
CHAPTER 5.10 Section 4(f) Resources

Section 4(f) resources within the study area include the Points Loop pedestrian/bicycle trail, four parks, and three historic properties eligible for listing in the National Register of Historic Places (NRHP). Construction and operational activities of the proposed project would have de minimis use of two of the parks (Fairweather Park and Wetherill Nature Preserve), and the Points Loop Trail would meet the exception for trails located within existing transportation right of way. In addition, the analysis demonstrates there would be no Section 4(f) use of the two other parks located within the study area (Hunts Point Park and Yarrow Bay wetlands), but there will be temporary occupancy. Finally, there would be no Section 4(f) use of the three historic properties.

Please refer to the Section 4(f) Technical Memorandum in Appendix T for additional information about this analysis.

The intent of the Section 4(f) statute and U.S. Department of Transportation policy is to avoid the use of significant public parks, recreation areas, wildlife and waterfowl refuges, and historic sites as part of a project unless there is no feasible and prudent alternative to the use of such land.

Introduction

Section 4(f) of the Department of Transportation Act of 1966 (49 USC Section 303) prohibits the Federal Highway Administration (FHWA) from approving a project or program that uses land from a significant public park, recreation area, wildlife or waterfowl refuge, or historic site unless:

- There is no feasible and prudent avoidance alternative to the use of the land; and
- The project includes all possible planning to minimize harm to the property; or
- The project will not have more than a “*de minimis* impact” on the property.

Section 4(f) allows for some exceptions to the law, including temporary occupancy and trails located within a transportation right of way

Temporary Occupancies

Temporary occupancies of land that are so minimal as to not constitute a use within the meaning of Section 4(f) are exempt from Section 4(f) approval (23 Code of Federal Regulations [CFR]--Part 774.13[d]). In order for a temporary occupancy to meet the exemption, the following conditions must be satisfied:

1. Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;
2. Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the Section 4(f) property are minimal;
3. There are no anticipated permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;
4. The land being used must be fully restored, i.e., the property must be returned to a condition which is at least as good as that which existed prior to the project; and
5. There must be documented agreement of the official(s) with jurisdiction over the Section 4(f) resource regarding the above conditions.

Trails within Right of Way

23 CFR 774.13(f)(3) identifies an exception to the requirement for Section 4(f) approval for certain “trails, paths, bikeways, and sidewalks that occupy a transportation facility right of way without limitation to any specific location within that right of way, so long as the continuity of the trail, path, bikeway, or sidewalk is maintained.”

De Minimis

In accordance with 23 CFR Part 774, FHWA’s “Guidance for Determining *De Minimis* Impacts to Section 4(f) Resources” states “...once the U.S. Department of Transportation (DOT) determines that a transportation use of Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, results in a *de*

minimis impact on that property, an analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete.”

For *de minimis* to be applicable, a project must meet specified impact criteria. The criteria and associated determination requirements are different for parks, recreation areas, and wildlife and waterfowl refuges than for historic properties:

- *De minimis* impacts on publicly owned parks, recreation areas, and wildlife and waterfowl refuges are defined as those that do not "adversely affect the activities, features and attributes" of the Section 4(f) resource.
- *De minimis* impacts related to historic properties are defined as impacts that result in a determination of either "no adverse effect" or "no historic properties affected" in compliance with Section 106 of the National Historic Preservation Act (NHPA).

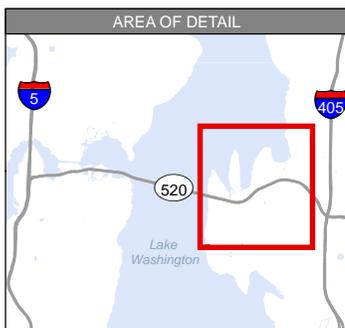
Affected Environment and Findings

Parks and Recreational Resources

A pedestrian/bicycle trail and four parks are located in the study area: Points Loop Trail, Fairweather Park, Hunts Point Park, Wetherill Nature Preserve, and Yarrow Bay wetlands. These recreational resources are shown in Exhibit 5-38.

Points Loop Trail

Points Loop Trail is a 5.4-mile trail that links the communities of Medina, Hunts Point, Clyde Hill, and Yarrow Bay. It includes 1.6 miles of off-street trails, 2.4 miles of streets with sidewalks, and 1.4 miles of trail along residential streets. In the project area, the Points Loop Trails is located completely within the WSDOT right of way and parallels SR 520, passing along the south side of Fairweather Park, Hunts Point Park, and Wetherill Nature Preserve WSDOT has General Maintenance Agreements with the adjacent communities to ensure upkeep and policing of the trail within WSDOT right of way. In some areas, the trail would be expanded beyond the existing right of way and into adjacent parks. In these cases, FHWA has determined the use of parks would be a *de minimis* use, discussed in the following sections by individual park resource.



- Bicycle/Pedestrian Path
- Historic Property
- Parks and Recreation Areas within Study Area
- Park beyond Study Area
- City Limits



Source: City of Bellevue (2008) GIS Data (Paths), King County (2008) GIS Data (Parks, Streams, Streets, Water Bodies), CH2M HILL (2008) GIS Data (Parks). Horizontal datum for all layers is NAD83(91); vertical datum for layers is NAVD88.

Exhibit 5-38. Section 4(f) Resources

Medina to SR 202: Eastside Transit and HOV Project

The sections of the trail located within the WSDOT right of way would need to be relocated and rebuilt as part of the project, and would meet the exception for trails located within existing transportation right of way under 23 CFR 774.13(f)(3). During construction, the trail would follow detour routes using local streets, ensuring that the continued use and continuity of the trail would not be impaired. Detour routes for sections of the existing trail could be needed for 4 to 12 months, depending on the construction activity adjacent to the relocated trail.

The highway construction would require the removal of the existing vegetation along the trail; this vegetation enhances the recreational experience for trail users and serves as a buffer from the highway. Replacement of the vegetation strip with noise wall may affect the character of the trail. However, the proposed noise walls would reduce noise levels in 2030 by 5 to 15 A-weighted decibels (dBA) compared to existing conditions and by 6 to 16 dBA compared to the No Build Alternative. As a result, the change in character is not anticipated to be so severe that it would impact the continued use of the trail. Many trail users may experience a more comfortable experience with the reduced noise levels.

Fairweather Park

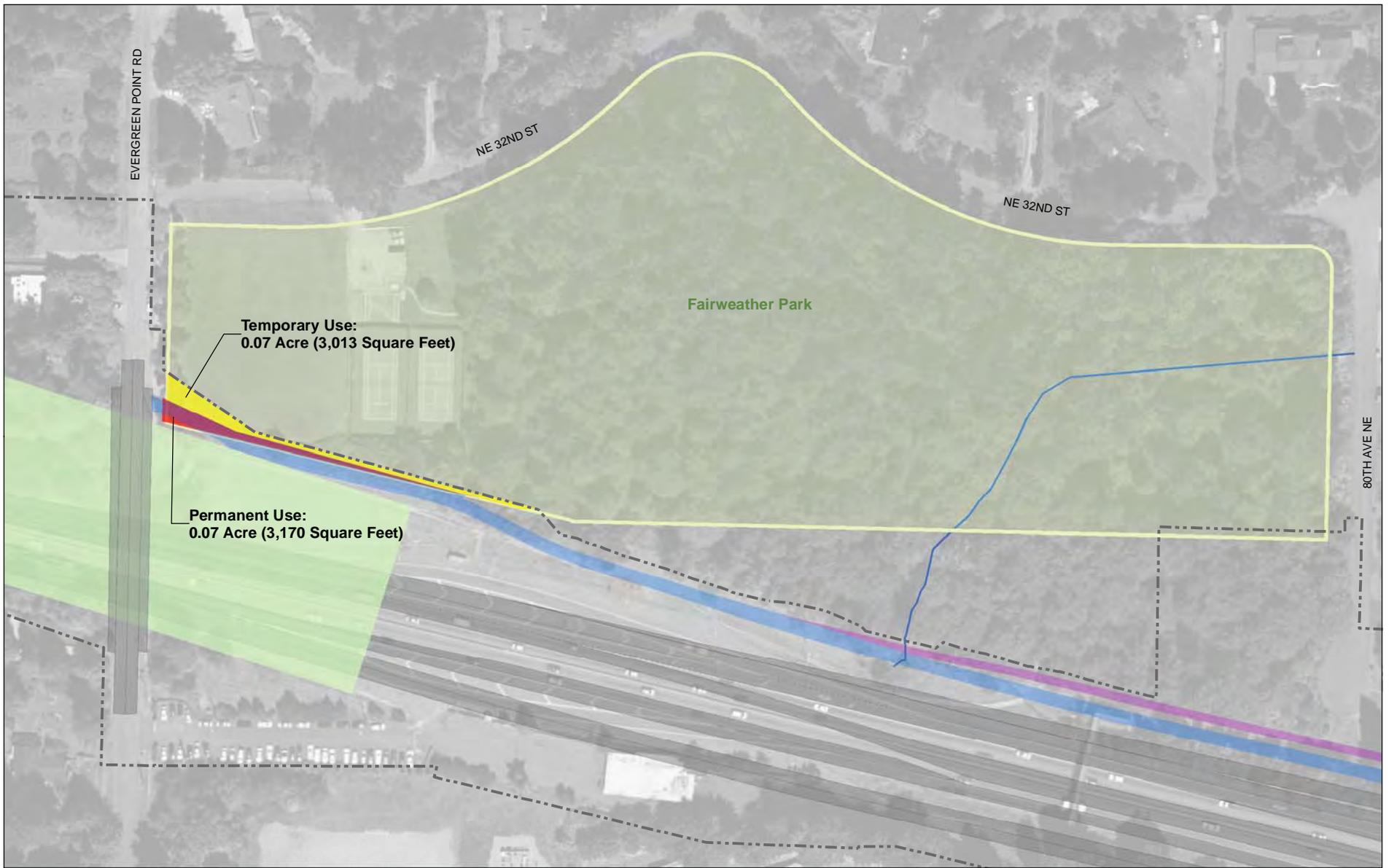
Fairweather Park is a public park in Medina consisting of 11 acres of forested open space. The terrain ranges from upland forest to wetland, and is bisected by a spring-fed stream. Tennis courts and a small grassy playfield are in the western area of the park.

Approximately 0.07 acre in the southwest corner of the park would be acquired and be permanently converted to the relocated Points Loop Trail/regional bike trail; the Points Loop Trail and the proposed regional bike trail merge together within the park (Exhibit 5-39). This affected area comprises less than 1 percent of the total park area and is located in the passive use area of the park. The new Evergreen Point Road lid would have beneficial visual effects on the park. This landscaped lid over SR 520 would increase green space adjacent to the park and would provide a new entrance to the park from the reconstructed Evergreen Point Road crossing of SR 520. The proposed noise walls would reduce noise levels in

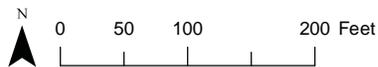
2030 by 5 to 15 dBA compared to existing conditions and by 6 to 16 dBA compared to the No Build Alternative.

During construction, an additional 0.07 acre of the southwest corner of the park would be temporarily occupied for construction of the Evergreen Point Road lid and relocation of the Points Loop trail. This area would be fenced off and not available to park users for up to 12 months. Because the park entrance is at the north boundary of the park, access and use of the park would continue during construction, and use of the tennis courts would not be affected. The affected area is primarily vegetated with shrubs and grasses. After construction, the area would be regraded and revegetated. During construction, the park would experience temporary construction effects such as noise and fugitive dust. However these effects would not have a severe effect on the park's activities, features, or attributes.

For the reasons noted above, the project will have a *de minimis* impact on the Fairweather Park. Based on FHWA guidance for determining *de minimis* impacts (FHWA 2005), the agency with jurisdiction over the Section 4(f) resource must concur that the project effects would not adversely affect the activities, features, and attributes of the Section 4(f) resource. WSDOT has met with the Medina Park Board to discuss the project and its effects on Fairweather Park. Coordination with the park board and City of Medina is ongoing, and more meetings are planned in the coming months. They have been supportive of the proposed project and the benefits that the park will experience. A letter expressing concurrence with the *de minimis* finding from the City of Medina as the agency with jurisdiction over the park will be received before the final decision document is completed.



- Temporary Use
- Permanent Use
- Proposed Pavement
- Proposed Lid
- Limits of Construction
- Proposed Regional Bicycle/
Pedestrian Path
- Proposed Points
Loop Trail



Source: King County (2006) Aerial Photo, King County (2005) GIS Data (Stream), CH2M HILL (2008) GIS Data (Park), City of Bellevue (1999) GIS Data (City Limits), and King County (2004) GIS Data (City Limits). Horizontal datum for all layers is NAD83(91); vertical datum for layers is NAVD88.

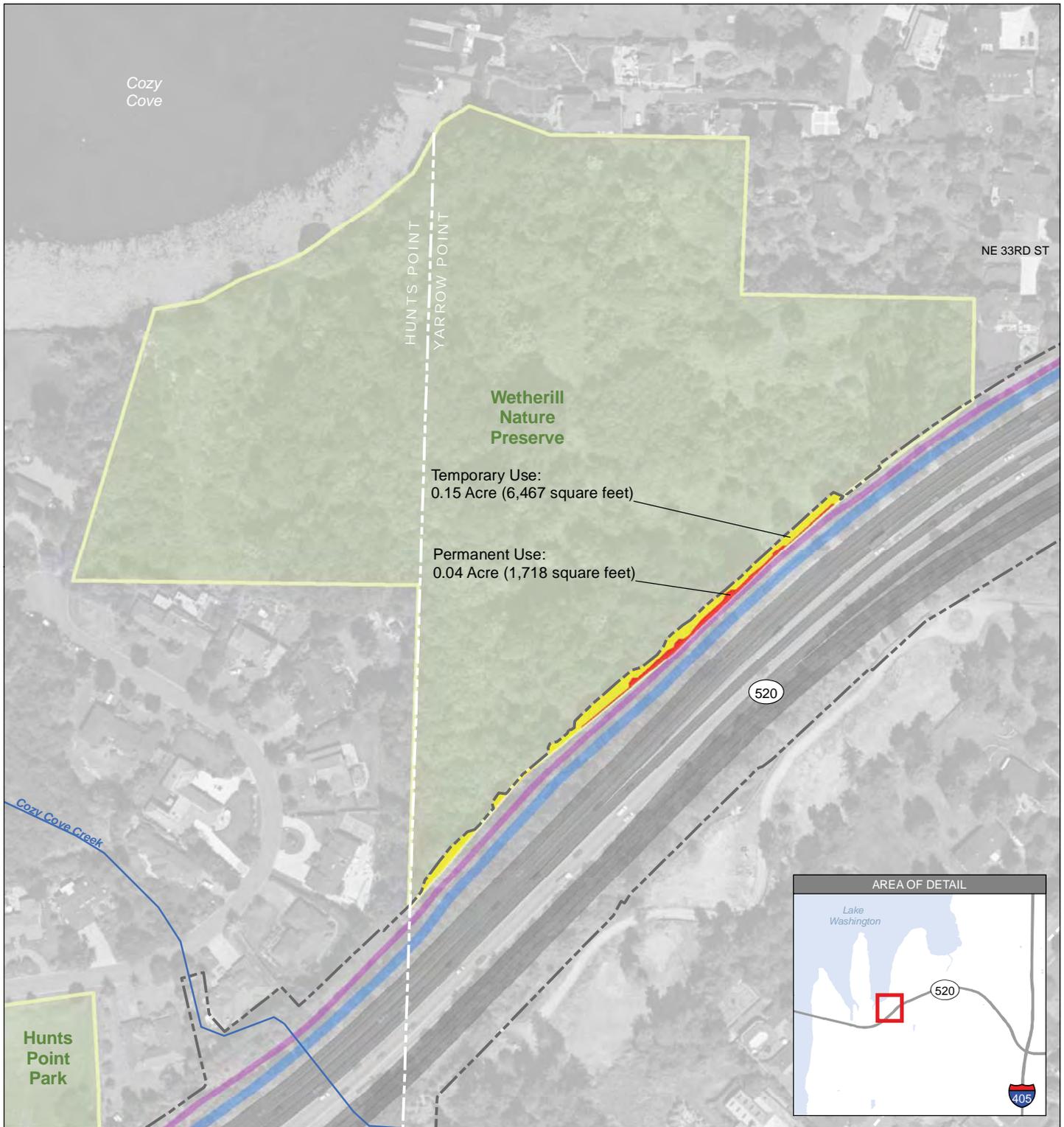
Exhibit 5-39. Effects on Fairweather Park

Medina to SR 202: Eastside Transit and HOV Project

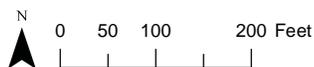
Wetherill Nature Preserve

The 16-acre Wetherill Nature Preserve was donated to the towns of Hunts Point and Yarrow Point in 1988 with the requirement that the towns protect the land in perpetuity from development and preserve its native wildlife and plants. Today, many trees and shrubs in the park are labeled, and extensive plant and animal lists are provided at the entrance kiosk. A number of pedestrian-only trails wind through the park and provide waterfront views. The parkland is privately maintained through volunteer efforts and contributions. The Points Loop Trail is located immediately adjacent to the south side of the park within the WSDOT right of way and connects to pedestrian paths within the preserve. The project would widen the highway, which requires construction of retaining walls which in turn require reconstruction of the trail with upgrades for Americans with Disabilities Act (ADA) accessibility. In order to meet acceptable ADA criteria, landings are proposed for users to rest at 100-foot intervals in sections of 10% grade and at 50-foot intervals in sections of 11% grade. To accommodate this change, approximately .04 acre of the Wetherill Nature Preserve along the border of SR 520 would be acquired and permanently converted to the relocated Points Loop Trail. This affected area comprises less than 1 percent of the total park area.

During construction, an additional 0.15 acre of the park would be temporarily occupied for the relocation and reconstruction of the Points Loop trail along the southern boundary of the park adjacent to the SR 520 right of way. Access to pedestrian paths within the park would be maintained during project construction. This area would be fenced off for safety and not available to park users for up to 12 months (Exhibit 5-40). Movable vegetative screening would be used to visually screen the park from construction activities during this period. During construction, the park would experience temporary construction effects such as noise and fugitive dust. However these effects would not have a severe effect on the park's activities, features, or attributes.



- Temporary Use
- Permanent Use
- Proposed Pavement
- Proposed Lid
- Limits of Construction
- Proposed Regional Bicycle/
Pedestrian Path
- Proposed Points
Loop Trail



Source: King County (2006) Aerial Photo, King County (2005) GIS Data (Stream), CH2M HILL (2008) GIS Data (Park), City of Bellevue (1999) GIS Data (City Limits), and King County (2004) GIS Data (City Limits). Horizontal datum for all layers is NAD83(91); vertical datum for layers is NAVD88.

Exhibit 5-40. Effects on Wetherill Nature Preserve

Medina to SR 202: Eastside Transit and HOV Project

For the reasons noted above, the project will have a *de minimis* impact on the Wetherill Nature Preserve. Based on FHWA guidance for determining *de minimis* impacts (FHWA 2005), the agency with jurisdiction over the Section 4(f) resource must concur that the project effects would not adversely affect the activities, features, and attributes of the Section 4(f) resource. WSDOT has met with the Wetherill Nature Preserve Commission to discuss the project and its effects on the preserve. Coordination with the park commission and towns of Hunts Point and Yarrow Point are ongoing, and they have been supportive of the proposed project. Letters from these agencies with jurisdiction over the preserve expressing concurrence with the *de minimis* finding will be received before the final decision document is completed..

Hunts Point Park and Yarrow Bay Wetlands

Hunts Point Park, also known as D.K. McDonald Park, encompasses roughly 2.5 acres in the south part of the Town of Hunts Point. Park amenities include tennis courts, a children's play area, an open sports area, and benches. The parkland was originally acquired from the Bellevue School District and named after long-time resident D. K. McDonald, who purchased enough bonds to finance construction of the park. The park also contains the Town Hall.

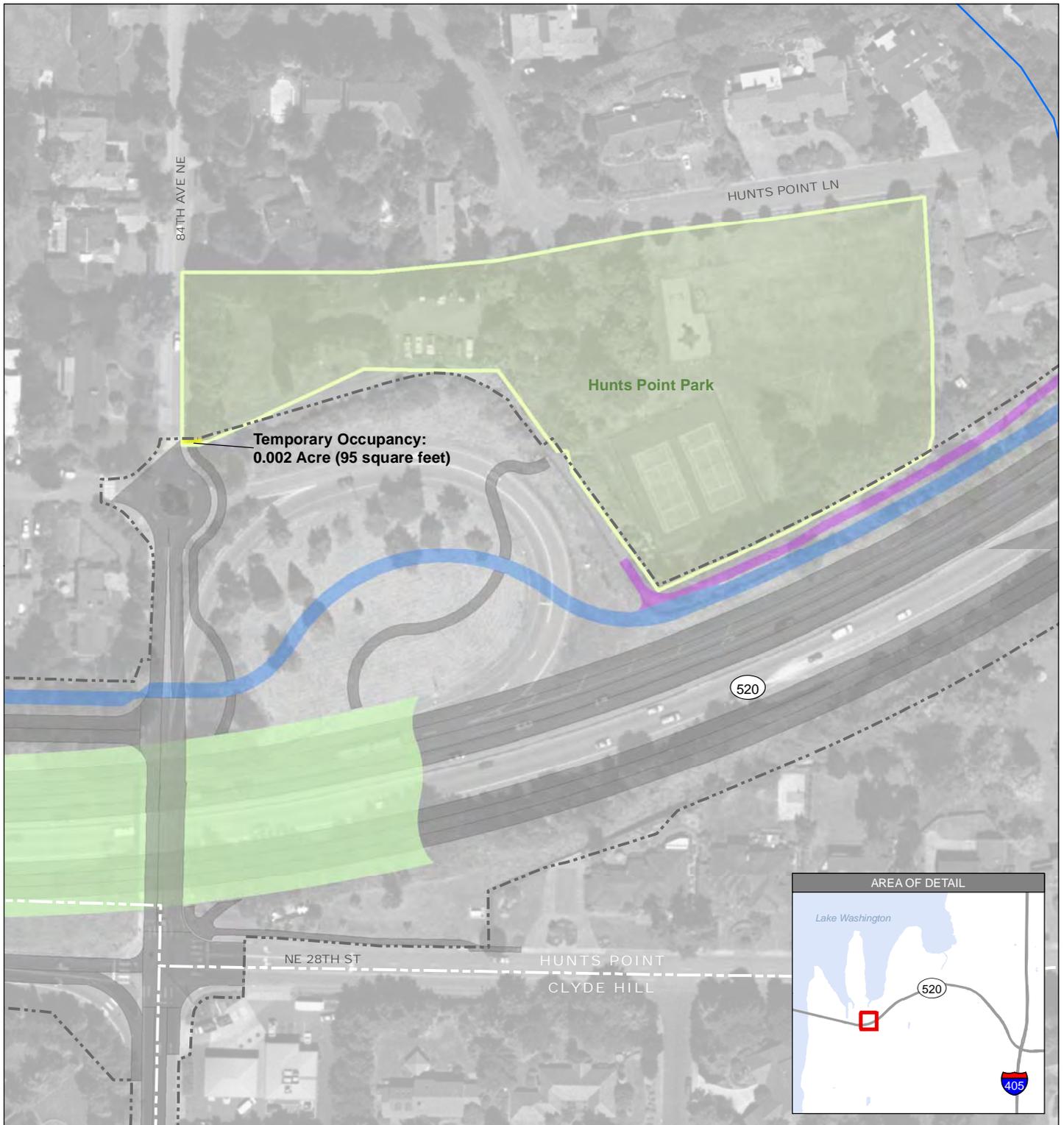
The Yarrow Bay Wetlands is a 73-acre wildlife conservancy area that can be explored either by nonmotorized craft, such as canoes and kayaks, or by following one of two trails that border the park. The park is located at the south end of Kirkland. Although most of the Yarrow Bay Wetlands can only be explored by boat, a land route is accessible from a small parking lot at 101st Way NE and NE Points Drive just north of SR 520. The parking lot leads to a trail with interpretive signs.

The project would result in no permanent acquisition of Hunts Point Park or Yarrow Bay Wetlands. However, there would be temporary occupancy in each of these parks during project construction. In Hunts Point Park, 0.03 acre (1 percent of the total park area) in the southwest corner of the park adjacent to Hunts Point Road would be regraded as part of the roadway construction (Exhibit 5-41). In the Yarrow Bay Wetlands, 0.12 acre (less than 1 percent of the total park area) would have to

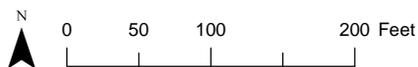
be accessed for construction of a culvert outflow beneath Points Road NE (Exhibit 5-42). The temporary occupancy in each of these parks would be up to 1 year in duration. Areas disturbed during construction would be revegetated. The temporary occupancy of these parks would not constitute a Section 4(f) use of these resources as outlined in 23 CFR—Part 774.13(d). As noted earlier, 23 CFR--Part 774.13[d] requires documented agreement by the official(s) with jurisdiction over the Section 4(f) resource with the evaluation that the temporary occupancy is so minimal that it does not constitute a use within the meaning of Section 4(f). Coordination with the towns of Hunts Point and Yarrow Point, and the City of Kirkland is ongoing. Letters of agreement from these municipalities will be received before the final decision document is completed.

Because of the proposed noise walls, future noise levels in these three parks are expected to be lower than current levels. The proposed lid over SR 520 at 84th Avenue NE would serve as an extension of Hunts Point Park and enhance the open space and community connections that these parks provide. Therefore, the proximity effects would not constitute a constructive use that would substantially impair the activities, features, or attributes of these park resources.

For the reasons noted above, there would be no Section 4(f) use of these parks.



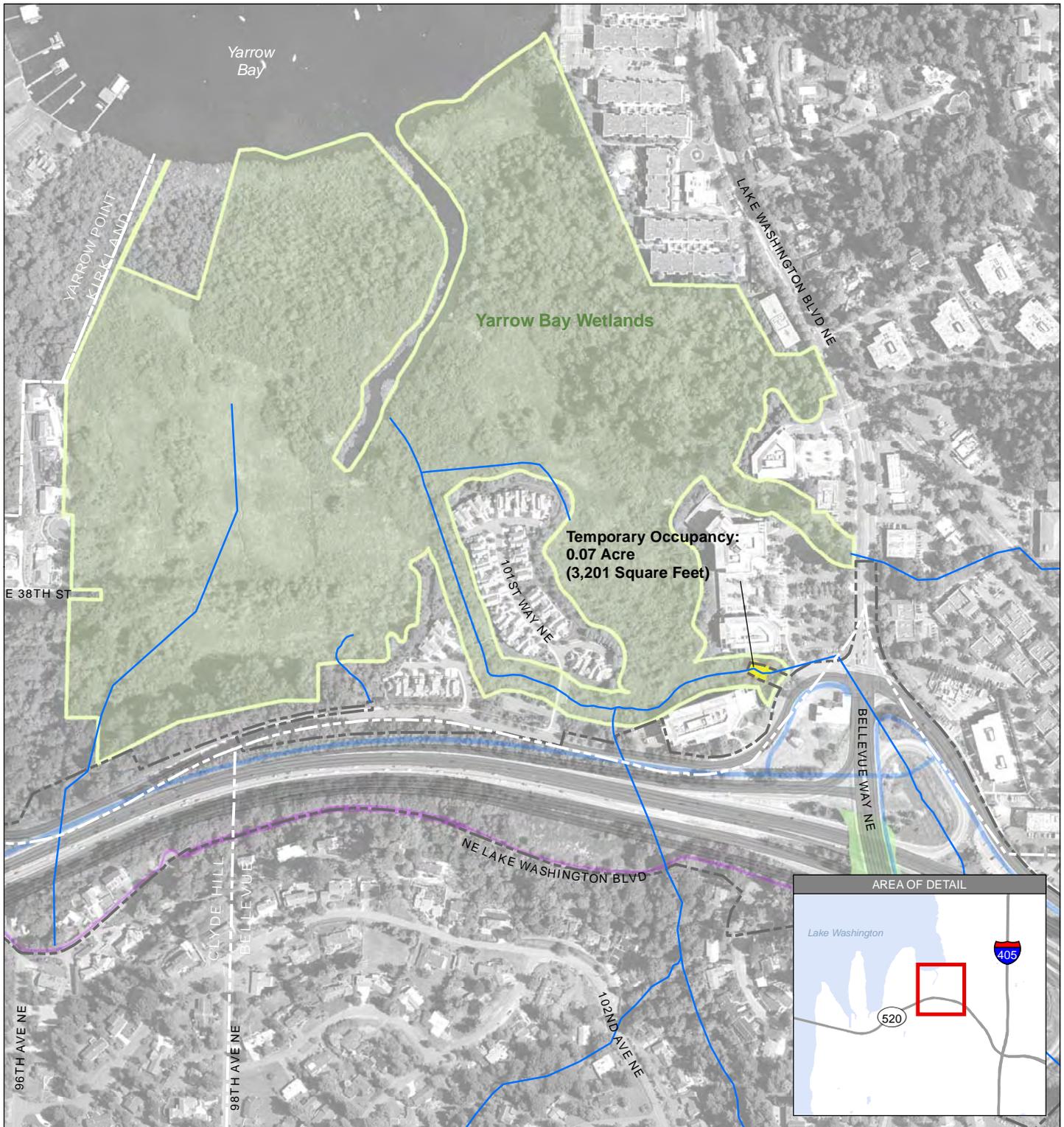
- Temporary Occupancy
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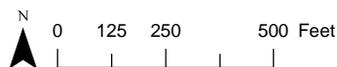
Source: King County (2006) Aerial Photo, King County (2005) GIS Data (Stream), CH2M HILL (2008) GIS Data (Park), City of Bellevue (1999) GIS Data (City Limits), and King County (2004) GIS Data (City Limits). Horizontal datum for all layers is NAD83(91); vertical datum for layers is NAVD88.

Exhibit 5-41. Effects on Hunts Point Park

Medina to SR 202: Eastside Transit and HOV Project



- Temporary Occupancy
- Proposed Pavement
- Proposed Lid
- Limits of Construction
- Proposed Regional Bicycle/
Pedestrian Path
- Proposed Points
Loop Trail



Source: King County (2006) Aerial Photo, King County (2005) GIS Data (Stream), CH2M HILL (2008) GIS Data (Park), City of Bellevue (1999) GIS Data (City Limits), and King County (2004) GIS Data (City Limits). Horizontal datum for all layers is NAD83(91); vertical datum for layers is NAVD88.

Exhibit 5-42. Effects on Yarrow Bay Wetlands

Medina to SR 202: Eastside Transit and HOV Project

Historic/Cultural Resources

A Historic Built Environment Cultural Resources Technical Memorandum (see Appendix K) for the SR 520, Medina to SR 202: Eastside Transit and HOV Project was prepared and submitted to the State Historic Preservation Officer (SHPO) in September 2009. A total of three historic properties eligible for listing in the National Register of Historic Places (NRHP) were identified and recorded within the area of potential effects (APE):

- 2851 Evergreen Point Road, Medina—James Arntson House
- 10606 Northup Way, Bellevue—BurgerMaster
- 7800 NE 28th Street, Medina—Bellevue Christian School

The location of these properties is shown in Exhibit 5-38. Section 4(f) historic properties are limited to properties listed in or eligible for listing in the NRHP. No archaeological, cultural, or traditional cultural properties listed in or eligible for the NRHP were identified in the APE.

The project alternatives will have minimal effect on the characteristics of these identified historic properties and will not adversely affect their activities, features, or attributes. The SHPO concurred on November 4, 2009 that project actions will have No Effect or No Adverse Effect on these historic properties (see Appendix B, Agency and Tribal Correspondence).

2851 Evergreen Point Road, Medina—James Arntson House

This Modern-style residence was constructed in 1953. It is eligible for listing in the NRHP under Criterion C for its distinctive architectural characteristics, which are uniquely representative of its mid-century period. The new Evergreen Point Road lid would have beneficial visual and audible effects on the Arntson House. This landscaped lid would increase green space adjacent to the property and reduce the visibility of SR 520 from the property, which would partially restore the original setting of the house, and it would decrease the noise level from the operation of SR 520. During

construction, the property may experience temporary construction effects such as construction noise and fugitive dust. During construction, driveway access to the property would be maintained. None of these effects would impact the integrity of the Arntson House or the characteristics that qualify it for the NRHP; it would experience No Adverse Effects from the project. There will be no use of the property.

10606 Northup Way, Bellevue—BurgerMaster

BurgerMaster restaurants were founded by Phil Jensen in Seattle in 1952. The Bellevue BurgerMaster building is architecturally significant as a rare surviving example of Googie-style roadside architecture. It maintains very good integrity, including its monument sign topped with a neon steer head. Its design embodies distinctive, identifiable characteristics of the style, such as cantilevered canopies, diagonal metal supports, a butterfly roof, distinctive lighting, and a period monument sign with neon. It is eligible for the NRHP under Criterion C for its architectural significance and unique defining characteristics. During construction, the property may experience temporary construction effects such as fugitive dust and limited access during non-business hours. None of these effects would impact the integrity of BurgerMaster or the characteristics that qualify it for the NRHP; BurgerMaster would experience No Adverse Effects from the project. There will be no use of the property.

7800 NE 28th Street, Medina—Bellevue Christian School

Originally built as the Three Points Elementary School in 1961, this collection of Modern buildings was designed by the noted Seattle architectural firm of Narramore, Bain, Brady and Johanson, now known as NBBJ. Founded in 1943, NBBJ became a regional leader in the Pacific Northwest. Over the years, the firm has grown to become the third largest design practice in the United States and the fifth largest in the world.

The complex, which is currently leased by the private Bellevue Christian School for use as an elementary school, has had few alterations and is intact and well maintained. It will meet the 50-year age criterion in 2011. At that time, it will be eligible for

the NRHP under Criterion C for its distinctive architectural characteristics, representational of educational design theories of its period, and as the work of a masterful, world-renowned architectural firm. The Bellevue Christian School would receive beneficial effects from the new Evergreen Point Road lid and new noise walls, which would reduce the existing noise level. The school will experience a visual effect from the presence of the new noise walls, but because the walls will also serve to visually screen the school from part of SR 520, to which it is currently exposed, the visual change from the new noise walls would not be adverse. None of these effects would impact the integrity of the Bellevue Christian School or the characteristics that qualify it for the NRHP; it will experience No Adverse Effects from the project.

During construction, approximately 0.2 acre of the school property adjacent to the existing SR 520 right of way would be temporarily occupied to construct the noise wall. This construction would occur within an existing slope easement. This temporary occupancy would not constitute a use of the historic property.