

PLANNING COMMISSION RESOLUTION NO. 97-60

A RESOLUTION OF THE CITY OF MILL CREEK)
PLANNING COMMISSION, RECOMMENDING)
APPROVAL TO THE CITY COUNCIL OF THE CITY) FINDINGS,
OF MILL CREEK, WASHINGTON OF A) REASONS AND
PRELIMINARY PLAT FOR A 45-LOT RESIDENTIAL) RECOMMENDATIONS
SUBDIVISION TO BE KNOWN AS "MILL)
CREEK 22" CASE FILE NUMBER PP 96-48.)

WHEREAS, United Development Corporation has submitted the appropriate information to the City of Mill Creek for consideration of a Preliminary Plat for a 45-lot residential subdivision located at approximately 15400 Mill Creek Boulevard, on the east side of Mill Creek Boulevard, across from the Parkwood Apartments and south of the Juniper subdivision, within the City of Mill Creek; and

WHEREAS, the City of Mill Creek's SEPA Official issued a Mitigated Determination of Non-Significance, pursuant to RCW 43.21C, and Chapter 18.04 MCMC; and

WHEREAS, United Development Corporation filed a timely appeal of the MDNS in respect to the requirement for certain mitigation relating to the traffic, public park and recreation, and fire impacts; and

WHEREAS, on March 2, 1997, a legal notice stating the time, place and purpose of the public hearing on the appeal and the Preliminary Plat was published in the Everett Herald, and on March 3, 1997, was posted on the property pursuant to MCMC 14.07.030, and on February 27, 1997, was sent to surrounding property owners within 500 feet of the site in accordance with MCMC 14.07.030; and

WHEREAS, the Planning Commission duly convened a public hearing on March 13, 1997, to consider the matter, take testimony, and inquire into the facts of the proposal, all of which form the administrative hearing record in this case; and

WHEREAS, at the public hearing, the Responsible Official withdrew the condition requiring the payment of traffic mitigation; and

WHEREAS, the applicant and the City reached an agreement on payment of fire mitigation fees, rendering the appeal moot by agreement of the parties; and

WHEREAS, the Planning Commission continued the hearing for deliberation and decision on the Preliminary Plat application and appeal to a special meeting held on April 28, 1997; and

WHEREAS, on April 28, 1997, the Planning Commission considered the testimony, records, and facts, regarding the Preliminary Plat and appeal; and the City and the applicant advised the Commission that the appeals related to fire mitigation fees and traffic mitigation fees were moot; and following such consideration made the following findings, conclusions, and recommendations.

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, attached as Exhibit A, and the proposed Preliminary Plat, attached as Exhibit B, all incorporated herein, all of the testimony and other facts elicited at the public hearing, and all of the arguments presented during the hearing, and makes the following findings and conclusions:

- 1) The recitals set forth above are adopted as findings of fact.
- 2) The findings and recommendations as contained in Exhibit A, as modified by the Planning Commission discussion and recommendation contained in Exhibit C, attached and incorporated herein, are adopted.
- 3) The appeal filed by United Development Corporation contesting the mitigation required for impacts to the neighborhood park and recreation system has merit in that the previous contribution of property developed by the City into park and recreation facilities should be considered in assessing park and recreation mitigation fees for a proposed development. In particular, United Development Corporation has dedicated to the City the property now known as Library Park as a condition of approval of the plat of Mill Creek 16, of which the proposed plat is a part.

4) Based upon the previous dedication of the property now known as Library Park, United Development should receive a credit toward the required neighborhood park impact mitigation fees in the amount of one-half of the total requested neighborhood park mitigation fees.

5) The appeal filed by United Development Corporation contesting the mitigation required for impacts to the community park system is without merit and should be denied.

6) The proposed Preliminary Plat as conditioned is consistent with the Mill Creek Comprehensive Plan, the Mill Creek Subdivision and Zoning ordinances, and makes appropriate provisions for the public health, safety and general welfare.

Section 2: Based on these findings and conclusions, the Planning Commission recommends to the City Council the following actions:


1) The appeal of the proposed SEPA mitigation measures for impacts to the neighborhood park system should be granted by reducing the mitigation fees to one-half the amount prescribed by Resolution 95-191.

2) The appeal of the proposed SEPA mitigation measures for impacts to the community park system should be denied.

3) The appeal of the proposed SEPA mitigation measures for impacts to the City's transportation/traffic system, and impacts to the City's fire protection services system should be dismissed pursuant to the agreement of the parties.

4) The 45-lot Preliminary Plat for United Development Corporation as fully described and conditioned in Exhibit A, Exhibit B, and Exhibit C and this resolution should be approved.

CITY OF MILL CREEK PLANNING COMMISSION



CHAIRMAN



SECRETARY OF THE PLANNING COMMISSION

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

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

PART I - SUMMARY INFORMATION

HEARING DATE: March 13, 1997

CITY FILE NO: Preliminary Plat 96-48 (Mill Creek 22)

REQUESTED ACTION: Consideration of a preliminary plat/planned residential development to subdivide 15 acres into 45 lots for single-family detached development; and

Consideration of an appeal of the Mitigated Determination of Non-Significance issued for the proposed preliminary plat.

**APPLICANT/
APPELLANT:** United Development Corporation
15714 Country Club Drive
Mill Creek, Washington 98012

LOCATION: Approximately 15400 Mill Creek Boulevard, on the east side of Mill Creek Boulevard, across from Parkwood Apartments, and south of the Juniper subdivision

PROPERTY SIZE: 15 acres

**LEGAL
DESCRIPTION:** Tracts 302 and 303, Plat of Mill Creek 16

**COMPREHENSIVE
PLAN DESIGNATION:** Residential - Medium Density (maximum 12 dwelling units per acre)

ZONING DISTRICT: PRD 7200

PART II - STATUTORY REQUIREMENTS

SEPA COMPLIANCE/ DEVELOPMENT IMPACT MITIGATION ORDINANCE:

The proposed preliminary plat is subject to the provisions of the State Environmental Policy Act (SEPA) and the provisions of Chapter 17.48 Mill Creek Municipal Code (MCMC), Development Impact Mitigation.

City staff identified certain elements of the environment that require mitigation pursuant to SEPA and Chapter 17.48 MCMC. On January 17, 1997, the City's Responsible Official signed and issued a Mitigated Determination of Non-Significance (MDNS)/Notice of Property Development Impact Mitigation for the proposed project. Specific elements identified as requiring measures to mitigate the impacts of the proposed development include: 1) Earth, 2) Air, 3) Water, 4) Plants, 5) Transportation, 6) Recreation, and 7) Public Facilities (fire facilities). The mitigation measures required to address the identified environmental impacts are incorporated into conditions of approval.

APPEAL OF MDNS:

The City has received a timely appeal of the MDNS by the applicant, United Development Corporation. The appeal challenges the City's authority to require mitigation for impacts to the traffic and park and recreation systems and the validity of the Fire District's authority to require mitigation for impacts to fire services and facilities. The City and the Fire District's response to the appeal is being prepared by legal counsel under a separate document, which will be available to the Commission and the applicant prior to the hearing. The City Attorney has prepared a memorandum (included in your packet) describing the procedure that the Commission will need to use to jointly consider the MDNS appeal and the preliminary plat.

PUBLIC NOTICE:

In accordance with Chapter 14.07.030 MCMC, notice of the public hearing was mailed to property owners of record within 500 feet of the proposed project on February 27, 1997, published in the Everett Herald on March 2, 1997, and the property was posted on March 3, 1997. All statutory public notice requirements have been met.

PART III - BACKGROUND INFORMATION

EXISTING SITE CHARACTERISTICS:

The project site for this application encompasses 15 acres. The site is generally vegetated with second growth forest consisting of Douglas Fir, Western Red Cedar, Hemlock, Alder, and Maple trees. The site topography is undulating with an average slope of 7 percent. The steepest slopes on the site are approximately 40 percent and are located on the

eastern edge of the property adjacent to the nature preserve (rear portion of Lots 15 through 19).

SURROUNDING PROPERTY

ZONING/LAND USES: Surrounding zoning designations and existing land uses are as follows:

- the properties to the north are zoned PRD 7200 and are occupied by single-family homes (Juniper subdivision); and
- the property to the east and south is zoned PRD 7200 and consists of the Nature Preserve, which is owned and maintained by the Mill Creek Community Association (MCCA); and
- the property to the west is zoned High Density Residential and is occupied by the Parkwood Apartments.

UTILITIES: The subject site is located within the service area of the Alderwood Water District. Water and sewer service are available. 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 Snohomish County Fire Protection District No. 7, through a contract with the City.

PART IV - PROJECT ANALYSIS

**DEVELOPMENT REVIEW
PROCESS AND DESIGN:**

Development Review Process

The proposal is being processed in conformance with the provisions contained in Chapter 14 (Development Code Administration), Chapter 16 (Subdivisions and Plats), and Chapter 17 (Zoning) MCMC. In addition, the subject property is within Sector 6 of the original Mill Creek PRD, and is also subject to the provisions of the Sector 6 Master Plan.

Site Development Design

General Description

The proposed development consists of the subdivision of 15 acres into 45 lots for single-family detached development. Consistent with the Streetscape Element of the Comprehensive Plan, a 50-foot roadway buffer/cutting preserve is provided adjacent to Mill Creek Boulevard.

Project Density

The property is designated on the Comprehensive Plan Land Use Map as Residential-Medium Density (maximum 12 units per acre). The proposed plat has a density of three units per acre, well below the maximum permitted. In addition, the project site is within Sector 6 of the original Mill Creek PRD and is subject to the provisions of the Master Plan. Among other things, the Master Plan sets a ceiling of 600 units for Sector 6. Existing development and projects approved to date within Sector 6 account for 531 dwelling units. Approval of the subject preliminary plat will result in an additional 45 units for a total of 576 dwelling units within Sector 6 (including Parkwood Apartments, Cypress, Juniper, and Merrill Gardens developments). This is beneath the overall density cap. Therefore, the proposed plat is consistent with the density provisions of the Sector 6 Master Plan. As a side note, the only property within Sector 6 remaining to be approved for development is directly west of the Juniper subdivision and north of the Cypress subdivision.

Lot Design

The average lot size is 10,745 square feet. The largest lot is 15,519 square feet (Lot 26); and the smallest lots are 8,800 square feet (Lots 11 and 12). The plat includes four flag lots (Lots 7, 15, 40, and 42). Flag lots are common throughout Mill Creek single-family subdivisions and are consistent with the provisions of the Development Code. Several lots have existing slopes between 15 and 40 percent (Generally Lots 15 through 23 and Lots 43 through 45). Pursuant to the Environmental Features Element of the Comprehensive Plan, development of slopes between 15 and 40 percent may be permitted only if specific site engineering can demonstrate that subsequent development is safe and will not adversely affect drainage courses, vegetation, or slope stability. A condition requiring specific site engineering for lots with slopes exceeding 15 percent is included in the conditions of approval.

Policy 1.16 of the Land Use Element of the Comprehensive Plan requires buffer areas along the peripheral boundaries of each residential development. The purpose of the required buffer includes providing neighborhood and development identity and wildlife habitat corridors. In addition, Policies 4.02 and 4.03 of the Environmental Features Element require that significant vegetation be preserved wherever possible and requires vegetated buffer zones between developments. Although the proposed plat is bordered on the east and south by the Nature Preserve and on the west by the 50-foot roadway cutting preserve, no buffer has been provided on the north adjacent to the Juniper subdivision. Pursuant to the provisions of the Comprehensive Plan, staff is recommending that a 15-

foot property buffer (in the form of an easement) be required along the north property line of the site (Lots 7 through 14).

The proposed plat mistakenly shows a 10-foot rear yard setback line along the north, south and east boundaries of the site. The setback line is in error as the minimum rear yard setback in the PRD 7200 zone is 5 feet. In addition, it is not necessary to show a setback line on the plat. The conditions of approval require that the setback line be removed from the face of the plat.

Open Space

The original Mill Creek PRD Rezone Contract between Snohomish County and United Development Corporation required that 20 percent of the Net Developable Land Area (NDLA) be provided as open space. Subsequent to City incorporation, the City codified this requirement into MCMC 16.12.060. Based upon an NDLA of 635.6 acres, 128 acres was required to be established as common open space. To meet the requirement, 20 percent of the golf course area and the areas within the Nature Preserve, with slopes less than 30 percent, are permitted to be credited toward this requirement. The pocket parks, roadway buffers, and trail corridors throughout the Mill Creek PRD are also permitted to count toward the requirement. To date 141.08 acres of common open space has been provided within the Mill Creek PRD. In addition, the proposed plat provides 1.3 acres of additional open space within the roadway buffer/cutting preserve. Thus, the proposed plat meets the open space requirements within MCMC 16.12.060.

Vehicular/Pedestrian Access and Circulation

Vehicular access to the plat is provided by an entrance road from Mill Creek Boulevard. A landscaped median is proposed within the entrance road. The City Engineer has determined that site distance easements will be required on the corners of the entrance road at the intersections of Mill Creek Boulevard and the internal road to allow an adequate line of sight for drivers entering and exiting the development. Sight obstructing landscaping and structures will be prohibited within the easement. The dimensions of the easements will be determined by the applicant's engineer to the satisfaction of the City Engineer. These requirements are included in the conditions of approval.

Internal vehicular circulation is proposed from a looped roadway from which the individual residential lots will take access. The roadway is proposed to have a width of 26 feet as measured from back-of-curb to back-of-curb. This will promote slower vehicular speeds, provide a

residential atmosphere to the streetscape, and still permit on-street parking on both sides of the street.

Pedestrian circulation within the plat will be provided on sidewalks on both sides of the interior roadway. The 5-foot sidewalks are proposed to be separated from the roadway by a 5-foot planter strip. In addition, a private path connects the sidewalk system to the Nature Preserve trail system to the east and a public pedestrian path is provided from within the subdivision to Mill Creek Boulevard (between Lots 26 and 27). Consistent with the Streetscape Element of the Mill Creek Comprehensive Plan, meandering sidewalks will be constructed adjacent to Mill Creek Boulevard within the required 50-foot cutting preserve/roadway buffer.

Transit Facilities

Community Transit has indicated that the existing bus stop on Mill Creek Boulevard located just south of the site needs to be relocated approximately 100 feet north. Community Transit has requested that a concrete pedestrian waiting pad be constructed adjacent to Mill Creek Boulevard. The meandering sidewalk required within the 50-foot roadway buffer/cutting preserve could be located so as to tie into the proposed bus stop. In addition, the proposed new location would align with the pedestrian path from within the subdivision to Mill Creek Boulevard (between Lots 26 and 27). The requirement for a concrete pad to serve as a bus stop is included in the conditions of approval.

Utilities-Water and Sewer

Sanitary sewer is available on-site at the southwest and northwest corners of the property. A 12-inch water main is located within Mill Creek Boulevard. Alderwood Water District has indicated that the water and sewer capacity is available to serve the proposed development.

Utilities-Stormwater

The applicant has submitted a preliminary storm drainage plan with the preliminary plat application. Stormwater runoff is proposed to be collected in the streets and conveyed from the site into Pond Q, a stormwater detention facility located within the nature preserve (adjacent to Penny Creek), previously constructed as a part of the original Mill Creek Development. Water quality treatment methods are required and shall be based on the Washington State Department of Ecology Stormwater Management Manual, Publication 92-32, Volume I and Publication 92-33, Volume II and/or the Washington State Department of Fisheries guidelines, whichever is more restrictive.

**CONSISTENCY WITH
THE MILL CREEK
COMPREHENSIVE
PLAN:**

For a development to be approved, the Planning Commission must make a finding that the proposed development is consistent with the Land Use Map and applicable policies of the Comprehensive Plan. The proposed residential development has been reviewed by staff for consistency with the Mill Creek Comprehensive Plan. Since the plan is by its nature "comprehensive," the staff report provides the following matrix, which focuses on the applicable policies that have direct influence on the design of this project.

POLICY	FOCUS	COMMENT
LAND USE ELEMENT		
Land Use Map	Site designated for Residential-Medium Density (12 units/acre maximum).	Density of the project is three units per acre, well below the maximum allowed. In addition, the project is consistent with the Sector 6 Master Plan as adopted by the City (See discussion above under "Project Density" page 4).
1.01	City's residential character should be composed of a wide range of densities and maintain and enhance the City as a predominantly single-family residential community.	Project represents the low end of the potential density ranges. The residential character of the proposed development is single-family .
1.02	The original Planned Residential Development (PRD), as adopted by Snohomish County and amended by the City should continue to be implemented, where appropriate	The development is within Sector 6 of the original Mill Creek PRD. The proposed development is consistent with the Sector 6 Master Plan (See discussion above under "Project Density" and "Open Space" pages 4 and 5).

POLICY	FOCUS	COMMENT
1.16	Peripheral boundaries of each residential development should contain appropriately-sized buffer areas.	Conditions of approval require a 15-foot property buffer adjacent to the Juniper subdivision (Lots 7 through 14).
1.17	Entrances should be clearly identifiable; building mass should be in scale with lot sizes, pedestrian, and vehicular circulation should be safe and efficient.	Project entrance, as proposed, will have a median and will be clearly identifiable; the large lot sizes will provide an appropriate scale between lot area and the building mass of the detached single-family homes; vehicle and pedestrian circulation is safe and efficient.
1.18	Residential developments shall be designed to be compatible with adjacent developments.	Project density and lot size is similar to the Juniper subdivision to the north; and a 15-foot property buffer is being required on the lots that are adjacent to the Juniper subdivision. A 50-foot roadway buffer/cutting preserve is proposed between the project and the Parkwood Apartments directly across the street to the west. There is no development to the south and east (MCCA nature preserve). The proposed subdivision as conditioned is compatible with adjacent developments.
CAPITAL FACILITIES ELEMENT		
2.03	Stormwater management facilities to include quality and quantity controls per Level of Service guidelines.	Project shall incorporate stormwater management facilities that comply with City established Level of Service guidelines.

POLICY	FOCUS	COMMENT
UTILITIES ELEMENT		
1.01	Urban development shall occur only where adequate utilities are available.	Adequate utility services are available.
1.10	Requires undergrounding of utilities where possible.	Utilities are proposed to be located underground.
TRANSPORTATION ELEMENT		
2.03	Project shall not reduce Levels of Service below established standards.	City Engineer has determined that the project does not reduce Levels of Service below established standards.
3.04	Access points from the public right-of-way to private developments shall be located at appropriate locations.	City Engineer has determined access location is appropriate.
4.01	Public sidewalks required throughout residential neighborhoods. Sidewalk should be located on both sides of the street and be connected with other public/private trail systems. Sidewalks adjacent to arterial streets should be consistent with the Streetscape Element of the Comprehensive Plan.	The proposed plat as conditioned meets all of these requirements.
STREETSCAPE ELEMENT		
1.02	Proposals shall incorporate all requirements of streetscape plans.	Sidewalks are to be located within 50-foot cutting preserve.
3.01	50-foot cutting preserve required.	50-foot cutting preserve is provided

POLICY	FOCUS	COMMENT
ENVIRONMENTAL FEATURES ELEMENT		
3.01	Adequate erosion control measures required.	Suggested conditions of approval require erosion control measures.
3.02	Requires specific site engineering for development on sites where slope is between 15 and 40 percent. Purpose is to demonstrate safety and that the development will not adversely affect drainage courses, vegetation, or slope stability.	Requirement for engineering is included as a condition of approval.
4.01	Wooded areas to be preserved where possible.	Conditions of approval and MDNS issued for the project require preservation of trees where possible.
4.03	Requires that vegetated buffer zones be established between developments.	Requirement for a 15-foot property buffer adjacent to the Juniper subdivision to the north is included in the conditions of approval. South and east is the Nature Preserve. To the west is the 50-foot roadway buffer/cutting preserve.
PARKS AND RECREATION ELEMENT		
5.02	Park impact mitigation required for residential development.	MDNS issued for the project and conditions of approval require payment of park impact mitigation fees.

In summary, staff has reviewed the applicable policies of the Comprehensive Plan. Based on this review, we find that the proposed project with conditions of approval complies with the applicable policies.

**CONSISTENCY WITH
DEVELOPMENT
REGULATIONS:**

As stated previously, this application is being processed under the provisions of the Subdivision and Zoning sections of the MCMC (Chapters 16 and 17). The following matrix evaluates the proposed project with the applicable development regulations:

DEVELOPMENT REGULATIONS		
SECTION	REQUIREMENT	COMMENT
17.04.030	Single-family residential is permitted as a Principal Use in the PRD 7200 zone district.	Project consists of subdividing property to allow detached single-family residences.
17.04.050	Maximum density is the net area of the project (site area minus streets and unbuildable areas) divided by the minimum lot size permitted in the zone district.	Net site area is 540,392 square feet. Minimum lot size in the PRD 7200 zone district is 5,000 square feet. Maximum number of units is 108; 45 units are proposed.
17.04.060	Minimum lot width is 60 feet and corner lots 65 feet.	Minimum lot width is 65 feet. Most lots are 80 feet or more in width.
17.04.070	Minimum lot size is 5,000 square feet.	Smallest lot size is 8,800 square feet. Average lot size is 10,745 square feet.
17.22.180	Comprehensive Plan - concurrency and consistency required.	As discussed above, the project is consistent with the applicable policies of the Comprehensive Plan and does not reduce Levels of Service below established standards.
16.12.060	Requires 20 percent of net developable area of the PRD to be established as common open space.	The Mill Creek PRD has established over 20 percent of the net developable area as common open space (see discussion above under "Open Space" page 5)

DEVELOPMENT REGULATIONS		
SECTION	REQUIREMENT	COMMENT
16.14.010	Requires a finding that the proposed subdivision is beneficial to the public health, safety, and welfare and is in the public interest. Includes the adequate provision for: public health, safety and general welfare, open spaces, drainage ways, streets and other public ways, transit stops, water supplies, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds, mitigation of adverse environmental impacts, and protection of environmentally significant features.	Streets and sidewalks comply with standards recommended by the City Engineer. Mitigation is required to offset impacts of the development on parks and recreation facilities, identified roadway projects, and fire protection facilities. Utilities are available with sufficient capacity to serve the proposed development. Stormwater drainage facilities will meet LOS standards as established within the Comprehensive Plan. A bus stop pad is being required along Mill Creek Boulevard as requested by Community Transit.

In summary, staff has reviewed the applicable development regulations and, based on this review, finds that the proposed project, subject to proposed conditions, complies with the applicable development regulations.

PART V - FINDINGS AND CONCLUSIONS, STAFF RECOMMENDATION, AND CONDITIONS OF APPROVAL

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 45 lots to be developed with single-family detached residences.
2. Access to the proposed plat would be from Mill Creek Boulevard. Access to the individual lots is proposed from an interior looping road to be constructed by the applicant.

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 recreation system, and on Snohomish County Fire Protection District No. 7 facilities/services,
4. In accordance with the Mitigated Determination of Non-Significance and Notice of Property Development Impact Mitigation issued by the responsible official on January 17, 1997, impact mitigation agreements will be required to mitigate the identified impacts.
5. The proposed plat is located within a PRD 7200 zone district. Single-family residential development is a principal use in the PRD 7200 zone district.
6. The proposed plat is consistent with the applicable development regulations with regard to residential use, density, lot size, lot design, and provision of public facilities.
7. 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.
8. The proposed plat has been reviewed and found consistent with the Mill Creek PRD rezone contract in regards to project density and the provision of common open space.
9. The proposed residential development has been reviewed in regard to the requirements of 16.14.010 MCMC. As such, the development, subject to the conditions below, is found to be beneficial to the public health, safety, and welfare and is in the public interest.
10. If approved subject to the conditions recommended below, the proposed plat will be consistent with the requirements of Titles 16, 17 and 18 MCMC.
11. The statutory requirements for environmental review and public notification have been duly satisfied.

STAFF

RECOMMENDATION:

Upon resolution of the issues raised in the appeal of the MDNS issued for the project and based upon the findings and conclusions stated above, staff recommends approval of the preliminary plat subject to the following conditions of approval:

**CONDITIONS
OF APPROVAL**

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 45. Construction shall be limited to one single-family detached residence per lot.
3. The subdivision shall be incorporated into a homeowners' association, which will be responsible for the maintenance of all privately owned common facilities, including the roadway buffer/cutting preserves.
4. Water and sewer facilities shall be designed and installed in accordance with the requirements of the Alderwood Water District.
5. Fire hydrant design, location, and spacing shall be reviewed and approved by Fire District No. 7 and the Alderwood Water District.
6. All proposed public streets shall be designed to the satisfaction of the City Engineer. Interior public streets shall be designed to a width of 26 feet between backs of curbs. Five-foot portland cement concrete sidewalks shall be provided on each side of all streets separated from the curbs by a five-foot wide planter strip. The public rights-of-way for all interior streets shall be located to include the sidewalks. Pedestrian ramps shall be provided at all corners and sidewalk connections to the satisfaction of the City Engineer.
7. Site visibility easements shall be dedicated to the City at the intersections of the plat's entrance road with Mill Creek Boulevard and the interior loop road. Dimensions for the easements shall be determined by the applicant's engineer to the satisfaction of the City Engineer.

8. A concrete pad to be used as a bus stop shall be constructed adjacent to Mill Creek Boulevard within the roadway buffer/cutting preserve and be connected to the public sidewalk system. Specific size and location of said pad shall be determined by mutual agreement between Community Transit, the applicant, and the City Engineer and be shown as an easement to Community Transit on the final plat.
9. Mill Creek Boulevard frontage improvements shall be reviewed and approved by the City Engineer and shall include repair or replacement of any inadequate existing improvements to City standards. Actual construction of any repair or replacement may be deferred by cash deposit to the satisfaction of the City Engineer.
10. Public access easements shall be provided for the pedestrian pathways located within the roadway buffer/cutting preserve and the path from within the plat to Mill Creek Boulevard/proposed bus stop (within the sanitary sewer/stormwater drainage easement between Lots 26 and 27).
11. The applicant shall submit, for City approval, a street tree planting plan for all streets within the plat and the fifty-foot roadway buffer/cutting preserve. The street tree plan shall be prepared by a licensed landscape architect and shall be reviewed and approved by the City's Design Review Board prior to final plat approval. The plan shall be implemented commensurate with house construction.
12. The applicant shall submit, for City approval, plans for the subdivision identification sign. The plans shall be reviewed and approved by the City's Design Review Board prior to installation.
13. Site clearing and grading shall be restricted to areas 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.

14. 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.
15. Mail boxes shall be grouped or clustered in lockable hutches in locations identified by the United States Postal Service and the Mill Creek Police Department. Structures shall be enclosed in a decorative wood enclosure to the satisfaction of the City Engineer.
16. The 10-foot setback line shown on the perimeter of the plat shall be removed from the face of the plat
17. A 15-foot property buffer easement shall be shown along the north property line adjacent to the Juniper subdivision (Lots 7 through 14).
18. Prior to grading or developing lots that have a slope exceeding 15 percent, site specific engineering studies shall be required. Development will not be permitted unless the studies demonstrate to the satisfaction of the City Engineer and Building Official that the proposed development is safe and that drainage courses, vegetation, and slope stability are not adversely affected.

**SEPA MITIGATION
MEASURES:**

19. The applicant shall submit a temporary stormwater and erosion control plan as specified in the DOE manual for approval by the City Engineer. Said plan shall be approved prior to the issuance of any construction permits or commencement of site work including clearing and grading.
20. Dust shall be controlled by watering areas of soil disturbance during construction. All fireplaces shall be either natural gas appliances or certified pellet/wood stoves or inserts.
21. Stormwater management plans shall be submitted for review and approval by the City Engineer. The plan shall be prepared by a licensed engineer and incorporate stormwater volume control standards and treatment methods based on the Washington State Department of Ecology Stormwater Management Manual,

Publication 92-32 Volume I and Publication 92-33 Volume II and/or the Washington State Department of Fisheries guidelines, whichever is more restrictive.

22. Existing significant trees shall be preserved within roadway buffers/cutting preserves and property buffers. In addition, existing significant trees shall be preserved on individual residential lots where practical.

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.

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.

23. The execution of an impact mitigation agreement between the applicant and the City for \$11,162.00 for the following road improvement projects:

Traffic Signal at 23rd/25th Avenue - \$678.00
9th Avenue Intersection Improvements - \$8,160.00
Dumas Road Intersection Improvements - \$2,324.00

Verification of payment shall be provided to the City before final plat approval.

24. The applicant shall contribute \$85,690.35 to mitigate impacts on City park and recreation facilities. Of this amount, \$46,704.15 shall be used for the acquisition and development of the SR 527 neighborhood park as identified within the Comprehensive Plan. The balance of the mitigation \$38,986.20 shall be used for the

acquisition and development of a community park(s). Verification of payment shall be provided to the City before final plat approval.

25. The applicant shall contribute \$1,000.00 per residential structure under 3,600 square feet in area to mitigate impacts on fire district facilities/services. Residential structures over 3,600 square feet will require additional fire flow analysis to determine appropriate mitigation.

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EXHIBIT C

PRELIMINARY PLAT APPLICATION (PP 96-48) UNITED DEVELOPMENT CORPORATION, INC.

PLANNING COMMISSION MOTION:

A motion was made, seconded, and adopted by majority vote to adopt Resolution 97-60 recommending to the City Council:

1. Granting of the appeal of the Mitigated Determination of Non-Significance (MDNS) in regard to neighborhood park system impacts by giving partial credit for the dedication of the property developed by the City as Library Park.
2. Denial of the appeal of the MDNS in regard to community park system impacts.
3. Dismissal of the appeal of the MDNS in regard to traffic/transportation impacts and fire protection service impacts as moot pursuant to the agreement of the parties.
4. Approval of the Preliminary Plat of Mill Creek 22 subject to findings, conclusions, and conditions of the Planning Commission.

FINDINGS AND CONCLUSIONS:

1. The request is for the approval of a Preliminary Plat for 45 lots to be developed with single-family detached residences.
2. Access to the proposed plat would be from Mill Creek Boulevard. Access to the individual lots is proposed from an interior looping road to be constructed by the applicant.
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 recreation system and on Snohomish County Fire Protection District No. 7 facilities/services. On January 17, 1997, the City of Mill Creek's SEPA Official issued a Mitigated Determination of Non-Significance (MDNS), pursuant to that review and RCW 43.21C, and Chapter 18.04 MCMC.
4. United Development Corporation filed a timely appeal of the MDNS in respect to the requirement for certain mitigation relating to the traffic, public parks and recreation, and fire impacts.

5. At the March 13, 1997 public hearing, the Responsible Official withdrew the requirement for traffic mitigation for the preliminary plat.
6. The fire mitigation formulas have been revised since the March 13, 1997 public hearing. Based on agreements of the parties as to fire mitigation fees, the applicant has withdrawn the appeal in regard to fire services mitigation.
7. United Development Corporation dedicated to the City the property now known as Library Park as a condition of approval of the plat of Mill Creek 16, of which the proposed plat was a part. The appeal by United Development Corporation of the SEPA mitigation measures for impacts to the City's neighborhood park system, therefore, has merit.
8. Although the City has the lawful authority and obligation to mitigate identified impacts to the City's park system, partial credit should be given to the appellant for the past contribution of property developed by the City as Library Park. Based upon this previous public dedication, United Development should receive a one-half credit toward the required neighborhood park impact mitigation fees.
109. The appeal by United Development Corporation of the SEPA mitigation measures for impacts to the City's community park system is without merit. The City has the lawful authority and obligation to mitigate identified impacts to the City's park and recreation system. The private facilities (specifically "Chopper Park") previously dedicated by the appellant and owned and operated by the Mill Creek Community Association do not meet the criteria of or serve as a public community park as defined within the Comprehensive Plan. The formulas used to calculate the mitigation fee for impacts to the community park system are lawful, rational, reasonable, and fair.
910. In accordance with the Mitigated Determination of Non-Significance and Notice of Property Development Impact Mitigation issued by the Responsible Official on January 17, 1997, an impact mitigation agreement will be required to mitigate the identified impacts to the neighborhood and community park systems.
11. The proposed plat is located within a PRD 7200 zone district. Single-family residential development is a principal use in the PRD 7200 zone district.
12. The proposed plat is consistent with the applicable development regulations with regard to residential use, density, lot size, lot design, and provision of public facilities.
13. 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.
14. The proposed plat has been reviewed and found consistent with the Mill Creek PRD rezone contract in regard to project density and the provision of common open space.

15. The proposed residential development has been reviewed in regard to the requirements of Section 16.14.010 As such, the development, subject to the conditions below, is found to be beneficial to the public health, safety, and welfare and is in the public interest.
16. If approved subject to the conditions recommended below, the proposed plat will be consistent with the requirements of Titles 16, 17 and 18 MCMC.
17. The statutory requirements for environmental review and public notification have been duly satisfied.

CONDITIONS OF APPROVAL

1. Development shall occur as portrayed on the Preliminary Plat map except as modified by the conditions stated below.
2. The maximum number of building lots shall be 45. Construction shall be limited to one single-family detached residence per lot.
3. The subdivision shall be incorporated into a homeowners' association which will be responsible for the maintenance of all privately owned common facilities, including the roadway buffer/cutting preserves.
4. Water and sewer facilities shall be designed and installed in accordance with the requirements of the Alderwood Water District.
5. Fire hydrant design, location, and spacing shall be reviewed and approved by Fire District No. 7 and the Alderwood Water District.
6. All proposed public streets shall be designed to the satisfaction of the City Engineer. Interior public streets shall be designed to a width of 26 feet between backs of curbs. Five-foot portland cement concrete sidewalks shall be provided on each side of all streets separated from the curbs by a five-foot wide planter strip. The public rights-of-way for all interior streets shall be located to include the sidewalks. Pedestrian ramps shall be provided at all corners and sidewalk connections to the satisfaction of the City Engineer.
7. Site visibility easements shall be dedicated to the City at the intersections of the plat's entrance road with Mill Creek Boulevard and the interior loop road. Dimensions for the easements shall be determined by the applicant's engineer to the satisfaction of the City Engineer.
8. A concrete pad to be used as a bus stop shall be constructed adjacent to Mill Creek Boulevard within the roadway buffer/cutting preserve and be connected to the public sidewalk system. Specific size and location of said pad shall be determined by mutual

agreement between Community Transit, the applicant, and the City Engineer and be shown as an easement to Community Transit on the Final Plat.

9. Mill Creek Boulevard frontage improvements shall be reviewed and approved by the City Engineer and shall include repair or replacement of any inadequate existing improvements to City standards. Actual construction of any repair or replacement may be deferred by cash deposit to the satisfaction of the City Engineer.
10. Sidewalks shall be provided along Mill Creek Boulevard within the public right-of-way, where possible, and the roadway buffer/cutting preserve. Public access easements shall be provided for the portion of the pedestrian pathways located within the roadway buffer/cutting preserve (outside of the right-of-way) and the path from within the plat to Mill Creek Boulevard/proposed bus stop (within the sanitary sewer/stormwater drainage easement between Lots 26 and 27).
11. The applicant shall submit, for City approval, a street tree planting plan for all streets within the plat and the fifty-foot roadway buffer/cutting preserve. The street tree plan shall be prepared by a licensed landscape architect and shall be reviewed and approved by the City's Design Review Board prior to final plat approval. The plan shall be implemented commensurate with house construction.
12. The applicant shall submit, for City approval, plans for the subdivision identification sign. The plans shall be reviewed and approved by the City's Design Review Board prior to installation.
13. Site clearing and grading shall be restricted to areas 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.
14. 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.
15. Mail boxes shall be grouped or clustered in lockable hutches in locations identified by the United States Postal Service and the Mill Creek Police Department. Structures shall be enclosed in a decorative wood enclosure to the satisfaction of the City Engineer.
16. The 10-foot setback line shown on the perimeter of the plat shall be removed from the face of the plat
17. A 15-foot property buffer easement shall be shown along the north property line adjacent to the Juniper subdivision (Lots 7 through 14).

18. Prior to grading or development of lots that have a slope that exceeds 15 percent, site specific engineering studies shall be required. Development will not be permitted unless the studies demonstrate to the satisfaction of the City Engineer and Building Official that the proposed development is safe and that drainage courses, vegetation, and slope stability are not adversely affected.

SEPA MITIGATION MEASURES:

19. The applicant shall submit a temporary stormwater and erosion control plan as specified in the DOE manual for approval by the City Engineer. Said plan shall be approved prior to the issuance of any construction permits or commencement of site work including clearing and grading.
20. Dust shall be controlled by watering areas of soil disturbance during construction. All fireplaces shall be either natural gas appliances or certified pellet/wood stoves or inserts.
21. Stormwater management plans shall be submitted for review and approval by the City Engineer. The plan shall be prepared by a licensed engineer and incorporate stormwater volume control standards and treatment methods based on the Washington State Department of Ecology Stormwater Management Manual, Publication 92-32 Volume I and Publication 92-33 Volume II and/or the Washington State Department of Fisheries guidelines, whichever is more restrictive.
22. Existing significant trees shall be preserved within roadway buffers/cutting preserves and property buffers. In addition, existing significant trees shall be preserved on individual residential lots where practical.

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.

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.

23. The applicant shall contribute \$62,338.28 to mitigate impacts on City park and recreation facilities. Of this amount, \$23,352.08 shall be used for the acquisition and development of the SR 527 neighborhood park as identified within the Comprehensive Plan. The

balance of the mitigation \$38,986.20 shall be used for the acquisition and development of a community park(s). Verification of payment shall be provided to the City before final plat approval.

24. The applicant shall contribute \$365.00 per residential structure under 3,600 square feet in area to mitigate impacts on fire district facilities/services. Residential structures over 3,600 square feet will require additional fire flow analysis to determine appropriate mitigation.

Excerpt from May 15, 1997 Planning Commission Minutes

A. United Development Corporation Preliminary Plat 96-48 (Mill Creek 22) and Appeal of the Mitigated Determination of Non-Significance

Senior Planner Rogers briefly reviewed the project, reminding the Commission that at the April 28, 1997 meeting, following summary and rebuttal testimony from the applicant/appellant and staff, and Commission discussion, the Commission voted to:

- approve the proposed plat as conditioned,
- deny the appeal as it related to community park mitigation
- grant the appellant one-half credit toward the neighborhood park mitigation.

Senior Planner Rogers explained that the original resolution did not have findings to support the Commission's action. As a result, the resolution has been revised by staff to reflect the Commission's recommendation. Senior Planner Rogers summarized the revisions as follows:

- Findings 9 and 10 on page 2 of the addendum were switched and renumbered since, chronologically, they made more sense in that order.
- Newly renumbered finding Number 10 was revised as follows:
 - 10. In accordance with the Mitigated Determination of Non-Significance and Notice of Property Development Impact Mitigation issued by the Responsible Official on January 17, 1997, an impact mitigation agreement will be required to mitigate the identified impacts to the neighborhood and community park systems.
- Condition Number 10 was slightly revised as follows:
 - 10. Sidewalks shall be provided along Mill Creek Boulevard within the public right-of-way, where possible, and the roadway buffer/cutting preserve. Public access easements shall be provided for the portion of the pedestrian pathways located within the roadway buffer/cutting preserve (outside of the right-of-way) and the path from within the plat to Mill Creek Boulevard/proposed bus stop (within the sanitary sewer/stormwater drainage easement between Lots 26 and 27).

City Attorney Missall advised the Commission that the City had received a letter from the applicant requesting revisions to the resolution and attachments. He explained that the City had responded to one of the applicant's requests and revised Finding No. 10 in the resolution as explained above by Senior Planner Rogers.

Bruce Bell, Bell and Ingram, Post Office Box 1769, Everett, Washington 98206

Mr. Bell thanked the Commission for their efforts to date and stated that he had a few comments regarding the resolution. Since the traffic mitigation fees have been withdrawn, the applicant would like that specifically stated in the conditions of approval. Mr. Bell also had a question regarding when the fire district mitigation fees would be due and payable.

Finally, the applicant believes the resolution should also reference MCMC Chapter 17.48 as well as Chapter 18.04.

Community Development Director Trimm responded to Mr. Bell's comments, explaining that fire mitigation fees are paid when the final plat application is submitted. He further explained that it was the City's position that since Chapter 17.48 is adopted by Chapter 18.04 it was unnecessary to list both in the resolution. Regarding the request to state in the conditions of approval that traffic mitigation fees would not be required, City Attorney Missall explained that it was City policy to include only conditions of affirmative action. It is not necessary to have a condition stating that no condition was required. Further, the findings expressly state that the requirement for traffic mitigation fees has been withdrawn.

For the record, City Attorney Missall advised the Commission that the applicant's agreement to withdraw their appeal of the fire mitigation had been contingent upon the City Council approving the new fire mitigation fees. Mr. Missall affirmed that the City Council had approved an ordinance adopting a fire mitigation formula and fees at their regular meeting on May 13, 1997.

MOTION: Chair McElhose moved to adopt Resolution 97-61. Commissioner Mittlestaedt seconded the motion.

Commissioner Pazevic commented for the record that he felt reducing the neighborhood park mitigation fees was a mistake on the part of the Commission.

The motion passed with four in favor and three abstentions from Commissioners Grannis, Pazevic, and Weight since they were not in attendance at the initial public hearing.