

PLANNING COMMISSION RESOLUTION NO. 94-35

A RESOLUTION OF THE CITY OF MILL CREEK)
PLANNING COMMISSION, RECOMMENDING)
APPROVAL TO THE CITY COUNCIL OF THE)
CITY OF MILL CREEK, WASHINGTON OF A) FINDINGS,
PRELIMINARY PLAT FOR A THIRTY-FOUR) REASONS AND
(34) LOT RESIDENTIAL SUBDIVISION TO BE) RECOMMENDATIONS
KNOWN AS "THE LAKES." CASE FILE)
NUMBER PP 93-38.)
)
)

WHEREAS, Seattle Hill Associates have submitted the appropriate information to the City of Mill Creek for consideration of a Preliminary Plat for a thirty-four (34) lot single-family residential subdivision located east of SR 527 and west of Seattle Hill Road and the Lively Environmental Center, within the City of Mill Creek; and

WHEREAS, the City of Mill Creek's SEPA Official issued a Mitigated Determination of Non-Significance and Notice of Property Development Impact Mitigation, pursuant to RCW 43.21C, and Chapters 17.48 and 18.04 MCMC; and

WHEREAS, on April 6, 1994, a legal notice stating the time, place and purpose of the public hearing was published in the Everett Herald, and on April 7, 1994, was posted on the property pursuant to MCMC 17.36.040 and sent to surrounding property owners within 500 feet of the site in accordance with MCMC 17.36.040; and

WHEREAS, the Planning Commission duly convened a public hearing on April 21, 1994, to consider the matter, took testimony and inquired into the facts of the proposal; and

WHEREAS, after closing the public hearing the Planning Commission continued the matter to a public meeting on May 19, 1994; and

WHEREAS, the Planning Commission reviewed the record and inquired into the facts at a meeting on May 19, 1994.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MILL CREEK:

Section 1: The Planning Commission has considered the staff report and addendum, attached as Exhibit A, and the proposed preliminary plat, attached as Exhibit B, all incorporated herein, and the testimony and other facts elicited at the public hearing and finds that the proposed preliminary plat is consistent with the Mill Creek Comprehensive Plan, the Mill Creek Subdivision and Zoning ordinances if conditioned to make appropriate provisions for the public health, safety and general welfare.

Section 2: The Planning Commission adopts the findings and recommendations as contained in Exhibit A, as they may be modified by the Planning Commission discussion and recommendation contained in Exhibit C, attached and incorporated herein.

Section 3: The Planning Commission, therefore, recommends to the City Council approval of a thirty-four (34) lot preliminary plat for Seattle Hill Associates as fully described and conditioned in Exhibit A, Exhibit B, and Exhibit C.

Done and Passed by majority vote, this nineteenth day of May, 1994.

CITY OF MILL CREEK PLANNING COMMISSION



ROBERT MCELHOSE, CHAIRMAN



SECRETARY OF THE PLANNING COMMISSION

ATTACHMENT: Exhibit A - Staff Report and Addendum
Exhibit B - Preliminary Plat Map
Exhibit C - Planning Commission Motion with Conditions

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EXHIBIT A

**DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT
TO THE CITY OF MILL CREEK PLANNING COMMISSION**

PART I - SUMMARY INFORMATION

DATE: April 15, 1994

OWNER: LKS Limited Partnership
4303 North Rustin Way
Tacoma, Washington 98402

APPLICANT: Seattle Hill Associates
19400 33rd Avenue West, Suite 200
Lynnwood, Washington 98036

REQUESTED ACTION: Preliminary plat approval for a 34-lot subdivision to be developed with single-family detached residences.

LOCATION: The subject site is located south of Mill Creek Road, east of SR 527, west of Seattle Hill Road and the Lively Environmental Center within Section 7, Township 27 North, Range 5 East, W.M. Snohomish County.

SIZE: 17.9 acres

LEGAL DESCRIPTION: Refer to Attachment 1

COMPREHENSIVE PLAN DESIGNATION: Single-Family Medium Density, Nine (9) Dwelling Units per Acre

ZONING DISTRICT: MR 1 - Medium Density Residential

PART II - STATUTORY REQUIREMENTS

SEPA COMPLIANCE/ DEVELOPMENT IMPACT MITIGATION ORDINANCE:

The City's SEPA Official has determined that this proposal does not have a probable significant adverse impact on the environment. Therefore, an environmental impact statement was not required under the provisions of RCW 43.21C.030(2)(C). The project is also subject to the provisions of Chapter 17.48 Mill Creek Municipal Code (MCMC), Development Impact Mitigation.

City staff has identified certain elements of the environment that require mitigation pursuant to SEPA as well as impacts on public facilities that require mitigation pursuant to Chapter 17.48 MCMC. On March 3, 1994, a Mitigated Determination of Non-Significance (MDNS)/ Notice of Property Development was issued for the proposed project. The specific measures that were required to mitigate development impacts have been incorporated into the recommended conditions of approval.

INTERJURISDICTIONAL AGREEMENTS:

The City has adopted separate interlocal agreements with Snohomish County and the Everett School District regarding joint review, comment, and imposition of appropriate mitigation and conditions that affect the proposed project. The application has been reviewed by Snohomish County and the Everett School District and their comments are reflected in the recommended conditions.

NOTICE:

According to Section 17.36.040 MCMC, the notice of public hearing was mailed to property owners of record within 500 feet of the proposed project on April 5, 1994, published in the Everett Herald on April 6, 1994, and the property/ surrounding area was posted in three places on April 7, 1994.

PART III - BACKGROUND INFORMATION

HISTORY:

The subject site is located within the City's Interim Urban Growth Area that was adopted as part of the Comprehensive Plan in January 1992. The site was annexed to the City in October 1992, as part of the LKS Annexation. A zoning classification of RC 2.5 was applied to the property at the time of annexation. The property was reclassified to MR 1 Medium Density Residential in

HISTORY CONTINUED:

February 1993, as part of the citywide rezone to implement the Land Use Map of the Comprehensive Plan.

EXISTING SITE CHARACTERISTICS:

The site of the proposed project is nearly 18 acres in size and is located across from the Lively Environmental Center on the west side of Seattle Hill Road. Nickel Creek flows from east to west through the northern portion of the site. Topography of the site ranges from steep slopes on the south side of Nickel Creek rising to more rolling benchlands approximately 60 feet above the creek. The stream corridor area, which includes the creek, ponds, and adjacent side slopes, accounts for approximately 8.9 acres, will remain undeveloped, and is to be dedicated to the City pursuant to conditions of the LKS annexation. Development will occur on the remaining 9 acres of upland area.

Soil investigations reveal that there are three primary soil types on the site, Alderwood Gravely Sandy Loam on the uplands, Everett Gravely Sandy Loam on the slopes and Mukilteo Muck in the stream corridor. The Alderwood soils have slight to moderate limitations for residential development primarily due to septic tank drain field suitability resulting from poor drainage and seasonal wetness and the need for foundation drainage for buildings and crawl spaces.

Since the proposed plat will be served by public sewers, the limitation for septic tank drain fields is not applicable. The requirement for foundation drainage is made by the City Building Official at the time of construction of the future residences.

The Everett and Mukilteo soils have severe limitations for development due to steepness, and ponding and low strength respectively. A geo-technical engineering report submitted with the application recommends a minimum twenty-five (25) foot setback from the top of the bank for all lots adjacent to the stream corridor that contain the steep slopes.

VEGETATION:

Much of the area proposed for development consists of pasture and grass lands. There is, however, a large stand of coniferous trees located in the western portion of the site near lots 11-13, 20 and 21. Smaller stands of significant trees are located near the top of the bank on lots 5-7 and lots 14-16. In addition, there are a number of significant evergreen trees, primarily cedars, located in the stream corridor adjacent to Nickel Creek and adjacent to lots 13 and 14.

WETLANDS:

There are three wetlands located on the subject site. (Please refer to Attachment 2.) The most significant of these is located in the Nickel Creek corridor. In accordance with Environmentally Critical Areas Ordinance it is classified as a Category II wetland and contains forested and scrub shrub plant communities as well as an open water component in the form of two man-made ponds. This wetland is approximately 1.77 acres in size, is not proposed for development intrusions, and is located in the area that will be dedicated to the City for park and open space. The closest lot line is fifty-feet away and the nearest structure would be located 75 feet away.

The remaining two wetlands are 1,742 square feet (.04 acres) and 8,050 square feet (.18 acres) in size respectively. They have both been classified as Category III emergent wetlands, with low functional value particularly for habitat, flood storage or groundwater recharge. In addition, the wetland report indicates that these two wetlands have been disturbed by previous livestock grazing.

The proposed project proposes to fill the largest of the two emergent wetlands and most of the smaller one. Pursuant to Section 18.06.120 MCMC, a conceptual mitigation plan has been submitted, reviewed, and approved by the Department of Community Development. The plan proposes to enhance the vegetative diversity on the upland buffer areas adjacent to the wetland and two ponds in the Nickel Creek corridor (Please refer to Attachment 3). A total area of 36,640 square feet has been proposed for mitigation. The final, detailed mitigation plan must be submitted subsequent to approval of the preliminary plat application.

LAND USE:

The subject site is, for the most part, undeveloped and was previously used for livestock raising. There is an existing single-family residence, swimming pool, tennis court and numerous out buildings. The applicants have indicated that they intend to retain the existing residence and swimming pool.

Surrounding land uses are as follows:

To the north is the other half of the property that was included in the LKS annexation, which is undeveloped.

To the south is a single-family residence on a large parcel ownership.

LAND USE CONTINUED:

To the west is the Emerald Heights division and associated open space tracts.

To the east is the Lively Environmental Center and south of the center is the Mill Park Village development containing 22 single-family residences.

UTILITIES:

The subject site is located within the service area of the Alderwood Water District. Public water is located at the southern portion of the proposed development in the Seattle Hill Road right-of-way. Sewer service is located across Seattle Hill Road in the Mill Park Village development.

The developer is responsible for extending sewer and water service in accordance with the District's design standards. The District has the capacity to serve the proposed plat with sanitary sewer service and water.

Electrical service will be provided by Snohomish County PUD and natural gas service by Washington Natural Gas.

FIRE PROTECTION:

Fire protection, suppression and emergency medical service will be provided by Fire District No. 7.

SUBDIVISION DESIGN:

SUBDIVISION DESIGN

General Description

The application is for the approval of 34 lot residential subdivision. The subject site encompasses approximately 18 acres; however, the conditions of the LKS annexation require the dedication of the portion of the property located in the Nickel Creek stream corridor to the City upon final plat approval. The actual development will occur on approximately 9 acres.

The subject site is located in an MR 1 Medium Density Residential zone district which allows a fairly high degree of flexibility with regard to building placement, setbacks, and lot sizes. Thus, there has been no request for the application to be reviewed as a

SUBDIVISION DESIGN CONTINUED:

Planned Residential Development and additional open space is ~~not~~ required to be dedicated through the plat process.

With the exception of a short cul-de-sac serving six lots, the balance of the lots in the plat are laid out in an east - west configuration along a single access road. The lots range in size from 5,850 square feet to 18,290 square feet with an average lot size of 8,196 square feet. The proposed project also includes two roadway ~~buffer/cutting~~ preserves along the full project frontage adjacent to Seattle Hill Road. The density of proposed plat is 3.7 dwelling units per acre.

Access and Circulation

Access to the proposed plat will be from a single entrance on Seattle Road. The access is situated over 400 feet from the nearest intersection on Seattle Hill Road, has adequate sight distance and has been approved by the City engineer. As mentioned above, the internal streets of the plat consist of an entry road, 19th Dr. S.E. with a "T" intersection where one leg includes a short cul-de-sac to the east and the other is a continuation of the main entry road that becomes 167th Place Southeast.

Sidewalks will be constructed on both sides of the interior streets and cul-de-sacs and meander through the roadway buffer/cutting preserve along Seattle Hill Road adjacent to the developed portion of the site. At the north end of the cutting preserve (Tract 101) the sidewalk will connect to a pedestrian pathway/sidewalk providing access through the Nickel Creek corridor to the future neighborhood park to be located on the north side of the Creek.

The developer will also be required to dedicate a right-of-way along the entire Seattle Hill Road frontage, widen the road, and construct curbs and gutters.

Utilities

Sanitary sewer and water service is currently located east of the subject site. The project proponent will be required to extend the utilities as determined by the Alderwood Water District.

Stormwater runoff will be collected in the streets and conveyed through a biofiltration swale located within the cutting preserve (Tract 100) to an underground detention pipe where settling of particulates will occur. It will then have a measured release into

SUBDIVISION DESIGN CONTINUED:

biofiltration swales with ultimate release into Nickel Creek. The drainage facilities in the cutting preserve will be privately owned and maintained.

Open Space

Private open space is provided in Tracts 100 and 101, the roadway buffers/cutting preserves. Public open space is provided in Tract 102, which will function as a greenway and resource protection area and will ultimately be combined with property to the north where a neighborhood park is planned. The only activity planned for Tract 102 is the construction of the pedestrian pathways. Scenic overlooks or viewpoints and possibly some interpretive signs may be developed later as part of the development of the neighborhood park.

CONSISTENCY WITH THE MILL CREEK COMPREHENSIVE PLAN:

The proposed plat has been reviewed for consistency with the Mill Creek Comprehensive Plan. Since the plan is by its nature "comprehensive" or a broad policy document, staff has focused on the applicable policies that either have direct influence on the design of this project or are geographically specific to the request. In this section, the development policies are summarized with a brief response regarding to the project relationship to the policy.

LAND USE ELEMENT

Policy 1.03 - Continuation of residential development patterns.

The proposed plat continues the existing residential development patterns in the City. It is a low density development located in a defined residential neighborhood area away from the higher density development located in the core area.

Policy 1.12 - Parks, open space and linkage with existing development and protection of Nickel Creek and its surroundings.

The proposed plat will provide public open space through the dedication of Tract 102 to the City. The sidewalk system is designed to connect to pedestrian pathways located in Tract 102 to link the proposed development with the future neighborhood park, which in turn will be linked to the Amberleigh development and

CONSISTENCY WITH THE MILL CREEK COMPREHENSIVE PLAN CONTINUED:

ultimately with the public sidewalk system in the existing developed portion of the City.

Please note that the land use map in the plan identifies the subject site as Medium Density Residential nine (9) dwelling units per acre. While the proposed development has a density of nearly four (4) dwelling units per acre (after the dedication of the open space) the City does not currently require that development occur at the maximum allowable density. Since the population will be lower than that originally forecasted for this site, the City's target population will be negatively effected.

Policy 1.13 - Access to new development by collector or arterial streets. The proposed plat will have direct access to an Seattle Hill Road which is designated as a collector street in the Transportation Element of the Comprehensive Plan.

Policy 1.14 - Directs the provision of landscaped buffers identified in the Comprehensive Plan and greenways along arterials. Although it is not an arterial, the proposed plat includes a fifty-foot (50') roadway buffers/cutting preserves along Seattle Hill Road. The width of the proposed buffer is consistent with the Streetscape Element for cutting preserves along arterials in residential areas as directed by the Comprehensive Plan. Additional landscaping is recommended for the cutting preserves on the subject site.

Policy 1.15 - Peripheral buffers around residential developments to define the development. Property buffers have been designated by the applicant and there appears to be sufficient lot depth to include them where appropriate.

Policy 1.16 - New developments are to be planned as identifiable neighborhoods and include preservation of environmentally sensitive areas, existing vegetation, and natural grades. Because of limiting physical features, i.e., the Nickel Creek corridor on the north and the Emerald Heights open space tract on the west, the proposed development will be an easily distinguished neighborhood with little if any opportunity to be combined with future development. The dedication of Tract 102 to the City will preserve the more sensitive areas of the site, including the steep slopes, streamway, and significant trees.

CONSISTENCY WITH THE MILL CREEK COMPREHENSIVE PLAN CONTINUED:

Policy 1.17 - Compatibility with adjacent developments.

With the exception of one single-family residence located on a large parcel ownership southwest of the subject site, much of the surrounding properties, such as the property to the north and the Lively Environmental Center to the east, are largely undeveloped. The Mill Park Village subdivision located to the south, on the east side of Seattle Hill Road, is developed with single-family residences on lots generally in the same size range. Thus the proposal is compatible with surrounding residential developments.

COMMUNITY FACILITIES AND UTILITIES ELEMENT

Policies 1.01 & 1.03 - Sewer and water capacity. The subject site can be served by public water and sewer. The Alderwood Water District has indicated that there is sufficient capacity to serve this development and the developer will be responsible for extending the lines and mains throughout the site.

Policy 4.01 - Stormwater management - protecting water quality.

Although the final engineering designs for the stormwater system are not normally reviewed at this juncture, the SEPA conditions require compliance with the Department of Ecology Stormwater Manuals and Washington State Department of Fisheries standards, designed to protect water quality. In addition, the preliminary design incorporates a detention facility for settling and grass-lined biofiltration ditches adjacent to Seattle Hill Road.

Policy 6.01 - School mitigation. Pursuant to the mitigation requirements under SEPA the applicant will be required to mitigate school impacts as requested by the Everett School District.

TRANSPORTATION ELEMENT

Policies 2.01 & 2.02 - Pedestrian and bicycle travel, location of facilities. Public sidewalks will be provided on both sides of the internal streets. In addition, a pedestrian pathway is proposed for Tract 102 and is intended to link the sidewalk system with future other public sidewalks, pedestrian pathways and a neighborhood park planned on the adjacent property to the north.

CONSISTENCY WITH THE MILL CREEK COMPREHENSIVE PLAN CONTINUED:

ROADWAY CAPACITY POLICIES

Policies 3.01 & 3.04 - Traffic impacts and access. The access for the site has been evaluated and approved by the City Engineer. There is no direct residential access onto the arterials and the proposed project does not introduce traffic into any existing residential divisions. The developer will be responsible for constructing frontage improvements along Seattle Hill Road and impact fees are required to mitigate impact on the City and county road system.

STREETSCAPE ELEMENT

Polices 1.02 & 3.01 - Location and width of landscape buffers/cutting preserves. Although the proposed project does not have frontage on any arterials subject to the streetscape standards of the plan, a fifty-foot (50') roadway buffer/cutting preserve has been included in the project design along Seattle Hill Road.

ENVIRONMENTAL FEATURES ELEMENT

Environmental Policies 1.02 & 1.03 - Control and treatment of stormwater runoff. The project applicant will be required to provide stormwater runoff facilities that provide both detention, controlled release and water quality treatment through the use of particulate settling, biofiltration, and oil/water separators.

Aesthetic Value Policies 4.02, 4.03, 4.05 & 4.06 - Preservation of natural vegetation. The proposed plat will result in the removal of a large amount of native vegetation especially in the area of lots 11-13 and 19-21. As mentioned above, the design incorporates roadway buffers/cutting preserves and property buffers in an effort to maintain some existing stands of trees and native vegetation. More trees will be saved in the area to be dedicated to the City (Tract 102), and through the requirement for tree preservation plans for individual lots. The City may require additional tree preservation after on-site evaluation during road grading at the time of building permit application.

CONSISTENCY WITH THE MILL CREEK COMPREHENSIVE PLAN CONTINUED:

PARKS AND OPENS SPACE ELEMENT

Policy 1.02 - Linking public and private trail systems. As mentioned previously, the design of the proposed plat includes an open space tract that can accommodate a pedestrian pathway, link the subject plat with adjacent developments, and the City sidewalk system, and provide convenient non-motorized access to the future parks in the vicinity.

Policy 5.02 - Park land acquisition and dedication. Dedication of 12 acres of land for open space and a neighborhood park site was a condition of the LKS annexation. The proposed plat contains nearly nine (9) acres of the total amount committed. The balance of the land including the more active park site will be dedicated when the property to the north of the subject site is developed.

Staff has determined that the payment of proportionate share mitigation, consistent with adopted formulas, is also required to mitigate the impacts of this residential development. These funds will be used for development of the neighborhood park planned on the adjacent site.

In summary, staff has reviewed the applicable policies of the Comprehensive Plan. Based on this review, we find that the proposed project either complies with the applicable policies or can be conditioned to be consistent.

CONSISTENCY WITH SUBDIVISION REGULATIONS:

The subdivision of property in the City is governed by Title 16 MCMC. This application has been reviewed with the criteria for reviewing and approving preliminary plats that are found in MCMC Section 16.18.010(c).

Subdivision Review Criteria

1. The preliminary subdivision and binding site plan meets the requirements and intent of the MCMC and adopted City plans.

CONSISTENCY WITH SUBDIVISION REGULATIONS CONTINUED:

Comment:

The gross density that is allowed for the development of single-family homes within the LKS Annexation area, as designated on the Land Use Map of the Comprehensive Plan, is nine (9) dwelling units per acre. The density for the Lakes excluding the Tract 102 is 3.7 units per acre. The City does not have a requirement for development to the maximum allowable density.

The average lot area of the proposed project is 8,196 square feet. The minimum lot size requirement of the MR 1 zone district for single-family residences is an average of 4,500 square feet.

The lot layout, size, and design of the proposed plat with neighborhood park facilities and/or open space tracts is similar to the development pattern established by the City in previous residential developments.

2. The proposed plat makes adequate provisions for open space, drainage ways, streets and other public ways, water supply, sanitary wastes, parks, playgrounds, sites for schools, and school grounds.

Comment:

The streets and pedestrian ways within the proposed development comply with the standards required by the City Engineer. Open space will be provided through the roadway buffers/cutting preserves and dedication of nearly 9 acres for the Nickel Creek greenway/ neighborhood park site. The applicants will mitigate the recreational impacts through the payment of park impact fees to be used for development of the planned neighborhood park. Utilities are available with sufficient capacity to serve the site and the final drainage plans will be reviewed for adequacy in managing projected off-site flows. Contributions will also be required to mitigate proportionate share impacts on City streets.

In addition to mitigating impacts on public facilities within the City, the applicant will also contribute proportionate share impact mitigation to Snohomish County for road and transportation impacts and to the Everett School District for impacts on the school facilities.

CONSISTENCY WITH SUBDIVISION REGULATIONS CONTINUED:

3. The subdivision or development is beneficial to the public health, safety, and welfare and is in the public interest.

Comment:

In addition to the dedication of Tract 102 for public park and open space purposes, the execution of mitigation agreements with the proponent will include contributions for the development of the neighborhood park and improvements to the City road system. In addition, the applicant will construct a pedestrian pathway in the tract to be dedicated to the City within the Nickel Creek corridor.

FINDINGS AND CONCLUSIONS:

Having viewed the property and reviewed the application and supporting materials, staff makes the following findings and conclusions:

1. The request is for the approval of a preliminary plat for 34 lots to be developed with single-family residences.
2. Access to the proposed plat would be from the Seattle Hill Road, a collector road.
3. The proposed project has been reviewed under the provisions of the State Environmental Policy Act (SEPA) and Chapter 17.48 MCMC, the Development Impact Mitigation Ordinance. This review has revealed that there will be an impact on the City street system, parks, and public school facilities that require mitigation.

In accordance with the Mitigated Determination of Non-Significance and Notice of Property Development Impact Mitigation issued by the responsible official on March 3, 1994, impact mitigation agreements will be required to mitigate the identified impacts.

4. The proposed plat is also subject to an Interlocal Transportation Agreement between the City of Mill Creek and Snohomish County for the review and mitigation of development impacts on the county road system.
5. The City has received Snohomish County's comments pursuant to the Interlocal Transportation Agreement and SEPA,

FINDINGS AND CONCLUSIONS CONTINUED:

along with a request for the requirement of contributions to mitigate the specific impacts occurring from this development.

6. The Everett School District has requested that the applicant contribute fees in lieu of land dedication to mitigate the development impacts on District facilities.

7. The subject site is located in an area that was annexed to the City in 1992. A condition of the annexation was the commitment to dedicate approximately twelve (12) acres of land for public park purposes at the time of final plat. Under the terms of the dedication commitment by the owner, a minimum of two (2) acres of uplands are to be dedicated for an active neighborhood park and a maximum of ten (10) acres may lie within the Nickel Creek corridor to be used for passive recreation and nature preserve purposes. The two (2) acre upland area is located on the property situated north of the subject site.

Consistent with the conditions of annexation the applicant will dedicate a total of 8.9 acres of land for in the Nickel Creek corridor for passive recreation and nature preserve purposes.

8. The applicant is required to provide width right-of-way improvements to Seattle Hill Road including the dedication of additional rights-of-way.

9. The proposed plat is located within an MR 1- Medium Density Residential Zone District. Single-family residences are identified as principle uses in the MR 1 District.

10. The proposed plat is compatible with regard to the residential use, density, and lot design that exists in adjacent developments.

11. The proposed plat has been reviewed and found consistent with the applicable policies and Land Use Map of the City of Mill Creek Comprehensive Plan.

12. If approved subject to the conditions recommended below, the proposed plat will be consistent with the requirements of Title 16 MCMC, Plats and Subdivisions.

FINDINGS AND CONCLUSIONS CONTINUED:

13. The statutory requirements for environmental review and public notification have been duly satisfied.

RECOMMENDATIONS: Based on the foregoing information, findings and conclusions, staff recommends to the Planning Commission approval of the proposed preliminary plat/planned residential development subject to the following conditions.

1. Development shall occur as portrayed on the preliminary plat map attached as Exhibit B, except as may be modified by conditions imposed by the Planning Commission.

2. The maximum number of building lots shall be 34. Construction shall be limited to one single-family detached residence per lot.

3. There shall be a homeowners' association, which will be responsible for the maintenance of the common tracts and any privately owned facilities including landscaped islands and medians.

4. Water and sewer facilities shall be designed and installed in accordance with the requirements of the Alderwood Water District.

5. Stormwater management plans shall be submitted for review and approval by the City Engineer. The plans shall be prepared by a licensed engineer and incorporate stormwater treatment methods based on the Washington State Department of Ecology Stormwater Management Manual, Publication 92-32 Volume I and Publication 92-33 Volume II.

Oil/water separators shall be installed in catch basins as determined by the City Engineer.

6. The applicant shall construct frontage improvements on Seattle Hill Road in accordance with the design standards specified by the City Engineer. Additional 10 feet of right-of-way shall be dedicated to the City to accommodate the improvements of the existing right-of-way.

7. Standard sidewalks are required on both sides of the public streets within the plat.

RECOMMENDATIONS CONTINUED:

8. All roadway sections shall be designed by a licensed engineer and the design reviewed and approved by the City Engineer. The design of the roadway section for all internal streets shall include provisions for a planting strip situated between the back of the curb and the outside edge of the sidewalk to accommodate street trees. A street tree plan shall be prepared by a licensed landscape architect and implemented commensurate with house construction.

9. In accordance with the Interlocal Transportation Agreement between Snohomish County and the City of Mill Creek for the mitigation of interjurisdictional development impacts, the applicant shall contribute the following to Snohomish County: \$10,683.00 for roadway capacity impacts to county Transportation Service Area G and \$1,500.00 for Transportation Demand Management measures. Said contributions may be subject to credits approved by the county. Verification of payment shall be provided to the City before final plat approval.

10. Payment of \$44,302.00 to the Everett School District. Verification of payment shall be provided to the City prior to final plat approval.

11. The execution of an impact mitigation agreement between the applicant and the City for \$22,050.00 for the following road improvement projects:

Seattle Hill Road Improvements - \$13,132.00
Traffic Signal at 23rd/25th Avenue - \$3,185.00
9th Avenue Intersection Improvements - \$2,278.00
164th Street Bridge Widening - Phase II - \$2,601.00
Dumas Road Improvements - \$854.00

12. The developer shall submit a preliminary grading plan for review and approval by the City Engineer. In accordance with Section 16.02.110, said plan shall demonstrate that the existing grades are preserved and where this is not feasible the proposed site grading is minimized.

13. The developer shall submit a temporary stormwater and erosion control plan for review and approval by the City Engineer. Said plan shall be approved prior to the issuance of any construction permits or commencement of site work and shall

RECOMMENDATIONS CONTINUED:

include specific measures to protect Nickel Creek and adjacent riparian areas.

14. An on-site inspector shall be present during the initial phases of plat construction including clearing and grading for roads and sidewalks, slope cuts and fills, installation of utilities, construction of roads and installation of erosion control measures.

The inspection service shall be chosen by the City and will be responsible to the City under the direction of the Mill Creek Public Works Department. All costs for the inspection service shall be borne by the developer.

15. Contribution of \$18,347.00 to mitigate impacts on City park and recreation facilities. Of this amount, \$16,920.00 shall be used for development of the neighborhood park on the property north of the subject site. The balance of the mitigation \$1,427.00 shall be used for the acquisition and development of a Community Park.

16. Tract 102 shall be dedicated to the City, at the time of final plat approval.

17. Submittal of a detailed wetland mitigation plan developed in accordance with Section 18.06 MCMC. Said plan shall be implemented prior to final plat approval or a performance bond equal to 125% of the cost of labor and materials shall be posted.

In addition, the developer and the City shall enter into a development agreement that will ensure the applicant's compliance with the monitoring schedule contained in the final mitigation plan. The agreement shall be substantially in the form of the draft as attached (please refer to Attachment 4).

18. Site clearing and grading shall be restricted to areas only necessary for the installation of utilities, and construction of roads and sidewalks. No other clearing is allowed without the approval of City staff. No lot clearing shall be allowed nor building permits issued prior to the submittal and approval of individual tree preservation plans for each lot following approval by the City Council of the final plat.

RECOMMENDATIONS CONTINUED:

19. Twenty-five foot property buffers shall be provided on the rear portions of lots 5-7, 11-16 and on lots 19-22. Additional trees shall be preserved within the interior of the plat where appropriate.

20. The trees to be preserved shall be determined after a review of the tree survey on file with the City and on-site identification by City staff. Preservation areas and individual trees identified to be saved shall be protected from encroachment by vehicles, earth moving and excavating machinery and material storage by the erection of barrier fencing approved by City staff. Failure to maintain, or removal of the fencing without approval of the City, shall result in the issuance of a stop work order.

21. Trees designated for preservation that are damaged or removed shall be replaced at a ratio of 3:1. The replacement trees shall be a coniferous species and have a minimum height at planting of 12 feet. In addition, a penalty of \$1,000.00 per tree may be assessed for any trees that are removed or destroyed by the applicant or his agent without the express approval of the City. The City may, at its discretion, issue a stop work order for the construction on the subject lots until the penalty is paid.

22. Building plans for lots 14, 15 and 16 shall incorporate terrain adaptive designs in order to avoid excessive filling and preserve as many trees as possible. This restriction shall be noted on the face of the final plat map.

23. The lot lines on lot 23 shall be adjusted and the future residence designed to preserve the 60" Fir tree located in the western portion of the lot.

24. The roadway buffers/cutting preserves along Seattle Hill Road shall be landscaped to provided a buffer between the residences and the road right-of-way. The landscape plan shall be reviewed and approved by the City's Design Review Board and implemented prior to final plat approval.

25. Landscaped islands planted with a combination of trees and shrubs shall be provided in both cul-de-sacs.

26. All landscaping, signage, and street tree plans shall be reviewed and approved by the City's Design Review Board.

RECOMMENDATIONS CONTINUED:

27. Fire hydrant design, location and spacing shall be reviewed and approved by Fire District No. 7 and the Alderwood Water District.

28. All utility, stormwater, drainage, maintenance easements, property buffers and pedestrian easements together with attendant restrictions and conditions shall be portrayed on the face of the final plat.

PLANNING COMMISSION

ACTION:

On April 21, 1994, the Planning Commission held a public hearing on the application by Seattle Hill Associates. After reviewing the staff report and recommendation, and taking public testimony, the Commission continued action on the application until the regular May meeting. On May 19, 1994, the Commission resumed discussion of the application and after addressing specific areas of concern, voted to recommend to the City Council, approval of the preliminary plat of the Lakes subject to the following changes and additions.

Amend Condition 2. ~~The maximum number of lots shall be 34.~~ Construction shall be limited to one single-family detached residence per lot.

Amend Condition 6. The applicant shall construct frontage improvements on Seattle Hill Road in accordance with the design standards specified by the City Engineer, including the construction of a footbridge having a minimum walking surface width of six (6) feet over the pond adjacent to Seattle Hill Road and north of Tract 101. Additional ten (10) feet of right-of-way shall be dedicated to accommodate the improvements of the existing right-of-way.

Amend Condition 12. The developer shall submit a preliminary grading plan for review and approval by the City Engineer. In accordance with Section 16.02.110 MCMC, said plan shall demonstrate that the existing grades are preserved and where this is not feasible, the proposed site grading is minimized. Grading and clearing limits shall be staked in the field and reviewed and approved by the City Engineer prior to approval of the engineering plans.

PLANNING COMMISSION ACTION CONTINUED:

Add New Condition 29. The applicant shall plant a minimum of three coniferous trees per lot on lots 26-34. The trees shall have a minimum height of 15 feet at the time of planting. The location of the trees shall be determined by City staff and the trees shall be planted commensurate with house construction.

Add New Condition 30. A sewer cleanout shall be provided on or near lot 10 to allow pumping of swimming pool water into the sewer system.

data\plan\wp\pete\lastf

LEGAL DESCRIPTION

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 8 AND THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 27 NORTH, RANGE 5 EAST, W.M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 7; THENCE S 0°03'00" E ALONG THE EAST LINE THEREOF 705.67 FEET TO THE TRUE POINT OF BEGINNING; THENCE S 63°31'08" E 127.94 FEET TO THE WESTERLY MARGIN OF THE SEATTLE HILL ROAD; THENCE S 29°40'19" W ALONG SAID WESTERLY MARGIN 425.07 FEET; THENCE CONTINUE ALONG SAID WESTERLY MARGIN S 57°08'19" W 458.13 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7; THENCE N 88°36'32" W ALONG SAID SOUTH LINE 46.32 FEET; THENCE N 48°13'21" W 502.73 FEET; THENCE S 77°32'12" W 256.75 FEET; THENCE N 88°15'20" W 158.10 FEET TO THE EAST LINE OF MARTHA LAKE GARDEN TRACTS, AS RECORDED IN VOLUME 8 OF PLATS, PAGE 51; THENCE N 0°08'44" E ALONG SAID EAST LINE 523.64 FEET; THENCE S 88°44'06" E 1088.13 FEET; THENCE S 63°31'08" E 247.62 FEET TO THE TRUE POINT OF BEGINNING;

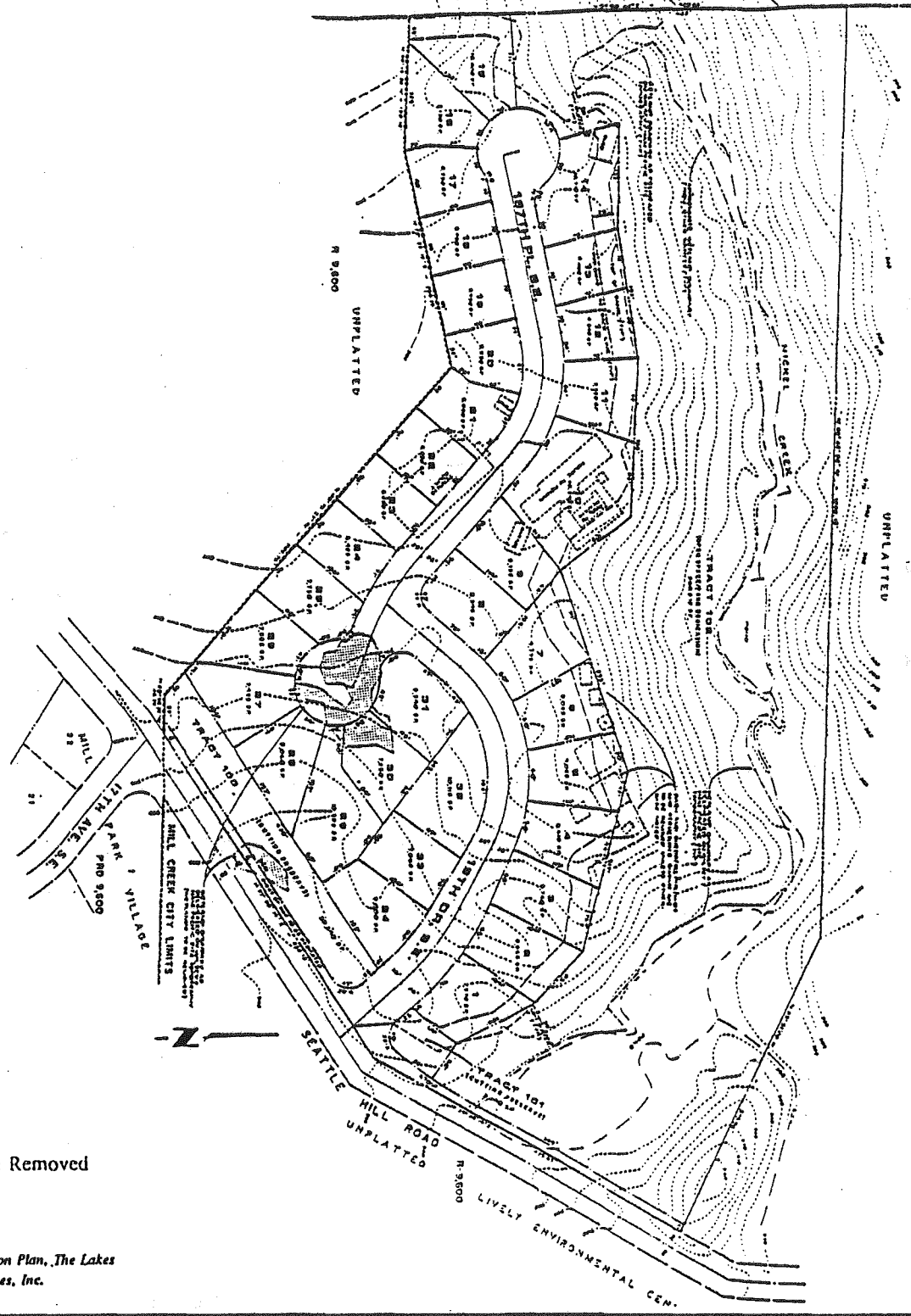
EXCEPT THAT PORTION, IF ANY, LYING WITHIN THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 27 NORTH, RANGE 5 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SUBDIVISION; THENCE NORTHERLY ALONG THE WEST LINE THEREOF 265.93 FEET; THENCE S 88°24'04" E 158.10 FEET; THENCE N 77°40'56" E 256.75 FEET; THENCE S 49°22'05" E 503.49 FEET, MORE OR LESS, TO THE SOUTH LINE OF SAID SUBDIVISION; THENCE WESTERLY ALONG SAID SOUTH LINE TO THE SOUTHWEST CORNER OF SAID SUBDIVISION, THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

Attachment 1
LEGAL DESCRIPTION

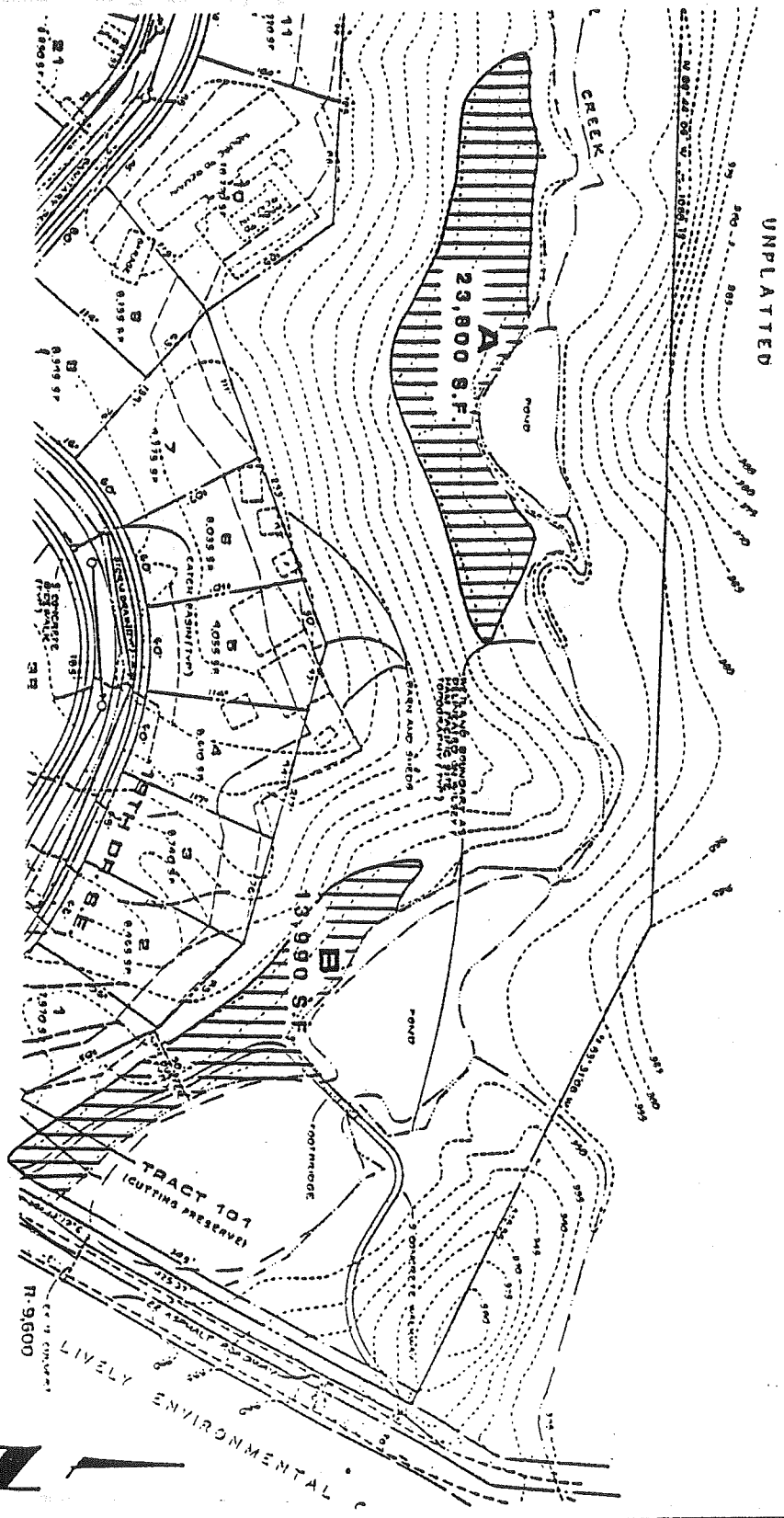


Wetlands To Be Removed

Revised Conceptual Mitigation Plan, The Lakes
Lovell-Sauerland & Associates, Inc.

Attachment 2 WATER RESOURCES MAP

Revised Conceptual Mitigation Plan, The Lakes
Lovell-Sawertand & Associates, Inc.



MR 1

UNPLATTED

Attachment 3
CONCEPTUAL MITIGATION AREA

DRAFT

AN AGREEMENT BETWEEN THE CITY OF MILL CREEK,
WASHINGTON, AND _____
RELATING TO WETLANDS MITIGATION FOR THE
PLAT COMMONLY KNOWN AS THE LAKES.

1.0 Parties.

1.1 This Agreement is entered into this _____ day of _____, 1994, between the City of Mill Creek, a Washington municipal corporation located at 15728 Mill Creek Blvd., Mill Creek, Washington (hereinafter "City"), and _____, located at _____ (hereinafter "Developer").

2.0 Recitals.

2.1 The City Council has granted preliminary plat approval for the development of a (# of lots) lot subdivision to be known as The Lakes (hereinafter "Plat"), City File No. _____, pursuant to Resolution No. _____. A legal description of that subdivision is as follows: _____.

2.2 The Developer has requested final plat approval pursuant to the Mill Creek Municipal Code.

2.3 The proposed development will have significant adverse impacts on wetlands located on the Plat.

2.4 Chapter 18.06 Mill Creek Municipal Code (MCMC) requires that all significant adverse impacts on wetlands shall be mitigated.

2.5 Chapters 18.06 and 17.48 MCMC authorize the City to enter into agreements for the mitigation of adverse environmental impacts, and Chapter 16.14 MCMC authorizes the City to require mitigation of adverse impacts as a condition of final plat approval.

2.6 The City and Developer desire to enter into an agreement to provide for mitigation of adverse environmental impacts caused by the development commonly known as the Lakes.

NOW, THEREFORE, for and in consideration of the mutual promises and conditions set forth below, the City and Developer agree as follows:

AN AGREEMENT BETWEEN THE CITY OF MILL CREEK,
WASHINGTON, AND _____ RELATING TO
WETLANDS MITIGATION FOR THE PLAT COMMONLY
KNOWN AS THE LAKES - 1

SEA2-28395.1 08842 0001

3.0 Terms and Conditions.

3.1 Mitigation Plan. Developer shall prepare and submit for approval, as a condition of final Plat approval, a detailed mitigation plan satisfying the requirements of Section 18.06.120 MCMC. The mitigation plan shall require the approval of the Director of Community Development and shall be incorporated into the final Plat. Developer shall perform the mitigation plan as specified therein for the full duration of the mitigation and monitoring plan.

3.2 Performance Bond. Developer shall post an irrevocable performance and payment bond, in a form acceptable to the City Attorney, which shall equal one hundred twenty-five percent (125%) of the cost of the mitigation project described in Section 3.1 above, and shall not be less than . The Bond shall be for a minimum duration of five (5) years and shall meet the requirements of the Mill Creek Municipal Code.

3.3 Binding Effect. Upon execution by the parties, the City shall record this Agreement in the Office of the Snohomish County Auditor. This Agreement shall be a covenant running with the land and shall be binding on all owners of the Plat, their successors in interest, heirs and assigns.

3.4 Condition Precedent. Execution of this Agreement is a condition precedent to final plat approval by the City. This Agreement shall be incorporated as a Covenant, Condition and Restriction on the face of the final Plat.

3.5 Termination. This Agreement may be terminated only by the written agreement of the parties.

4.0 General Provisions.

4.1 Waiver. Waiver by the City or Developer of strict performance of any provision of this Agreement or any breach thereof shall not constitute a waiver of any other provision or breach.

4.2 Headings. The headings included in this Agreement are provided only for the convenience of the parties and shall not be deemed or construed to affect the substance of the Agreement.

4.3 Assignment.

4.3.1 The mitigation plan performance provided for by Section 3.1 and the bond provided for by Section 3.2 in this

Agreement shall not be assignable by Developer, except with the City's consent as provided in Section 4.3.2.

4.3.2 The City, at its sole discretion, may allow assignment of this Agreement; provided that the following terms and conditions are met:

(a) Developer shall seek approval by applying to the City Manager in writing, at least sixty (60) days prior to any effective date of the transfer of ownership or title, for approval to assign this Agreement; and shall indicate the identity of the proposed Assignee.

(b) The City may, at its sole discretion and for any reason, approve or deny such assignment.

(c) If the City elects to approve such assignment, then such assignment shall be effected only by executing the Assignment and Acceptance of Duties and Obligations attached as Exhibit A (the "Assignment"). To be effective, the Assignment shall be executed by the City, the Developer and the Assignee. The City shall record the Assignment in accordance with Section 3.3.1.

4.4 Amendment/Modification. This Agreement may be altered or amended only by the written agreement of the parties specifically reciting the intent to modify this Agreement.

4.5 Choice of Law: Venue. All questions concerning the validity, interpretation, performance and enforcement of this Agreement shall be governed by the laws of the State of Washington. Venue shall lie in Snohomish County, Washington.

4.6 Attorneys Fees: Costs. If either party shall seek enforcement of any provision of this Agreement or redress of any breach thereof, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and disbursements, including without limitation any consultant or expert fees. The parties agree that because of the difficulty of affixing a value to damages that result from breach of this Agreement, specific performance shall be available as a remedy.

4.7 Notice. Notices required under this Agreement shall be personally served or mailed postage prepaid, return receipt requested, to the parties at the following addresses:

City Manager
City of Mill Creek
15728 Mill Creek Blvd.
Mill Creek, WA 98012

4.8 Severability. The invalidity or partial invalidity of any portion of this Agreement shall not invalidate any other portion of this Agreement, which shall remain in full force and effect and shall be interpreted and enforced as if such portion did not appear.

AUTHORIZED AND EXECUTED by the Parties indicated by their signatures below.

CITY OF MILL CREEK

[DEVELOPER]

By _____
City Manager, John Sims
Date: _____

By _____
Date: _____

ATTEST/AUTHENTICATED:

City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Office of the City Attorney
Stoel Rives Boley Jones & Grey

Attorney for Developer

DRAFT

EXHIBIT A

ASSIGNMENT AND ACCEPTANCE OF DUTIES AND OBLIGATIONS

1.0 Parties. This Assignment is entered into this _____ day of _____, 19____, between [Developer] (hereinafter "Assignor"), _____ (hereinafter "Assignee"), and the City of Mill Creek (hereinafter "City").

2.0 Assignment. Assignor hereby conveys and assigns to Assignee all of Assignor's duties, obligations and responsibilities in and to the Agreement Between the City of Mill Creek, Washington and [Developer] Relating to Wetlands Mitigation for the Development Commonly Known as The Lakes (the "Agreement"), dated _____, 1994, more particularly described on Exhibit 1 attached hereto and incorporated herein.

3.0 Acceptance. Assignee hereby accepts unconditionally the foregoing Assignment of duties, obligations and responsibilities under the Agreement, including but not limited to performance of the mitigation plan as described in the Agreement.

4.0 Approval. Upon execution by all parties, the City hereby approves of the foregoing Assignment and Acceptance of Duties and Obligations under the Agreement. The City shall, upon execution of this Assignment by the Assignor, Assignee and the City, record this Assignment in accordance with Section 4.3 of the Agreement.

5.0 Incorporation. Upon execution, this Assignment shall be attached to the Agreement. Except as specifically modified herein, all provisions of the Agreement shall remain in full force and effect after the execution of this Assignment, including without limitation the provisions of Section 4.3 of the Agreement relating to assignment of the Agreement.

[Developer]

[Assignor]

By: _____
Date: _____

By: _____
Date: _____

City of Mill Creek

By: _____
City Manager
Date: _____

DRAFT

ATTEST/AUTHENTICATE:

City Clerk

**DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT ADDENDUM
PRELIMINARY PLAT APPLICATION PP 93-38 THE LAKES**

On April 21, 1994, the Planning Commission held a public hearing on the above referenced application. After closing the public hearing, the Commission discussed the proposed project and identified areas of concern that were to be addressed prior to continuing deliberation on the proposal on May 19, 1994. Staff has reviewed the identified concerns, met with the applicant, and provides the following information and additional conditions for the Commission's consideration.

Issue: Construction of a sidewalk and bridge across the pond adjacent to Seattle Hill Road.

Comment: The original application did not include sidewalks along Seattle Hill Road adjacent to the pond. Rather, a pathway was proposed within Tract 102 (future park) crossing one of the ponds then meandering back toward the north property line of the site. During the discussion following the hearing, the Commission determined that sidewalks were more appropriate adjacent to Seattle Hill Road in the area next to the pond. In addition, the Commission recommended that the applicant deposit funds to be used for future construction of a pathway and bridge in Tract 102, the future park property.

After meeting with staff subsequent to the hearing, the applicant agreed to construct additional sidewalks and a bridge along Seattle Hill Road. Based on estimates provided by the applicant and verified by the City Engineer, the cost of building the sidewalk and bridge adjacent to Seattle Hill Road between the north end of Tract 101 and the north property line is \$30,075.00. The estimated cost of constructing the walkway and bridge in Tract 102 (future park) is \$16,450.00.

Obviously, the cost of the improvements along Seattle Hill Road exceeds the cost of the pathway construction in Tract 102. Since the recommended conditions of approval include a requirement of a contribution for development of the future neighborhood park, it is the opinion of staff that it would be inappropriate to require an additional contribution for the construction of the pathway and bridge construction in Tract 102.

Recommended Condition: Amend recommended Condition 6 to read: The applicant shall construct frontage improvements on Seattle Hill Road in accordance with the design standards specified by the City Engineer, including the construction of a footbridge having a minimum walking surface width of six (6) feet over the pond adjacent to Seattle Road and north of Tract 101. Additional ten (10) feet of right-of-way shall be dedicated to accommodate the improvements of the existing right-of-way.

Issue: The Commission recommended that the applicant review the layout of lots 29-31 in order to save the large Cedar tree located in the middle of lot 30.

Comment: After reviewing the location of the tree in relation to the planned improvements (i.e., streets, sewer and drainage lines), staff believes even if the lots were reconfigured, the combination of the utility installation, grading and removal of the wetland soils will lower the water table resulting in the loss of the tree. To mitigate for this loss, staff recommends that supplemental landscaping, primarily trees, be planted on lots served by the short cul-de-sac to provide some vertical relief in this portion of the plat.

Recommended Condition: Staff recommends the following new condition: The applicant shall plant a minimum of three coniferous trees per lot on lots 26-34. The trees shall have a minimum height of 15 feet at the time of planting. The location of the trees shall be determined by City staff and the trees shall be planted commensurate with house construction.

Issue: Lot Size - Lots 17, 18 and 19.

Comment: In response to Commission comments, the applicant reexamined the size and layout of these lots. They have determined that adjusting the lots to increase the area was not conducive to preservation of the trees as recommended by staff. As indicated at the hearing and in their follow-up response (see attached letter), the building footprint on the smallest lot is still 2,400 square feet, which conceivably could allow construction of a house twice that size.

Issue: Connection of swimming pool to sewer system.

Comment: A concern was raised regarding the potential for draining the existing swimming pool into Nickel Creek. It was suggested that the pool be connected to the sewer system to prevent this from occurring. The Uniform Swimming Pool, Spa and Hot Tub Code as well as the Alderwood Water District prohibit direct connections from swimming pools to public sewer systems. The primary reason is to avoid surging the system. The District does, however, allow pools to be drained into the sewer system, provided they are pumped through at a lower rate than would occur with a direct drain.

The City Engineer has determined that the future sewer line serving the existing residence can be designed to have an additional clean-out through which pool water can be pumped at a slower rate than a direct connection. This is acceptable to the Alderwood Water District.

During the deliberation on the application, the Commission approved a motion directing staff to prepare an ordinance that would require all swimming pools in the City to be connected to the sewer system. Based on the information concerning this issue obtained since the last meeting, staff suggests that an ordinance is unnecessary since it would conflict with the Alderwood Water District standards and the Uniform Plumbing Code.