Action:

[X] Substantial Development Permit
[ ] Conditional Use Permit
[ ] Variance Permit

Pursuant to Chapter 90.58 RCW, a permit is hereby granted to: Newport Yacht Club

to undertake the following development:
Vegetation Management and drainage repairs within the 50-foot shoreline buffer from Lake Washington.

upon the following property: 2 Crescent Key

within Lake Washington
and/or its associated wetlands. The project will be located within Shorelines of Statewide Significance (RCW 90.58.030). The project will be located within a Shoreline Overlay District designation. The following master program provisions are applicable to this development:

- Land Use Code(LUC) Section 20.25E.080(B)General Regulations Applicable to all Land Use Districts & Activities:
- LUC 20.25H.055.C.3.i Vegetation Management
- Bellevue Comprehensive Plan, Shoreline Management Program Element, Policy SH-13 and SH-50

Development pursuant to this permit shall be undertaken in accordance with the following terms and conditions:

Conditions of Approval (Land Use Division)

This permit is granted pursuant to the Shoreline Management Act of 1971 and nothing in this permit shall excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project, but not inconsistent with the Shoreline Management Act (Chapter 90.58 RCW).

This permit may be rescinded pursuant to RCW 90.58.140(8) in the event the permittee fails to comply with the terms and conditions hereof. Construction pursuant to this permit, or substantial progress toward construction, must be undertaken within two years of the date of final approval. This permit shall expire five years from the date of local approval.

Construction pursuant to this permit will not begin or is not authorized until twenty-one (21) days from the date of filing, as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) days from the date of such filing have terminated; except as provided in RCW 90.58.140(5) (A) (B) (C).

February 26, 2009
Date

City of Bellevue, Land Use Division

CC: Attorney General, Department of Ecology, Northwest Region
Dept. of Fish and Wildlife, 1775 12th Ave. NW Suite 201 Issaquah, WA 98027
DOE, Joe Burcar, 3190 160th Avenue SE, Bellevue, WA 98008-5452

City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name:	Newport Shores Park Vegetation Management
Proposal Address:	2 Crescent Key
Proposal Description:	The applicant requests a Shoreline Substantial Development Permit and Critical Areas Land Use Permit for a vegetation management plan and drainage repairs within the 50-foot shoreline buffer of Lake Washington located in a Newport Shores common area.
File Number:	08-135849-WG
Applicant:	Rodrigo Leos, Green River Landscaping
Decisions Included:	Shoreline Substantial Development Permit (Process II. 20.30R) Critical Areas Land Use Permit (Process II. 20.30P)
Planner:	Reilly Pittman, Land Use Planner
State Environmental Policy Act Threshold Determination:	**Exempt** Carol V. Helland, Environmental Coordinator Development Services Department
Director's Decision:	**Approval with Conditions** Michael A. Brennan, Director Development Services Department By: _____ Carol V. Helland, Land Use Director

Application Date:	November 26, 2008
Notice of Application Publication Date:	January 15, 2009
Decision Publication Date:	February 26, 2009
Project/SEPA Appeal Deadline:	March19, 2009

For information on how to appeal a proposal, visit Development Services Center 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.

CONTENTS

I. Proposal Description ..... Pg 3

II. Site Description, Zoning & Land Use Context ..... Pg 3-4

III. Consistency with Land Use Code Requirements ..... Pg 4-6

IV. Public Notice & Comment ..... Pg 7

V. Summary of Technical Review ..... Pg 7

VI. Changes to Proposal Due to Staff Review ..... Pg 7

VII. Decision Criteria ..... Pg 7-9

VIII. Conclusion and Decision ..... Pg 9

IX. Conditions of Approval ..... Pg 9-11

I. Proposal Description

The applicant proposes a vegetation management plan to modify a common area used as a park. The park site is an undeveloped property adjacent to Lake Washington and is within the 50-foot shoreline buffer required for undeveloped sites that have no primary structure. The park is approximately 83 feet wide by 40 feet deep and is located between Cascade Key and the bulkhead along the shoreline. The work proposed includes the removal of existing ornamental landscaping, replanting of native species, and creation of a small drainage channel. See attachment 1 for proposed work.

II. Site Description, Zoning, Land Use and Critical Areas

A. Site Description

The project site is located at 2 Crescent Key in the Newport Shores area. The site is located in the SW quadrant of Section 17, Township 24 North, Range 5 East. The site fronts Cascade Key along the south property line, is surrounded to east and west by single-family residences, and has shoreline frontage along Lake Washington to the north. The park is a north facing gradual slope which slopes down from the Cascade Key right-of-way to the shoreline. The site is an undeveloped site having no primary structure. Per LUC 20.25H.115 the site has a 50-foot buffer measured from the Ordinary High Water Mark. As a result the entire park is located in the 50-foot shoreline buffer. See figure 1 for existing site condition.

Figure 1

B. Zoning

The property is zoned R-2.5, single-family residential and is located in the Critical Areas Overlay District and Shoreline Overlay District. The proposed activities of vegetation removal and replanting are allowed in this zone.

C. Land Use Context

The property has a Comprehensive plan Land Use Designation of SF-M (Single Family Medium Density). Vegetation management is consistent with single family development.

D. Critical Areas Function and Value, Regulations

i. Shorelines

Shorelines provide a variety of functions including shade, temperature control, water purification, woody debris recruitment, channel, bank and beach erosion, sediment delivery, and terrestrial-based food supply (Gregory et al. 1991; Naiman et al. 1993; Spence et al.1996).

Shorelines provide a wide variety of functions related to aquatic and riparian habitat, flood control and water quality, economic resources, and recreation, among others. Each function is a product of physical, chemical, and biological processes at work within the overall landscape. In lakes, these processes take place within an integrated system (ecosystem) of coupled aquatic and riparian habitats (Schindler and Scheuerell 2002). Hence, it is important to have an ecosystem approach which incorporates an understanding of shoreline functions and values. The discussion presented herein emphasizes this ecosystem approach.

ii. Shoreline Overlay District/Shoreline Substantial Development Permit

The Shoreline Overlay District regulations (LUC 20.25E) allow for the clearing and grading activities which vegetation management is classified as, provided the applicable performance standards are met. The proposed vegetation management is allowed under LUC 20.25H and meets all shoreline performance standards in LUC 20.25E.080.B and 20.25E.080.G. A Shoreline Substantial Development Permit is required due to the value of the work exceeding $5,718.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The R-5 zoning dimensional requirements found in LUC 20.20.010 do not apply to this project as no structure is proposed to be constructed.

B. Critical Areas Requirements LUC 20.25H:

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 proposed vegetation management work is located within the 50-foot shoreline buffer

required for undeveloped sites. The performance standards identified in the table below apply:

Critical Area	Performance Standards
Shorelines	20.25H.055.C.3.i

i. **Consistency With Land Use Code Vegetation Management Performance Standards LUC 20.25H.C.3.i:**

Vegetation Management is an allowed use in a critical area or critical area buffer provided a Critical Area Land Use Permit is approved. Vegetation Management plans may be proposed for public parks to manage the parks over time. The site in question is a private park area which the neighborhood wishes to improve for reasons of security and safety. Vegetation Management Plans for uses other than public may be approved subject to the following:

1. **A description of existing site conditions, including existing critical area functions and values;**

   See above site description in section II of this report. The site is currently used as a private park and open space for the surrounding community. There is a concrete bulkhead along the entire shoreline frontage of Lake Washington. Existing vegetation of park consists of primarily lawn, ornamental landscaping, and 2 to 3 trees which have been topped. There is no vegetation adjacent to the shoreline other than lawn. The shoreline buffer in this location has minimal function or value as a shoreline buffer.

2. **A site history;**

   The park was originally part of Lot 49 of the Newport Division I subdivision. At some point the park area was established as a separate open space. The park has been used as a launching spot for small watercraft such as kayaks and canoes. The vegetation of the park has been maintained regularly.

3. **A discussion of the plan objectives;**

   The objective the vegetation management on this site is to increase the visibility of the park to the surrounding neighborhood for increased water safety and surveillance. The park is a launching point for small boats and is used as a small recreational area by residents and youths. The existing vegetation allows parts of the park to remain out-of-sight. The proposed vegetation will allow for increase visibility and at the same time significantly improve the function and value of the shoreline buffer at this location.

4. **A description of all sensitive features;**
   The only sensitive features on this site are the shoreline buffer.

5. **Identification of soils, existing vegetation, and habitat associated with species of local importance present on the site;**

   Existing vegetation of park consists of primarily lawn, ornamental landscaping, and 2 to 3 trees which have been topped. There is no vegetation adjacent to the shoreline other than lawn. The park is only approximately 3,000 square feet in area and has minimal vegetation cover that precludes any use by species of local importance. The trees on-site are ornamental in nature and not of a size sufficient to provide significant habitat. The proposed landscaping and restoration will provide native plants and restore the shoreline buffer to a condition that may provide habitat value.

6. **Allowed work windows;**

   No work is occurring in Lake Washington and will not be subject to spawning work windows.

7. **A clear delineation of the area within which clearing and other vegetation management practices are allowed under the plan; and**

   See attachment 1 for proposed planting restoration.

8. **Short- and long-term management prescriptions, including characterization of trees and vegetation to be removed, and restoration and revegetation plans with native species, including native species with a lower growth habit. Such restoration and revegetation plans shall demonstrate that the proposed Vegetation Management Plan will not significantly diminish the functions and values of the critical area or alter the forest and habitat characteristics of the site over time.**

   All vegetation on-site with the exception of one existing and healthy conifer tree will be removed and restored with native plants per the submitted conceptual restoration plan. The proposed planting will improve any habitat value of the shoreline buffer and will be superior to the existing conditions of the site. A management plan detailing timing of work and scheduling of regular maintenance will be required to be submitted with a future clearing and grading permit that will cover all work on-site. The vegetation on-site can be maintained thereafter without need for further permits. Any future development, removal of vegetation, or other actions that will cause disturbance in the park will require additional permits. See Conditions of Approval in Section X of this report.

IV. Public Notice and Comment

Application Date:	November 26, 2008
Public Notice (500 feet):	January 15, 2009
Minimum Comment Period:	February 16, 2009

The Notice of Application for this project was published in the King County Journal and the City of Bellevue weekly permit bulletin on January 15, 2009. It was mailed to property owners within 500 feet of the project site. No written comments on the project were received.

V. 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.

VI. Changes to Proposal Due to Staff Review

The applicant modified the proposed restoration plan per the Land Use per staff comment letter dated January 2, 2009. Staff requested that the plan be modified to more reflect the City's shoreline planting templates in the Critical Areas Handbook. The area of primary concern in the comments was the proposed planting to occur within the first 25 feet of the shoreline. A new plan was submitted which only depicted the proposed planting occurring in the area adjacent to the shoreline (see attachment 2). A final planting plan shall be submitted with the future clearing and grading permit that combines both planting plans into one final plan. <u>See Conditions of Approval in Section X of this report.</u>

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:

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

   The applicant must obtain a clearing and grading permit before beginning any work. The clearing and grading permit will be good for a period of three years from the date of approval and will cover all maintenance activity during that time. A new clearing and grading permit will be needed every three years. No other Critical Area Land Use Permit will be needed to maintain the vegetation management approved in this report. Future modifications beyond the approved activity covered in this report may require a new Critical Area Land Use Permit. <u>See Conditions of Approval in Section X of this report.</u>

2. **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 planting will enhance the habitat potential of the shoreline buffer of Lake Washington by removing ornamental plans and restoring the area with native species.

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

   As discussed in Section II and III of this report, the performance standards of LUC Section 20.25E.080.B and G and 20.25H.055.C.3.i are being met.

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

   The proposed activity will not affect public services or facilities.

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

   A restoration planting plan has been submitted which is consistent with the City's Critical Area Handbook. The proposed activity is for on-going vegetation management of a private park area. As the project site is a park used by the community there is a need for the park vegetation to be maintained in a healthy and growing condition for the enjoyment of the community. This vegetation management will restore the shoreline buffer in addition to meeting the neighborhood goals of safety and visibility. As a result no maintenance surety or monitoring will be required as the park will be subject to on-going maintenance.

6. **The proposal complies with other applicable requirements of this code.**

   As discussed in this report, the proposal complies with all other applicable requirements of the Land Use Code.

B. **LUC 20.30R.155.B Shoreline Substantial Development Permit – Decision Criteria**
The Director may approve, or approve with modifications if:

1. **The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications;**

   No work is occurring in the water. The proposed activity is to restore an area located in the shoreline buffer that will improve its habitat potential and the

relationship between the shoreline buffer and Lake Washington. The submitted restoration plan is sufficient to support approval of the proposed activity.

2. **The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code;**

   The proposal complies with all applicable decision criteria.

3. **The applicant has demonstrated that the proposal is consistent with the policies and procedures of the Shoreline Management Act and the provisions of Chapter 173-14 WAC and the Master Program.**

   The proposal complies with the policies of the Shoreline Management Act and Chapter 173-14 WAC of the Master Program.

VIII. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, City Code and Standard compliance reviews, the Director of Planning and Community Development does hereby **approve with conditions** the vegetation management proposed within the 50-foot shoreline buffer at the private park located at 2 Crescent Key. **Approval of this Shoreline Substantial Development Permit and Critical Areas Land Use Permit and does not constitute a permit for construction. A Clearing and Grading permit is required 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 20.30R.175, the Shoreline Substantial Development Permit automatically expires and is void if the applicant fails to file for a Clearing and Grading Permit or other necessary development permit and fails to make substantial progress towards completion of the project within two years of the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension for the Shoreline Substantial Development Permit pursuant to LUC 20.30R.180.

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:

Applicable Ordinances	Contact Person
Clearing and Grading Code- BCC 23.76	Tom McFarlane, 425-452-5207
Utilities – BCC Title 24	Robert Hutchinson, 425-452-7903
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. **Clearing/Grading Permit Required:** Approval of this Shoreline Substantial Development Permit and Critical Areas Land Use Permit does not constitute an approval of a clearing and grading permit. Application for a clearing and grading permit must be submitted and approved prior to plant installation. Plans submitted as part of the clearing and grading permit application must be consistent with the activity permitted under this approval.

   Authority: Land Use Code 20.30P.140
   Reviewer: Reilly Pittman, Development Services Department

2. **Consolidated Planting Plan:** A final planting plan shall be submitted with the clearing and grading permit application that consolidates the original planting plan and the planting revisions made to the area adjacent to the shoreline into one document.

   Authority: Land Use Code 20.30P.140
   Reviewer: Reilly Pittman, Development Services Department

3. **Maintenance Plan and Schedule of Work:** A schedule of work and maintenance plan is required to be submitted with the clearing and grading permit which describes the new planting will be maintained over time and provides a schedule of the times of the year in which maintenance will occur.

   Authority: Land Use Code 20.25H.055
   Reviewer: Reilly Pittman, Development Services Department

4. **Permit Approval for Future Development and/or Disturbance:** Future development, vegetation removal, or other actions that will cause disturbance within the shoreline buffer beyond the vegetation management approved in this report will require City approval of Critical Area Land Use Permits, Shoreline Substantial Development Permits, Clearing and Grading permits, and/or other miscellaneous permits and approvals.

   Authority: Land Use Code 20.30P.140
   Reviewer: Reilly Pittman, Development Services Department

5. **Special Inspection Required:** Special inspection of the restoration planting following installation must be completed by the Land Use Planner as part of the clearing and grading permit inspection process.

   Authority: Land Use Code 20.25H.210
   Reviewer: Reilly Pittman, Development Services Department

6. **Rainy Season Restrictions:** Due to the proximity to Lake Washington, 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 Development Services Department. 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: Reilly Pittman, Development Services Department

7. **Pesticides, Insecticides, and Fertilizers:** The applicant must submit as part of the required clearing and grading permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices" .

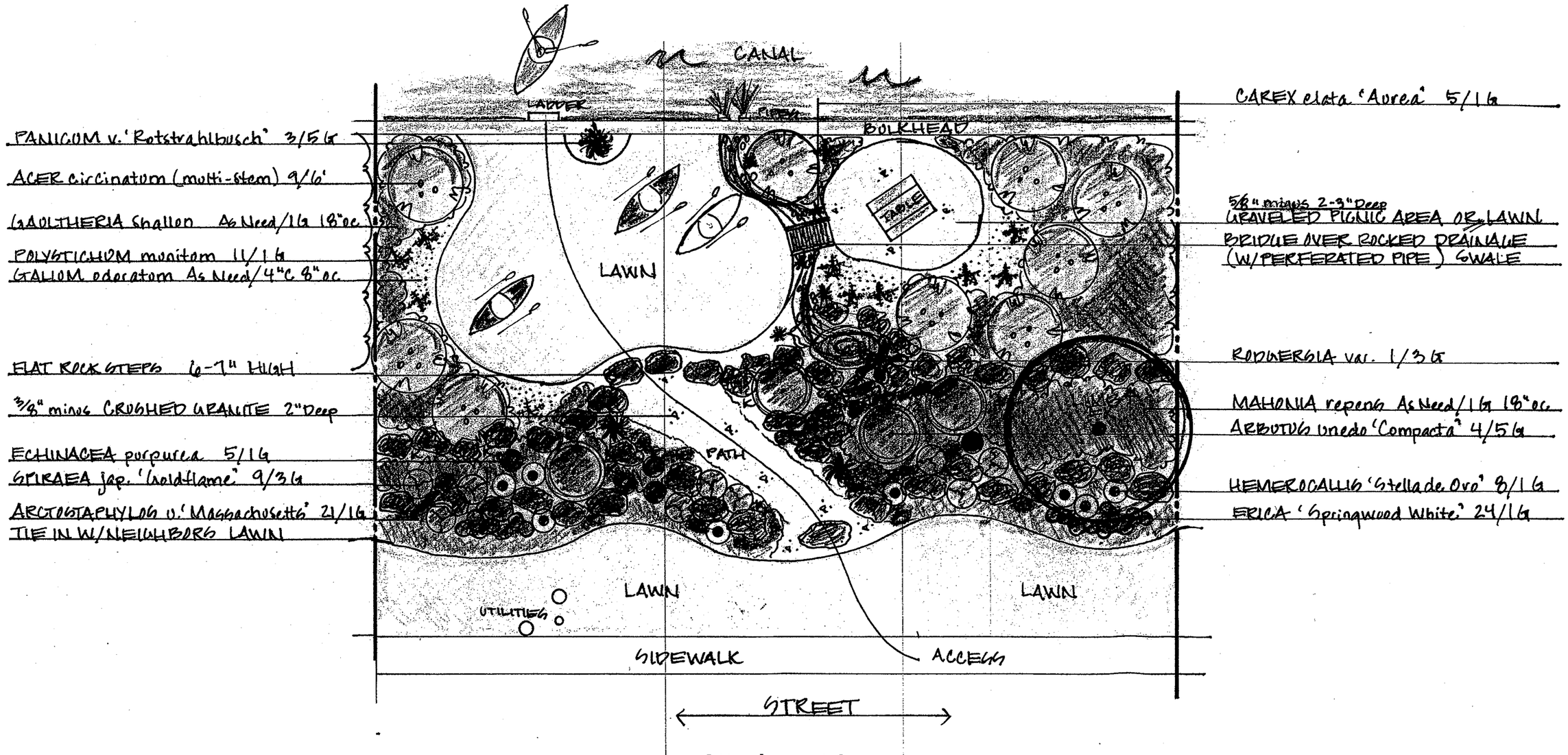
   Authority: Land Use Code 20.25H.220
   Reviewer: Reilly Pittman, Development Services Department

8. **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. Planting Plan - Enclosed
2. Planting Plan Revisions – In File



Attachment 1