

PLANNING COMMISSION RESOLUTION NO. 97-6

A RESOLUTION OF THE CITY OF MILL CREEK)
PLANNING COMMISSION, RECOMMENDING)
APPROVAL TO THE CITY COUNCIL OF THE) FINDINGS,
CITY OF MILL CREEK, WASHINGTON OF A) REASONS AND
PRELIMINARY PLAT/PLANNED RESIDENTIAL) RECOMMENDATIONS
DEVELOPMENT FOR A TWENTY-SEVEN (27))
LOT RESIDENTIAL SUBDIVISION. CASE FILE)
NUMBER PP 97-49.)

WHEREAS, William E. Buchan, Inc. submitted the appropriate information to the City of Mill Creek for consideration of a Preliminary Plat/Planned Residential Development for a forty-four (44) lot single-family residential subdivision located south of Seattle Hill Road, west of 25th Avenue Southeast, and east of Wildflower, 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 Chapter 17.48 and 18.04 MCMC; and

WHEREAS, on April 5, 1997, a legal notice stating the time, place, and purpose of the public hearing was published in the Everett Herald; and on April 4, 1997, the notice was posted on the property pursuant to MCMC 17.36.040; and on March 28 and April 7, 1997, the notice was sent to surrounding property owners within 500 feet of the site in accordance with MCMC 17.36.040; and

WHEREAS, William Buchan, Inc. appealed the City's determination relating to the fire mitigation conditions; and

WHEREAS, the Planning Commission duly convened a public hearing on April 17, 1997, considered the Preliminary Plat/Planned Residential Development and appeal, took testimony, and inquired into the facts of the proposal; and

WHEREAS, the Planning Commission continued deliberation and decision on the Preliminary Plat/Planned Residential Development application until April 28, 1997; and at the request of William Buchan, Inc. and City staff continued and left open the public hearing record on the appeal until April 28, 1997; and

WHEREAS, the applicant submitted a revised Preliminary Plat/Planned Residential Development design for consideration by the Planning Commission on April 23, 1997; and

WHEREAS, the applicant and the City reached an agreement on the fire mitigation appeal rendering the appeal moot; and

WHEREAS, on April 28, 1997, the Planning Commission resumed deliberation on the testimony, facts, and revised Preliminary Plat/Planned Residential Development plan; and the City and the applicant advised the Commission that the appeal related to fire mitigation was moot; and

WHEREAS, the Planning Commission continued deliberation and decision on the Preliminary Plat/Planned Residential Development until May 15, 1997; and

WHEREAS, on May 15, 1997, the Planning Commission considered the testimony and facts;

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 addendums, attached as Exhibit A, and the revised 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/planned residential development is consistent with the Mill Creek Comprehensive Plan and 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: Based on representations of the parties entered into the record, the Planning Commission dismisses the appeal related to fire mitigation conditions.

Section 4: The Planning Commission, therefore, recommends to the City Council approval of a twenty-seven (27) lot Preliminary Plat/Planned Residential Development for William Buchan, Inc. as fully described and conditioned in Exhibit A, Exhibit B, and Exhibit C.

Done and passed by majority vote, this fifteenth day of May 1997.

CITY OF MILL CREEK PLANNING COMMISSION



ROBERT MCELHOSE, CHAIR



SECRETARY OF THE PLANNING COMMISSION

ATTACHMENT: Exhibit A - Staff Report and Addendums
 Exhibit B - Preliminary Plat Map (Revised)
 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

HEARING DATE: April 17, 1997

OWNER: William E. Buchan, Inc.
11555 Northup Way,
Bellevue, Washington 98004

REPRESENTATIVE: Don Miller, GWC
8888 - 45 Place West
Mukilteo, Washington 98275

REQUESTED ACTION: Planned Residential Development/Preliminary Plat approval for a 44-lot subdivision to be developed with single-family detached residences.

Consideration of an appeal of a condition of the Mitigated Determination of Non-Significance issued for the proposed project.

LOCATION: The subject site is located south of Seattle Hill Road, west of 25th Avenue Southeast, and east of the Wildflower development within Section 5, Township 27 North, Range 5 East, W.M. Snohomish County.

SIZE: 14.47 acres

LEGAL DESCRIPTION: Refer to Attachment 1

COMPREHENSIVE PLAN DESIGNATION: Medium Density Residential, Twelve (12) Dwelling Units per Acre

ZONING DISTRICT: PRD 7200 - Planned Residential Development

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 4, 1997, a Mitigated Determination of Non-Significance (MDNS)/Notice of Property Development was issued for the proposed project. Specific measures are required to mitigate development impacts and have been incorporated into the appropriate recommended conditions of approval.

INTERLOCAL AGREEMENT WITH FIRE DISTRICT 7:

The City and the Fire District have adopted an interlocal agreement regarding the review of development impacts on the district with provisions for the imposition of appropriate mitigation and conditions. The application has been reviewed by the Fire District and their comments were reflected in the SEPA determination. The recommended mitigation is \$1,000.00 per lot.

APPEAL OF MDNS:

The applicant has filed an appeal of the MDNS. The appeal challenges the reasonableness of the amount of the mitigation requested by the Fire District, the relationship between the amount requested and the specific need arising from this development application, and that the request is contrary to law.

The City Attorney will respond to the appeal at the public hearing and provide the appropriate documents for the Commission's consideration.

NOTICE:

In accordance with Section 14.07.030 MCMC, notice of the public hearing was mailed to property owners of record within 500 feet of the proposed project on March 28 and April 7, 1997, published in the Everett Herald on April 7, 1997, and the property was posted in two places on April 4, 1997.

PART III - BACKGROUND INFORMATION

HISTORY:

The subject site is located in an area that was a part of the United Development Corporation Mill Creek PRD approved by Snohomish County in 1975 and subsequently incorporated as part of the initial boundaries of the City in 1983. Located in Sector 8 of the Master Plan, the property was originally planned for single-family attached development at densities of nine dwelling units per acre. With the adoption of the City's Comprehensive Plan, the property was designated for Medium Density Residential development (maximum 12 dwelling units per acre) on the Land Use Map, and consistent with the other United Development Corporation properties, received the PRD 7200 zoning designation.

EXISTING SITE CHARACTERISTICS:

The site of the proposed project is 14.47 acres in size and is located between the Wildflower and Highlands developments on the south side of Seattle Hill Road. Nickel Creek flows through the approximate center of the site entering from a culvert under Seattle Hill Road and flowing to the southwest corner of the site. West of the creek is a 20-foot sewer and water easement that was previously cleared for the installation of utilities.

TOPOGRAPHY AND SOILS:

The topography of the site is flat to rolling, sloping from the north to the southwest, with the two higher portions of the site located in the northwest and southwest corners of the site. The Soil Conservation Service for Snohomish County indicates that the predominant soil type on the site is Alderwood Gravelly Sandy Loam. This soil group is found in the non-wetland portions of the site and has moderate limitations for residential development, primarily due to poor drainage and seasonal wetness. These limitations primarily affect building foundations and septic tank drain fields. Since the proposed plat will be served by public sewers, the limitation for septic tank drain fields is not applicable. The requirement for foundation drains will be evaluated by the City Building Official at the time of construction of future residences.

As discussed below, there are six wetlands located on the subject site. In order to meet the definition for wetlands, hydric soils must be present. Because of the relatively small size of the wetlands, the soils were not classified by the SCS; however, wetland delineation studies for the site concluded that hydric soils were present.

VEGETATION:

With the exception of the area cleared for the sewer/water easement, the site is forested with second growth mixture of evergreen and broad-leaf deciduous species. Based on a review of the tree survey submitted with the application, the predominant tree species are Fir and Alder; however, Cedar and Cottonwood are also present. Dominant understory vegetation includes Salmonberry, Red Elderberry, Red Huckleberry, Salal and Swordfern. Wetland species include Pacific Willow, Red Osier Dogwood, skunk cabbage, rushes, sedges and buttercup.

WETLANDS:

There are six wetlands located on the site ranging in size from 311 square feet to 170,591 square feet (3.92 acres). The total area of the six wetlands is 200,926 square feet (4.6 acres). This represents approximately 31 percent of the project site. Please refer to Attachment 2 for the location of each wetland.

The proposed project will involve filling Wetlands 1- 5 for a total area of 30,000 square feet. To mitigate the impacts of filling these wetlands, the applicant has designed a mitigation plan that involves two major components: 1) creation of new wetland areas on the west side of the large central wetland (Wetland 6) between Nickel Creek and the existing Alderwood Water District easement, and 2) creation of a wetland in the southeast corner of the site south of Lot 27. Wetland 6, a Category II Wetland, will be preserved and the development includes buffers required by City regulations.

Pursuant to the City's Environmentally Critical Areas ordinance, Chapter 18.06 MCMC, a conceptual mitigation plan has been submitted to the Department of Community Development. A final detailed mitigation plan must be submitted and approved subsequent to approval of the Preliminary Plat application and prior to approval of a final plat application.

LAND USE:

The subject site is undeveloped. Surrounding land uses are as follows:

- To the north is Seattle Hill Road and beyond that is a portion of the Mill Creek Country Club Golf Course and the Springtree development.
- To the east is 25th Avenue and beyond that are the developments of the Highlands and Mill Creek South.
- To the west, contiguous with the site, is the undeveloped right-of-way of 23rd Avenue and beyond that is the

LAND USE CONTINUED:

Wildflower subdivision, which is developed with 57 single-family detached homes on lots ranging in size from approximately 4,000 to 6,500 square feet.

- To the south in unincorporated Snohomish County is the residential development of Hunter's Heights.

UTILITIES:

The subject site is located within the service area of the Alderwood Water District. Water and sewer lines are located adjacent to the subject site on Seattle Hill Road and 25th Avenue Southeast. Service to the eastern section of the site will be directly from 25th Avenue, while service to the western portion of the site is required to be extended down the existing 23rd Avenue right-of-way.

These utilities are required to be constructed throughout the site. 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 PROCESS AND DESIGN:

Process

The subject site is located in an area that was part of the original Mill Creek Planned Residential Development by United Development Corporation, and consequently was zoned PRD 7200. The project proponent has applied for Preliminary Plat approval under the provisions of Section 16.12 of the subdivision ordinance governing Planned Residential Development (PRD). The PRD process is intended as an alternate form of development to allow more flexibility while retaining significant natural features or providing public and private amenities.

Under this process, certain subdivision and zoning dimensional and bulk standards may be modified, except for street setbacks on exterior streets, surveying standards, permitted uses, and the engineering and design standards for public improvements.

Since the site is constrained for development due to the presence of significant wetlands and is bound by roads or public right-of-way on three sides, the applicant has requested the following modifications as allowed by the PRD regulations:

**SUBDIVISION PROCESS
AND DESIGN CONTINUED:**

1. Modification to the 35 percent lot coverage requirement to allow a maximum building coverage of 48 percent.
2. Modification of the minimum lot size of 5,000 square feet to an average lot size of 3,770 square feet, with the smallest lot being 3,084 square feet.

Subdivision Design

General Description

The proposal is for a 44-lot Preliminary Plat/PRD. The lots will be developed with single-family detached homes. The subject site is approximately 14.47 acres in size, with a gross (overall) density of three dwelling units per acre. The proposed project is to be developed in two distinct divisions separated by Wetland No. 6, which is 3.92 acres in size. Actual development (i.e., the area devoted to roads, driveways, and residences) will occupy approximately 4.47 acres or about 31 percent of the project site.

East Division:

Lot Layout

The division is located in the eastern section of the site adjacent to 25th Avenue. It contains 31 lots ranging in size from 3,084 square feet to 5,599 square feet. The lots are arranged in a north/south orientation along a single residential access street. The lot layout is designed in a manner that utilizes standard, front-loaded, single lot, driveway residences with the front yards oriented to the access street and the rear yards abutting 25th Avenue.

Access and Circulation

Access to the division will be from a single entrance on 25th Avenue located in a direct alignment with Highlands Boulevard. As mentioned above, there is a single access street serving the plat with a cul-de-sac on the north end of the street. The turning area has been reviewed and approved by the Fire Department. No turning area was provided on the south end of the street since the fire code does not require one on streets less than 150 feet in length.

SUBDIVISION PROCESS AND DESIGN CONTINUED:

Since this is a low volume, dead-end street, the City has approved a modified road section design that reduces the amount of pavement area from that found in larger subdivisions with heavier traffic volumes.

Sidewalks will be provided on both sides of the interior plat streets and along 25th Avenue to connect with the existing sidewalk along Seattle Hill Road. In addition, a pedestrian pathway, located at the end of the cul-de-sac, is proposed to connect the sidewalks in the development with the existing sidewalks on the south side of Seattle Hill Road.

Utilities

As mentioned above, sanitary sewer and water service is currently located within the 25th Avenue right-of-way and will be extended to serve the proposed development.

Stormwater runoff will be routed to catch basins in the street and conveyed through storm drains to a settling pond located south of Lots 26, 27 and 28. The water will then be released into a larger pond/created wetland area with a metered release into the existing central wetland and ultimately into Nickel Creek.

Open Space

The major open space components in this division are: 1) a 50-foot roadway buffer/cutting preserve adjacent to Seattle Hill Road, 2) the existing central wetland located on the west side of the division adjacent to Lots 13-26 as well as the 100-foot wetland buffer located between the edge of the wetland and the rear lot lines, and 3) the wetland mitigation area located in the southeast corner of the site.

West Division:

Lot Layout

The division is located in the northwest corner of the site near the intersection of Seattle Hill Road and the 23rd Avenue Southeast right-of-way. There are 13 lots ranging in size from 3,252 to 4,999 square feet. The lots are arranged along two private lanes, with access from a large cul-de-sac taking access from a short segment of 23rd Avenue SE to be constructed by the applicant.

SUBDIVISION PROCESS AND DESIGN CONTINUED:

Access and Circulation

Access to the development will be from Seattle Hill Road via a section of 23rd Avenue behind the Wildflower development. While the City is requiring the applicant to construct enough of 23rd Avenue within the existing right-of way to serve the proposed project, nothing in the approval of this project will constitute a decision on constructing and opening the 23rd Avenue right-of-way south to the city limits.

Pedestrian circulation facilities include the construction of sidewalks around the interior cul-de-sac, connecting to the existing sidewalk system on Seattle Hill Road via 23rd Avenue.

In addition, a pedestrian pathway is proposed to link the two divisions. The pathway will cross the wetland from the east division to the existing sewer easement, then follow the easement to a trail on 23rd Avenue south of the entrance to the cul-de-sac. An internal connection from the cul-de-sac in the west division connecting the internal sidewalks of the division to the trail is also proposed.

Utilities

Sanitary sewer and water service is currently located in the Seattle Hill Road right-of-way and will be extended along 23rd Avenue to the cul-de-sac to serve this division.

Stormwater runoff will be managed through an onsite drainage system that includes collection in an underground detention vault, again with metered release into the Nickel Creek drainage. Water quality will be attained through a two-stage, solid settling system incorporated in the storage vault and the provision of biofiltration between the vault outlet and the creek. The release rate for the onsite runoff will be in conformance with the Department of Fisheries and Department of Ecology criteria.

Open Space

Similar to the east division, open space will be provided in: 1) a 50-foot cutting preserve/roadway buffer adjacent to Seattle Hill Road, 2) the retained wetlands and required wetland buffers, and 3) a landscape tract (Tract C) located between Lots 42 and 43 and 23rd Avenue.

**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 the project relationship to the policy.

LAND USE ELEMENT

Policies 1.01 and 1.02 - Regarding a range of residential densities and continued implementation of the original Mill Creek Master Plan where appropriate or applicable.

Comment:

The proposed project is located within Sector 8 of the original United Development Corporation Mill Creek Master Plan. Through the sector approval process, the subject site was designated for single-family attached townhouse residential development. This designation is reflected in the City's Comprehensive Plan designation of Medium Density Residential, twelve dwelling units per acre maximum.

Policy 1.03 - Continuation of residential development patterns.

Comment:

The proposed plat continues the existing residential development patterns in the City, since it provides residential development in an area that is characterized by similar types of development; i.e., single-family detached residential development with densities of 3.5 to 6.5 dwelling units per acre.

Policy 1.04 - Compatibility with surrounding land uses.

Comment:

Similar to the adjacent developments of the Highlands and Wildflower, the proposed plat would be developed with single-family detached residences. While the applicants have requested modification to certain development standards such as lot size and coverage, overall the proposed residences would be compatible with adjacent developments with respect to use, building height, and floor area.

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

Policy 1.16 - Peripheral buffers around residential developments to define the development.

Comment:

While 50-foot cutting preserves are proposed adjacent to Seattle Hill Road, the north boundary of the site, no buffers are proposed along 23rd Avenue and 25th Avenue with the exception of two landscape tracts (Tracts C and G). In this respect the proposal is not entirely consistent with this policy; however, staff is recommending conditions to overcome this deficiency.

Policy 1.17 - New developments are to be planned as identifiable neighborhoods.

Comment:

The physical characteristics of the site and the presence of three public streets and/or rights-of-way will result in the development of two distinct identifiable neighborhoods. Each division will have its own entrance, and will be defined by the large central wetland as well as the cutting preserves along Seattle Hill Road.

Policy 1.18 - Compatibility with adjacent developments.

Comment:

As mentioned under Policy 1.04 above, the proposed plat is similar to the adjacent development since it will be developed with single-family detached residences, have separate road entrances to the individual divisions, include roadway buffers/cutting preserves along Seattle Hill Road, and provide pedestrian pathways connecting the development with adjacent public sidewalks.

CAPITAL FACILITIES ELEMENT

Policy 2.03 - Stormwater management facilities to include quality and quantity controls - protecting water quality.

Comment:

Although the final engineering designs for the stormwater system are not normally reviewed at this juncture, the SEPA requirements require compliance with the Department of Ecology Stormwater

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

Manuals, designed to protect water quality. In addition, the preliminary design incorporates settling ponds and chambers for pretreatment of stormwater prior to release. In addition, the City Engineer will require that offsite drainage complies with the Washington State Department of Fisheries standards for stream protection.

UTILITIES ELEMENT

Policies 1.01, 1.02, and 1.03 - Sewer and water availability, capacity, and cost of service.

Comment:

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 construction of all lines necessary to serve the site.

TRANSPORTATION ELEMENT

Policy 2.02 - Projects shall not reduce Levels of Service below established standards.

Comment:

The City Engineer has indicated that the project will not reduce the Levels of Service below the established minimum standard.

Policy 3.01 - Proposed roadways to enhance circulation and minimize traffic impacts in residential divisions.

Comment:

The proposed project does not introduce traffic into any existing residential divisions. As mentioned above, access to the western division will require construction of a short section of 23rd Avenue SE within the existing right-of-way, but will not result in the opening of 23rd Avenue.

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

Policy 3.06 - Reduction of traffic conflicts on collectors and arterials.

Comment:

The proposed development minimizes conflicts on arterials and collectors by: 1) providing a single access into each division, and 2) utilizing existing and planned collector streets, 23rd and 25th Avenues, to provide access to Seattle Hill Road, thus precluding direct access onto that arterial.

Policies 4.01 and 4.02 - Pedestrian and bicycle travel, location of facilities.

Comment:

Public sidewalks will be provided along the internal streets, but not in the two access lanes in the west division. In addition, pedestrian pathways linking the interior public sidewalk systems within the two divisions, as well as with the public sidewalks along Seattle Hill Road and the future sidewalks along 23rd and 25th Avenues, are proposed.

STREETSCAPE ELEMENT

Policies 1.02, 3.01, and 3.02 - Location and width of landscape buffer/cutting preserves.

Comment:

The proposed project has frontage on Seattle Hill Road, which is subject to the streetscape standards of the plan. Consistent with those standards, a 50-foot roadway buffer/cutting preserve has been incorporated in the project design.

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

ENVIRONMENTAL FEATURES ELEMENT

Water Management Policies

Policy 1.01 - Setbacks from streams and protection of riparian vegetation.

Comment:

The proposed plat includes 100-foot buffers between the rear lot lines and Nickel Creek. The existing vegetation in these areas will be retained.

Policies 1.02 and 1.03 - Control erosion and stormwater runoff.

Comment:

The project applicant will be required to provide stormwater runoff facilities that provide both detention, controlled release, and water quality treatment in accordance with the standards of the Washington State Department of Ecology and Department of Fish and Wildlife. As mentioned above the preliminary designs include pretreatment facilities for water quality.

Wetlands Preservation Policies

Policies 2.01 and 2.02 - Preservation and alteration of wetlands.

Comment:

There are six wetlands located on the site. The most significant is wetland located in the center of the property. It is nearly four acres in size, and consistent with the City's Environmentally Critical Areas Ordinance, Chapter 18.06 MCMC, 100-foot buffers are required between development and the edge of the wetland. These have been provided in the East Division and the buffer widths have been averaged in the West Division, consistent with Chapter 18.06 MCMC.

The project design includes filling the five smaller wetlands and a plan providing mitigation in accordance with the requirements of Chapter 18.06 MCMC has been submitted.

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

Erosion Control Policies

Policy 3.01- Requirement for erosion control measures.

Comment:

The SEPA determination for the proposal includes a requirement that the applicant submit an erosion control plan for approval by the City Engineer, and that the plan, which must be approved prior to any site work, include specific measures to protect Nickel Creek.

Aesthetic Value Policies 4.01, 4.02, and 4.03 - Preservation of natural vegetation and requirement for vegetated buffer zones.

Comment:

The proposed plat will result in the removal of a significant amount of native vegetation on approximately 4.47 acres or 31 percent of the site. As mentioned above, the plat design incorporates roadway buffers/cutting preserves and property buffers in an effort to maintain some existing stands of trees and native vegetation and the large forested wetland (nearly four acres) in the middle of the site will be preserved.

PARKS AND OPEN SPACE ELEMENT

Policy 1.02 - Linking public and private trail systems.

Comment:

As mentioned previously, the design of the proposed plat includes pedestrian pathways, linking the subject plat with the City sidewalk system and adjacent property, to provide convenient non-motorized access to Highlands or Nickel Creek parks.

Policy 5.02 - Mitigation of development impacts on park facilities.

Comment:

The subject site is within the service area of Nickel Creek Park as designated in the Comprehensive Plan. Payment of proportionate share mitigation, consistent with adopted formulas, is required to mitigate the impacts of this residential development and will be

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

used for development of the park and for the development of the Community Park

In summary, staff has reviewed the applicable policies of the Comprehensive Plan. Based on this review, we find that the proposed project complies with a majority of the applicable policies, or that the policies provided further direction in the development of the conditions of approval.

**CONSISTENCY WITH
SUBDIVISION
REGULATIONS:**

The subdivision of property in the City is governed by Title 16 MCMC. This application is also being processed under the provisions of the planned area development section of the subdivision regulations (Chapter 16.12), which allows modification of zoning and subdivision requirements with certain limitations and conditions. The following section evaluates the proposed plat with the criteria for reviewing and approving preliminary plats that are found in Title 16 MCMC.

Since the proposal is a Planned Residential Development, it has been evaluated, pursuant to the following provisions of Chapter 16.12 MCMC - Planned Area Development.

Subdivision Review Criteria

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

Comment:

The gross maximum density that is allowed for the development of single-family homes, in areas designated as Medium Density Residential on the Land Use Map of the Comprehensive Plan, is twelve units per acre. The gross density of the proposed project is three dwelling units per acre.

The subject site is located in a PRD 7200 zone district. The lots are proposed to be developed with single-family detached residences, which are designated as a principal use in the PRD 7200 zone district. The minimum lot size for single-family detached residences is 5,000 square feet; however, this may be

**CONSISTENCY WITH
SUBDIVISION REGULATIONS
CONTINUED:**

reduced through the PRD process, which the applicant has chosen to use.

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 will be required to comply with the standards required by the City Engineer. Open space will be provided through the roadway buffers/cutting preserves, retained wetlands, required wetland buffers and created wetland mitigation areas. The applicant will mitigate public recreational impacts through the payment of park impact fees. Utilities are available with sufficient capacity to serve the site and the final drainage plans will be reviewed for adequacy in managing projected offsite flows.

The applicant will construct the streets necessary to serve the development and is also required to contribute proportionate share impact mitigation to Fire District 7 for impacts on the district facilities.

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

Comment:

The execution of mitigation agreements with the proponent will include mitigation funding for neighborhood and community park development, and for impacts on fire protection services. In addition, the applicant will construct sidewalks along 25th Avenue and a portion of 23rd Avenue; and grant pedestrian access easements across the proposed pedestrian pathway, through the central wetland area, allowing pedestrian access from the public right-of-way and creating a link between the Highlands development and 23rd Avenue.

**CONSISTENCY WITH
SUBDIVISION REGULATIONS
CONTINUED:**

4. Section 16.12.030 requires that a Planned Residential Development must be located on a minimum lot size of 2.5 acres.

Comment:

The subject site contains 14.47 acres.

5. Section 16.12.040 directs that certain bulk regulations may be modified in a Planned Residential Development.

Comment:

The applicant has requested the following modifications:

- A reduction in the minimum lot size to allow lot sizes averaging 3,770 square feet, with the smallest lot being 3,084 square feet.
- A reduction in the maximum lot coverage to allow site building coverage up to 48 percent. The maximum building pad area is anticipated to be 1,500 square feet.

These requested modifications are consistent with those allowed under this section since they do not increase the density of the project, change the principal uses, affect the setbacks on exterior lots, or affect survey or engineering standards.

6. Section 16.12.050 establishes a formula for computing the allowable density determined by establishing a net development area that accounts for the unbuildable lands and the internal road systems.

Comments:

The PRD 7200 zone district directs that the maximum allowable density is that which is established through the application of the formula in Section 16.12.050. Based on this formula, potentially 80 dwelling units could be developed on this site. The proposed development of 44 lots, with a density of three units per acre (gross) and 4.7 units per acre (net), is less than the maximum of twelve units allowed consistent with the Comprehensive Plan.

7. Section 16.12.060 directs that 20 percent of the net development area in a PRD must be established as open space and community facilities.

**CONSISTENCY WITH
SUBDIVISION REGULATIONS
CONTINUED:**

Comment:

The net developable area, as determined in accordance with the formula contained in Section 16.12 MCMC, is 9.21 acres; and the required open space is 1.8 acres. The proposed plat contains approximately 10.0 acres of open space, which is approximately 69 percent of the subject site.

In summary, the proposed application is consistent or can be conditioned to be consistent with the applicable policies of the Mill Creek Comprehensive Plan.

**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/Planned Residential Development for 44 lots to be developed with single-family detached residences.
2. Access to the proposed plat would be from 25th Avenue Southeast and 23rd Avenue Southeast, both of which are designated as collector streets in the Comprehensive Plan.
3. The subject site is located in Sector 8 of United Development Corporation's Mill Creek Planned Residential Development. The sector plan, approved in 1981, designates the area as single-family attached with a maximum density of nine dwelling units per acre.
4. The subject site is designated Medium Density Residential [maximum twelve dwelling units per acre] in the City's Comprehensive Plan.
5. The gross density of the proposed project is three units per acre.
6. The proposed plat is located within a PRD 7200 zone district. In accordance with Chapter 16.12 MCMC, the Planned Residential Development process, the applicant has requested that

**FINDINGS AND
CONCLUSIONS
CONTINUED:**

the lot size, and lot coverage requirements of the PRD 7200 zone district be modified.

7. 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 City parks and fire district facilities, which will require mitigation.

8. The City of Mill Creek and Snohomish County Fire District # 7 signed an Interlocal Agreement for the joint review of development proposals and providing the legal basis for appropriate conditions to mitigate development impacts on the district.

9. In accordance with the Interlocal Agreement, the Fire District, as co-lead agency, has requested that the applicant contribute fees to mitigate the development impacts on district facilities.

10. The plat as described is consistent with the use, density, open space, and property buffers that exist 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, with the exception of Land Use Policy 1.16 related to peripheral buffers; however, it can be conditioned to be consistent with this requirement.

12. The proposed plat can be served by public sewer and water, and makes appropriate provisions for streets, drainage facilities, open space, parks and playgrounds, sidewalks and public ways.

13. If approved, subject to the conditions recommended below, the proposed plat will be consistent with the requirements of Title 16 MCMC, Plats and Subdivisions; Title 17 MCMC, Zoning; and Chapter 18.06, Environmentally Critical Areas.

14. 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 44. Construction shall be limited to single-family detached residences.
3. In accordance with the provisions of Chapter 16.12 MCMC, the following modifications of the development standards of Chapter 17.04 MCMC are permitted:
 - Modification to the 35 percent lot coverage requirement to allow a maximum building coverage of 48 percent.
 - Modification of the minimum lot size of 5,000 square feet to an average lot size of 3,770 square feet, with the smallest lot being 3,084 square feet.
4. Stormwater management plans and a final drainage study 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.

In addition, a final drainage study for the site shall be submitted for approval. The final study shall address the potential impacts of the increased downstream runoff volume to the culvert crossing of Seattle Hill Road that was installed as part of the Winslow subdivision.
5. Water and sewer facilities shall be designed and installed in accordance with the requirements of the Alderwood Water District.
6. All roadway sections shall be designed by a licensed engineer and the design reviewed and approved by the City Engineer. The interior plat street section should be shown on the plan, reflecting the proposed curb-to-curb width (22 feet is adequate if parking is restricted to one side only, 26 feet if parking

**RECOMMENDATIONS
CONTINUED:**

on both sides of the streets is desired) and contiguous, five-foot sidewalks.

Standard sidewalks are required on both sides of the public streets within the plat and along 23rd Avenue, 25th Avenue, and along Seattle Hill Road.

Construction of a sidewalk along the entire site on the west side of 25th Avenue SE and shall include redirection of drainage at the south end of the existing improvements to the underground system.

7. The southern terminus of the interior street on the east side of the project shall be reconfigured to provide a cul-de-sac turnaround, designed to the satisfaction of the City Engineer.

8. The subdivider shall dedicate visibility easements at the intersections of 23rd and 25th Avenues and Seattle Hill Road.

9. Repair or replacement of any inadequate paving, curb and gutter, sidewalk, or drainage in the adjacent rights-of-way of 25th Avenue SE and Seattle Hill Road.

10. Improvement of the adjacent frontage of Seattle Hill Road to include street lighting, installation of landscaped traffic safety islands.

11. Contribution of \$59,116.00 to mitigate impacts on City park and recreation facilities. Of this amount, \$20,996.00 shall be used for the development of Nickel Creek park. The balance of the mitigation, \$38,120.00 shall be used for the acquisition and development of a Community Park.

12. Contribution of \$1,000.00 per dwelling unit to mitigate impacts on Fire District 7 facilities.

13. Submittal and approval of a street tree planting plan for all streets within the plat. The street tree plan shall be prepared by a licensed landscape architect and reviewed and approved by the Design Review Board prior to final plat approval. The plan shall be implemented commensurate with house construction.

14. Submittal and approval of a supplemental reforestation and habitat enhancement plan for the cutting preserve adjacent to

**RECOMMENDATIONS
CONTINUED:**

Seattle Hill Road. The plan shall be reviewed and approved by the Design Review Board and shall be implemented or secured with a performance surety prior to final plat approval.

15. The precise location and limits of clearing for the wetland mitigation area and stormwater detention facilities south of Lot 27 shall be established by City staff in order to preserve the existing stand of evergreen trees adjacent to 25th Avenue across from 163rd Street SE.

In addition, the applicant shall prepare a landscape buffer plan for the area between the wetland mitigation area and 25th Avenue SE to be reviewed and approved by the Design Review Board. It shall include a combination of preservation of existing trees and supplemental plantings.

16. Individual trees or stands of trees shall be preserved within the interior portion of the plat. Trees to be preserved shall be determined after a review of the tree survey on file with the City and onsite identification by City staff and the applicant. 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.

17. Trees designated for preservation that are damaged or removed shall be replaced at a ratio of 3:1. The replacement trees shall be coniferous species and have a minimum height at planting of twelve 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 of the subject lots until the penalty is paid.

18. Site clearing and grading shall be restricted to areas specified by City staff. No other clearing is allowed without the approval of City staff.

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

**RECOMMENDATIONS
CONTINUED:**

20. Mail boxes shall be grouped or clustered in locations identified by the United States Postal Service.
21. All fireplaces shall be natural gas appliances, pellet stoves, certified wood stoves, or certified fireplace inserts.
22. All utility, stormwater, drainage, maintenance and visibility easements, property buffers and public pedestrian easements together with attendant restrictions and conditions shall be portrayed on the face of the final plat.
23. There shall be a Homeowners' Association that will be responsible for the maintenance of all common tracts, privately owned facilities, and the landscape islands and medians.
24. The rear ten feet of lots 1 - 11, 27-31, 32-34, and 42-44 shall be reserved as a landscape easement. No fences or structures shall be allowed in the easement area and a landscape plan shall be submitted for review and approval by the Design Review Board.
25. The applicant and City staff shall jointly develop the final grading plans for lots abutting 25th Avenue in order to preserve existing trees on the rear portions of the lots adjacent to 25th Avenue.
26. The final wetland mitigation plan shall include an interpretive element that includes the construction of signs and other interpretive postings on the perimeters of the central wetland (Tract A) and along the trail connections through the wetland between the two divisions.
27. Prior to final plat approval, the applicant shall present proof, satisfactory to the City Attorney, that the 23rd Avenue road construction agreement (the "obligation") which currently exists between the City and United Development Corporation has been paid in full or satisfied. If the holder of the obligation desires to satisfy the obligation by partial payment in conjunction with partial construction of 23rd Avenue, credit shall be given to the holder of the obligation for the actual cost of any road improvements that are installed as a condition of approval for this plat application, provided that such improvement(s) would have been required to fulfill all or any part of the 23rd Avenue road construction agreement.

**RECOMMENDATIONS
CONTINUED:**

28. Public access easements shall be granted for the pathways located in Tracts A, B, E, and H. The pathways shall be designed to the satisfaction of the City Engineer and Community Development Director and shall be maintained by the Homeowners' Association. The subdivider shall submit all appropriate documents and include certificates on the final plat as required by the City Attorney to ensure proper maintenance and assignment of liability for the proposed paths.

29. The proposed pedestrian bridge and path at the southwest corner of the site shall be located outside of the right-of-way of 23rd Avenue SE. The subdivider shall obtain all appropriate local, state, and federal permits for activities in the Nickel Creek area, including, but not limited to, installation of the path and crossings of Nickel Creek.

G:\DATA\PLAN\WP\PETE\97-49STF.PER

**PRELIMINARY PLAT APPLICATION
PP 97-49, TRACT D2**

LEGAL DESCRIPTION

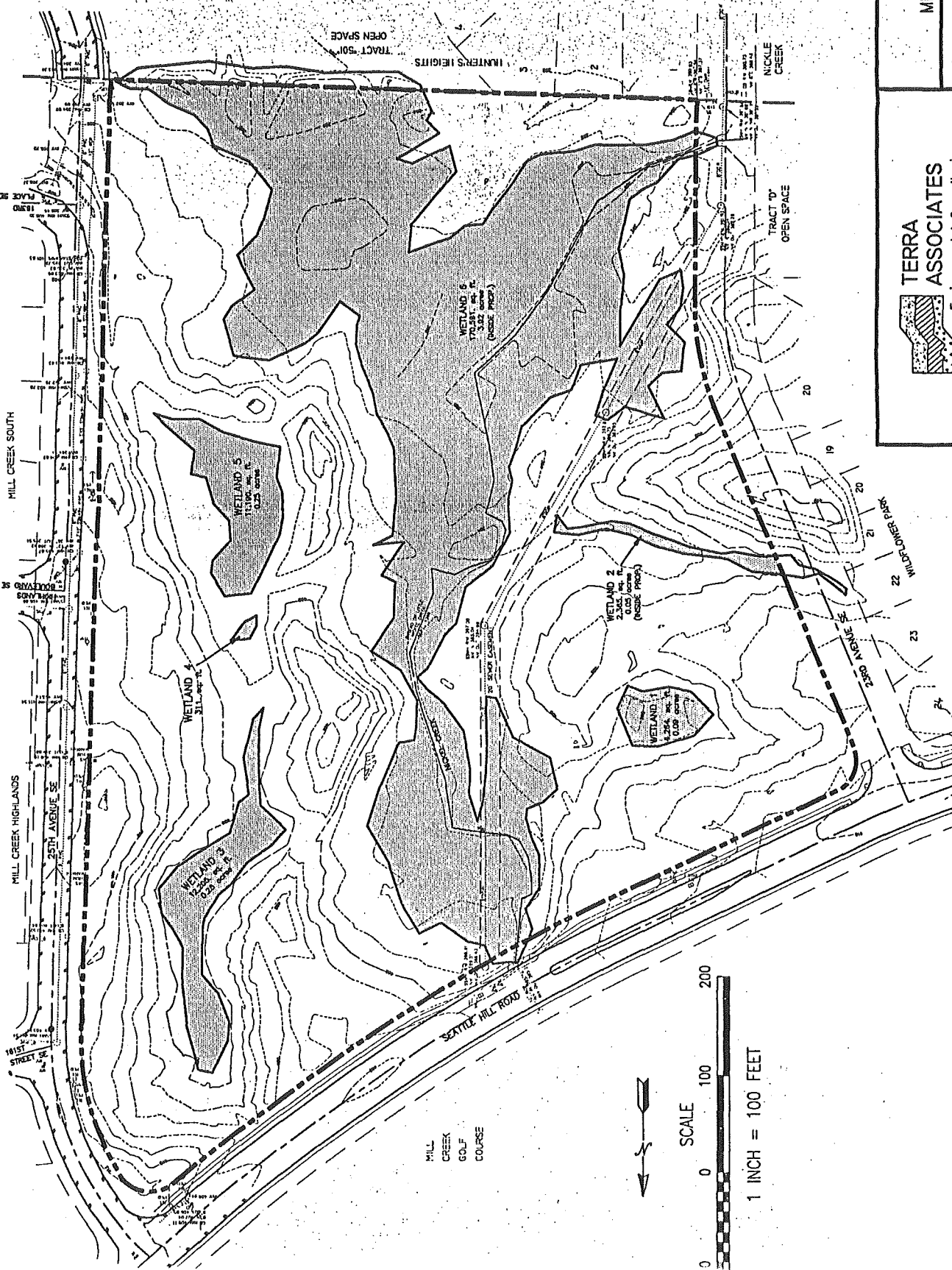
Parcel D-2 of Large Tract Segregation 21 (6-81), according to the survey recorded in Volume 15 of Surveys, Page 56, under Auditor's File No. 8112075004;


(Being a portion of the Southwest Quarter of Section 5, Township 27 North, Range 5 East, W.M.)

Situated in the county of Snohomish, state of Washington.

ATTACHMENT 1

LEGAL DESCRIPTION



 <p>TERRA ASSOCIATES Environmental Consultants</p>	<p>EXISTING CONDITIONS D-2 MILL CREEK, WASHINGTON</p>
	<p>Proj. No. 3373 Date 1/6/97 Figure 1</p>

**PRELIMINARY PLAT APPLICATION (PP 97-49)
WILLIAM E. BUCHAN, INC.**

STAFF REPORT ADDENDUM

1. PAGE 18, Paragraph 2 - Consistency with Subdivision Regulations

Change to read: - In summary, the proposed application is consistent or can be conditioned to be consistent with ~~the applicable policies of the subdivision and zoning ordinance~~ Title 16 MCMC, Subdivisions, and meets the requirements and intent of the Mill Creek Municipal Code including Title 17, Zoning, and Title 18, Environmentally Critical Areas, and adopted City plans.

2. PAGE 17, No. 6 - Comments

Change to read: The PRD 7200 zone district directs that the maximum allowable density is that which is established through the application of the formula in Section 16.12.050. Based on this formula, potentially 80 ~~53~~ dwelling units could be developed on this site. The proposed development of 44 lots, with a density of three units per acre (gross) and 4.7 units per acre (net), is less than the maximum of twelve units allowed consistent with the Comprehensive Plan.

3. PAGE 23, Condition No. 27 - Recommendations

Change to read: Prior to final plat approval, the applicant shall present proof, satisfactory to the City Attorney, that the 23rd Avenue road construction agreement (the "obligation") which currently exists between the City and United Development Corporation has been paid in full or satisfied. If the holder of the obligation desires to satisfy the obligation by partial payment in conjunction with partial construction of 23rd Avenue ~~from Seattle Hill Road to the entrance of the plat~~, credit shall be given to the holder of the obligation for the actual cost of any road improvements that are installed as a condition of approval for this plat application, provided that such improvement(s) would have been required to fulfill all or any part of the 23rd Avenue road construction agreement.

4. PAGE 24, Condition No. 29 - Recommendations

Change to read: The proposed pedestrian bridge and path at the southwest corner of the site shall be located ~~outside of~~ within the right-of-way of 23rd Avenue SE and maintained by the homeowners' association. The subdivider shall obtain all appropriate local, state, and federal permits for activities in the Nickel Creek area, including, but not limited to, installation of the path and crossings of Nickel Creek.

5. PAGE 24 - New Condition No. 30

Add a new condition to read as follows: In accordance with Section 17.22.170 MCMC, the applicant shall remove the existing overhead utilities on the west side of 25th Avenue and install underground utilities.



**PRELIMINARY PLAT APPLICATION (PP 97-49)
WILLIAM E. BUCHAN, INC.**

STAFF REPORT ADDENDUM II

Subsequent to the public hearing on April 17, 1997, the applicant submitted a revised plat design. In response, City staff has prepared the following amendment to the staff report on the application that was entered into the record at the hearing.

The revised plat design reduces the number of lots from 44 to 27. All lots exceed 5,000 square feet in lot area. The smallest lot is 5,390 square feet and the largest is 6,770 square feet. Based on a review of the revised design, staff recommends the following changes to the staff report findings and conditions:

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/Planned Residential Development for ~~44~~ 27 lots to be developed with single-family detached residences. All lots exceed 5,000 square feet, the minimum lot size of the PRD 7200 zone district.
2. Access to the proposed plat would be from 25th Avenue Southeast and 23rd Avenue Southeast, both of which are designated as collector streets in the Comprehensive Plan.
3. The subject site is located in Sector 8 of United Development Corporation's Mill Creek Planned Residential Development. The sector plan, approved in 1981, designates the area as single-family attached with a maximum density of nine dwelling units per acre.
4. The subject site is designated Medium Density Residential [maximum twelve dwelling units per acre] in the City's Comprehensive Plan.
5. The gross density of the proposed project is ~~three~~ 1.8 units per acre.
6. The proposed plat is located within a PRD 7200 zone district. In accordance with Chapter 16.12 MCMC, the Planned Residential Development process, the applicant has requested that ~~the lot size, and lot coverage requirements of the PRD 7200 zone district be modified from 35 percent to 40 percent.~~
7. 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 City parks and fire district facilities, which will require mitigation.

8. The City of Mill Creek and Snohomish County Fire District No. 7 signed an Interlocal Agreement for the joint review of development proposals and providing the legal basis for appropriate conditions to mitigate development impacts on the district.

9. In accordance with the Interlocal Agreement, the Fire District, as co-lead agency, has requested that the applicant contribute fees to mitigate the development impacts on district facilities.

10. The fire mitigation formulas were revised subsequent to the MDNS being issued. The applicant has acknowledged the new formulas and determined that the appeal of the fire mitigation is moot.

11. The amount of parks mitigation has been reduced to reflect the reduction in the number of lots.

12. The plat as described is consistent with the use, density, open space, and property buffers that exist in adjacent developments.

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, with the exception of Land Use Policy 1.16 related to peripheral buffers; however, it can be conditioned to be consistent with this requirement.

14. The proposed plat can be served by public sewer and water, and makes appropriate provisions for streets, drainage facilities, open space, parks and playgrounds, sidewalks and public ways.

15. If approved, subject to the conditions recommended below, the proposed plat will be consistent with the requirements of Title 16 MCMC, Plats and Subdivisions; Title 17 MCMC, Zoning; and Chapter 18.06, Environmentally Critical Areas.

16. 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 ~~44~~ 27. Construction shall be limited to single-family detached residences.

3. In accordance with the provisions of Chapter 16.12 MCMC, the following modifications of the development standards of Chapter 17.04 MCMC are permitted:

- Modification to the 35 percent lot coverage requirement to allow a maximum building coverage of 48 ~~48~~ 40 percent.
- ~~Modification of the minimum lot size of 5,000 square feet to an average lot size of 3,770 square feet, with the smallest lot being 3,084 square feet.~~

4. Stormwater management plans and a final drainage study 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.

In addition, a final drainage study for the site shall be submitted for approval. The final study shall address the potential impacts of the increased downstream runoff volume to the culvert crossing of Seattle Hill Road that was installed as part of the Winslow subdivision.

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

6. All roadway sections shall be designed by a licensed engineer and the design reviewed and approved by the City Engineer. The interior plat street section ~~should~~ shall be shown on the ~~plan~~ final plat, reflecting the proposed curb-to-curb width (22 feet is adequate if parking is restricted to one side only, 26 feet if parking on both sides of the streets is desired) ~~and contiguous, five-foot sidewalks.~~

Standard sidewalks are required on both sides of the public streets within the plat and along 23rd Avenue, 25th Avenue, and along Seattle Hill Road. ~~Four-foot sidewalks may be permitted with the construction of vertical curbs on the interior plat streets. If rolled curbs are constructed, the sidewalk width shall be five feet.~~

Construction of a sidewalk along the entire site on the west side of 25th Avenue SE and shall include redirection of drainage at the south end of the existing improvements to the underground system.

7. ~~Street lights are required to be installed on 25th and 23rd Avenues.~~

8. ~~The road serving lot 15 - 19 shall be a private drive. The design of the intersection of the drive and the public road serving lots 1 - 14 shall include a turning radius, with the design and dimensions to be determined by the City Engineer. The southern terminus of the interior street on the east side of the project shall be reconfigured to provide a cul-de-sac turnaround, designed to the satisfaction of the City Engineer.~~

9. The subdivider shall dedicate visibility easements at the intersections of 23rd and 25th Avenues and Seattle Hill Road.

10. Repair or replacement of any inadequate paving, curb and gutter, sidewalk, or drainage in the adjacent rights-of-way of 25th Avenue SE and Seattle Hill Road.
11. Improvement of the adjacent frontage of Seattle Hill Road to include street lighting, installation of landscaped traffic safety islands.
12. Contribution of ~~\$59,116.00~~ \$36,276.00 to mitigate impacts on City park and recreation facilities. Of this amount, ~~\$20,996.00~~ \$12,884.00 shall be used for the development of Nickel Creek park. The balance of the mitigation, ~~\$38,120.00~~ \$23,392.00 shall be used for the acquisition and development of a Community Park.
13. Contribution of ~~\$1,000.00~~ \$365.00 per dwelling unit to mitigate impacts on Fire District 7 facilities.
14. Submittal and approval of a street tree planting plan for all interior streets within the plat and 23rd and 25th Avenues. The street tree plan shall be prepared by a licensed landscape architect and reviewed and approved by the Design Review Board prior to final plat approval. The plan shall be implemented commensurate with house construction.
15. Submittal and approval of a supplemental reforestation and habitat enhancement plan for the cutting preserve adjacent to Seattle Hill Road. The plan shall be reviewed and approved by the Design Review Board and shall be implemented or secured with a performance surety prior to final plat approval.
16. The precise location and limits of clearing for the wetland mitigation area and stormwater detention facilities south of Lot 27 shall be established by City staff in order to preserve the existing stand of evergreen trees adjacent to 25th Avenue across from 163rd Street SE.

In addition, the applicant shall prepare a tree planting/landscape buffer plan for the area between the wetland mitigation area and 25th Avenue SE to be reviewed and approved by the Design Review Board. It shall include a combination of preservation of existing trees and supplemental tree and shrub plantings.

17. Individual trees or stands of trees shall be preserved within the interior portion of the plat. Trees to be preserved shall be determined after a review of the tree survey on file with the City and onsite identification by City staff and the applicant. 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.
18. Trees designated for preservation that are damaged or removed shall be replaced at a ratio of 3:1. The replacement trees shall be coniferous species and have a minimum height at planting of twelve 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 of the subject lots until the penalty is paid.

19. Site clearing and grading shall be restricted to areas specified by City staff. No other clearing is allowed without the approval of City staff.
20. Fire hydrant design, location and spacing shall be reviewed and approved by Fire District No. 7 and the Alderwood Water District.
21. Mail boxes shall be grouped or clustered in locations identified by the United States Postal Service.
22. All fireplaces shall be natural gas appliances, pellet stoves, certified wood stoves, certified fireplaces, or certified fireplace inserts.
23. All utility, stormwater, drainage, maintenance and visibility easements, property buffers and public pedestrian easements together with attendant restrictions and conditions shall be portrayed on the face of the final plat.
24. There shall be a Homeowners' Association that will be responsible for the maintenance of all common tracts, privately owned facilities, and the landscape islands and medians.
25. ~~The rear ten feet of lots 1-11, 27-31, 32-34, and 42-44 shall be reserved as a landscape easement. No fences or structures shall be allowed in the easement area and~~ A landscape tract having a minimum width of five feet shall be provided along 25th and 23rd Avenues intended to enhance the respective streetscapes. A tree planting and landscape plan shall be submitted for review and approval by the Design Review Board.
26. The applicant and City staff shall jointly develop the final grading plans for lots abutting 25th Avenue in order to preserve existing trees on the rear portions of the lots adjacent to 25th Avenue.
27. The final wetland mitigation plan shall include an interpretive element that includes ~~written information for homeowners, and~~ the construction of signs and other interpretive postings on the perimeters of the central wetland (Tract A) and along the trail connections through the wetland ~~between the two divisions.~~ Interpretive sign text shall be approved by the Department of Community Development.
28. Prior to final plat approval, the applicant shall present proof, satisfactory to the City Attorney, that the 23rd Avenue road construction agreement (the "obligation") which currently exists between the City and United Development Corporation has been paid in full or satisfied. If the holder of the obligation desires to satisfy the obligation by partial payment in conjunction with partial construction of 23rd Avenue from Seattle Hill Road to the entrance of the plat, credit shall be given to the holder of the obligation for the actual cost of any road improvements that are installed as a condition of approval for this plat application, provided that such improvement(s) would have been required to fulfill all or any part of the 23rd Avenue road construction agreement.
29. Public access easements shall be granted for the pathways located in Tracts A, B, E, and H. The pathways shall be designed to the satisfaction of the City Engineer and Community

Development Director and shall be maintained by the Homeowners' Association. The subdivider shall submit all appropriate documents and include certificates on the final plat as required by the City Attorney to ensure proper maintenance and assignment of liability for the proposed paths.

30. The proposed pedestrian bridge and path at the southwest corner of the site shall be located within the right-of-way of 23rd Avenue SE and maintained by the homeowners' association. The subdivider shall obtain all appropriate local, state, and federal permits for activities in the Nickel Creek area, including, but not limited to, installation of the path and crossings of Nickel Creek.

31. In accordance with Section 17.22.170 MCMC, the applicant shall remove the existing overhead ~~utilities~~ utility pole closest to the plat entrance across from Highlands Boulevard on the west side of 25th Avenue and install underground utilities.

32. The applicant shall install a landscape buffer between the western edge of the right-of-way on 23rd Avenue and the edge of the improvements to be constructed within the 23rd Avenue right-of-way.

**PRELIMINARY PLAT APPLICATION (PP 97-49)
WILLIAM E. BUCHAN, INC.**

STAFF REPORT ADDENDUM III

Subsequent to the public hearing on April 17, 1997, the applicant submitted a revised plat design. Based on the testimony at the hearing and the comments during the Planning Commission deliberations at the April 28, 1997 Commission meeting, staff recommends this addendum to the staff report.

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/Planned Residential Development for 27 lots to be developed with single-family detached residences. All lots exceed 5,000 square feet, the minimum lot size of the PRD 7200 zone district.
2. Access to the proposed plat would be from 25th Avenue Southeast and 23rd Avenue Southeast, both of which are designated as collector streets in the Comprehensive Plan.
3. The subject site is located in Sector 8 of United Development Corporation's Mill Creek Planned Residential Development. The sector plan, approved in 1981, designates the area as single-family attached with a maximum density of nine dwelling units per acre.
4. The subject site is designated Medium Density Residential [maximum twelve dwelling units per acre] in the City's Comprehensive Plan.
5. The gross density of the proposed project is 1.8 units per acre.
6. The proposed plat is located within a PRD 7200 zone district. In accordance with Chapter 16.12 MCMC, the Planned Residential Development process, the applicant has requested that lot coverage requirements of the PRD 7200 zone district be modified from 35 percent to 40 percent.
7. 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 City parks and fire district facilities, which will require mitigation.
8. The City of Mill Creek and Snohomish County Fire District No. 7 signed an Interlocal Agreement for the joint review of development proposals and providing the legal basis for appropriate conditions to mitigate development impacts on the district.

9. In accordance with the Interlocal Agreement, the Fire District, as co-lead agency, has requested that the applicant contribute fees to mitigate the development impacts on district facilities.

10. The applicant filed a timely appeal of the imposition of fire mitigation fees on April 4, 1997. The fire mitigation formula has been revised subsequent to the MDNS being issued. The applicant has acknowledged the new formulas and determined that the appeal of the fire mitigation is now moot.

11. The amount of parks mitigation has been reduced to reflect the reduction in the number of lots.

12. The plat as described is consistent with the use, density, open space, and property buffers that exist in adjacent developments.

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, with the exception of Land Use Policy 1.16 related to peripheral buffers; however, it can be conditioned to be consistent with this requirement.

14. The proposed plat can be served by public sewer and water, and makes appropriate provisions for streets, drainage facilities, open space, parks and playgrounds, sidewalks and public ways.

15. In accordance with Chapter 18.06 MCMC which allows reduction of wetland buffers, it has been determined the buffer in eastern division may be reduced to 90 feet. With this reduction it is possible to provide a 15-foot landscape tract along 25th Avenue. Combined with the undeveloped right of way there would be a 30-foot vegetative buffer between the edge of the curb on the west side of 25th Avenue and the rear lot lines in the proposed development.

16. If approved, subject to the conditions recommended below, the proposed plat will be consistent with the requirements of Title 16 MCMC, Plats and Subdivisions; Title 17 MCMC, Zoning; and Chapter 18.06, Environmentally Critical Areas.

17. 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 27. Construction shall be limited to single-family detached residences.

3. In accordance with the provisions of Chapter 16.12 MCMC, the following modifications of the development standards of Chapter 17.04 MCMC are permitted:

- Modification to the 35 percent lot coverage requirement to allow a maximum building coverage of 40 percent.

4. Stormwater management plans and a final drainage study 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.

In addition, a final drainage study for the site shall be submitted for approval. The final study shall address the potential impacts of the increased downstream runoff volume to the culvert crossing of Seattle Hill Road that was installed as part of the Winslow subdivision.

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

6. All roadway sections shall be designed by a licensed engineer and the design reviewed and approved by the City Engineer. The interior plat street section shall be shown on the preliminary plat, reflecting the proposed curb-to-curb width (22 feet is adequate if parking is restricted to one side only, 26 feet if parking on both sides of the streets is desired).

Standard sidewalks are required on both sides of the public streets within the plat and along 23rd Avenue, 25th Avenue, and along Seattle Hill Road. Four-foot sidewalks may be permitted with the construction of vertical curbs on the interior plat streets. If rolled curbs are constructed, the sidewalk width shall be five feet.

Construction of a sidewalk along the entire site on the west side of 25th Avenue SE and shall include redirection of drainage at the south end of the existing improvements to the underground system.

7. Street lights are required to be installed on 25th and 23rd Avenues at locations to be determined by the City Engineer.

8. The road serving lot 15 - 19 shall be a private drive. The design of the intersection of the drive and the public road serving lots 1 - 14 shall include a turning radius, with the design and dimensions to be determined by the City Engineer.

9. The subdivider shall dedicate visibility easements at the intersections of 23rd and 25th Avenues and Seattle Hill Road.

10. Repair or replacement of any inadequate paving, curb and gutter, sidewalk, or drainage in the adjacent rights-of-way of 25th Avenue SE and Seattle Hill Road.
11. Improvement of the adjacent frontage of Seattle Hill Road to include street lighting and installation of landscaped traffic safety islands. Street lighting along Seattle Hill Road shall be located and designed to create no impact on adjacent wetlands.
12. Contribution of \$36,276.00 to mitigate impacts on City park and recreation facilities. Of this amount, \$12,884.00 shall be used for the development of Nickel Creek park. The balance of the mitigation, \$23,392.00 shall be used for the acquisition and development of a Community Park.
13. Contribution of \$365.00 per dwelling unit to mitigate impacts on Fire District 7 facilities.
14. Submittal and approval of landscape and street tree planting plans for all interior streets within the plat, the vegetative buffers along 23rd and 25th Avenues, and the landscape median for Seattle Hill Road. The plans shall be prepared by a licensed landscape architect and reviewed and approved by the Design Review Board prior to final plat approval. The plans shall be implemented commensurate with house construction.
15. Submittal and approval of a supplemental reforestation and habitat enhancement plan for the cutting preserve adjacent to Seattle Hill Road. The plan shall be reviewed and approved by the Design Review Board and shall be implemented or secured with a performance surety prior to final plat approval.
16. The precise location and limits of clearing for the wetland mitigation area and stormwater detention facilities south of Lot 17 shall be established by City staff in order to preserve the existing stand of evergreen trees adjacent to 25th Avenue across from 163rd Street SE.

In addition, the applicant shall prepare a tree planting/landscape buffer plan for the area between the wetland mitigation area and 25th Avenue SE to be reviewed and approved by the Design Review Board. It shall include a combination of preservation of existing trees and supplemental tree and shrub plantings.

17. Individual trees or stands of trees shall be preserved within the interior portion of the plat. Trees to be preserved shall be determined after a review of the tree survey on file with the City and onsite identification by City staff and the applicant. 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.
18. Trees designated for preservation that are damaged or removed shall be replaced at a ratio of 3:1. The replacement trees shall be coniferous species and have a minimum height at planting of twelve 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 of the subject lots until the penalty is paid.

19. Site clearing and grading shall be restricted to areas specified by City staff. No other clearing is allowed without the approval of City staff.
20. Fire hydrant design, location and spacing shall be reviewed and approved by Fire District No. 7 and the Alderwood Water District.
21. Mail boxes shall be grouped or clustered in locations identified by the United States Postal Service.
22. All fireplaces shall be natural gas appliances, pellet stoves, certified wood stoves, certified fireplaces, or certified fireplace inserts.
23. All utility, stormwater, drainage, maintenance and visibility easements, property buffers and public pedestrian easements together with attendant restrictions and conditions shall be portrayed on the face of the final plat.
24. There shall be a Homeowners' Association that will be responsible for the maintenance of all common tracts, privately owned facilities, and the landscape islands and medians located within the development.
25. Landscape buffer tracts having a minimum width of fifteen (15) feet shall be provided along 25th Avenue and a minimum width of five (5) feet along 23rd Avenue intended to enhance the respective streetscapes. A tree planting and landscape plan shall be submitted for review and approval by the Design Review Board.
26. The applicant and City staff shall jointly develop the final grading plans for lots abutting 25th Avenue in order to preserve existing trees on the rear portions of the lots adjacent to 25th Avenue.
27. The final wetland mitigation plan shall include an interpretive element that includes written information for homeowners, and the construction of signs and other interpretive postings on the perimeters of the central wetland (Tract A) and along the trail connections through the wetland. Interpretive sign text shall be approved by the Department of Community Development.
28. Prior to final plat approval, the applicant shall present proof, satisfactory to the City Attorney, that the 23rd Avenue road construction agreement (the "obligation") which currently exists between the City and United Development Corporation has been paid in full or satisfied. If the holder of the obligation desires to satisfy the obligation by partial payment in conjunction with partial construction of 23rd Avenue from Seattle Hill Road to the entrance of the plat, credit shall be given to the holder of the obligation for the actual cost of any road improvements that are installed as a condition of approval for this plat application, provided that such improvement(s) would have been required to fulfill all or any part of the 23rd Avenue road construction agreement.

29. Public access easements shall be granted for the pathways located in Tracts A, B, E, and H. The pathways shall be designed to the satisfaction of the City Engineer and Community Development Director and shall be maintained by the Homeowners' Association. The subdivider shall submit all appropriate documents and include certificates on the final plat as required by the City Attorney to ensure proper maintenance and assignment of liability for the proposed paths.

30. The proposed pedestrian bridge and path at the southwest corner of the site shall be located within the right-of-way of 23rd Avenue SE and maintained by the homeowners' association. The subdivider shall obtain all appropriate local, state, and federal permits for activities in the Nickel Creek area, including, but not limited to, installation of the path and crossings of Nickel Creek.

31. In accordance with Section 17.22.170 MCMC, the applicant shall remove the existing overhead utilities on the west side of 25th Avenue and install underground utilities.

32. The applicant shall install a landscape buffer between the western edge of the right-of-way on 23rd Avenue and the edge of the improvements to be constructed within the 23rd Avenue right-of-way.

**PRELIMINARY PLAT APPLICATION (PP 97-49)
WILLIAM E. BUCHAN, INC.**

STAFF REPORT ADDENDUM III

Subsequent to the public hearing on April 17, 1997, the applicant submitted a revised plat design. Based on the testimony at the hearing and the comments during the Planning Commission deliberations at the April 28, 1997 Commission meeting, staff recommends this addendum to the staff report.

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/Planned Residential Development for 27 lots to be developed with single-family detached residences. All lots exceed 5,000 square feet, the minimum lot size of the PRD 7200 zone district.
2. Access to the proposed plat would be from 25th Avenue Southeast and 23rd Avenue Southeast, both of which are designated as collector streets in the Comprehensive Plan.
3. The subject site is located in Sector 8 of United Development Corporation's Mill Creek Planned Residential Development. The sector plan, approved in 1981, designates the area as single-family attached with a maximum density of nine dwelling units per acre.
4. The subject site is designated Medium Density Residential [maximum twelve dwelling units per acre] in the City's Comprehensive Plan.
5. The gross density of the proposed project is 1.8 units per acre.
6. The proposed plat is located within a PRD 7200 zone district. In accordance with Chapter 16.12 MCMC, the Planned Residential Development process, the applicant has requested that lot coverage requirements of the PRD 7200 zone district be modified from 35 percent to 40 percent.
7. 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 City parks and fire district facilities, which will require mitigation.
8. The City of Mill Creek and Snohomish County Fire District No. 7 signed an Interlocal Agreement for the joint review of development proposals and providing the legal basis for appropriate conditions to mitigate development impacts on the district.

9. In accordance with the Interlocal Agreement, the Fire District, as co-lead agency, has requested that the applicant contribute fees to mitigate the development impacts on district facilities.

10. The applicant filed a timely appeal of the imposition of fire mitigation fees on April 4, 1997. The fire mitigation formula has been revised subsequent to the MDNS being issued. The applicant has acknowledged the new formulas and determined that the appeal of the fire mitigation is now moot.

11. The amount of parks mitigation has been reduced to reflect the reduction in the number of lots.

12. The plat as described is consistent with the use, density, open space, and property buffers that exist in adjacent developments.

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, with the exception of Land Use Policy 1.16 related to peripheral buffers; however, it can be conditioned to be consistent with this requirement.

14. The proposed plat can be served by public sewer and water, and makes appropriate provisions for streets, drainage facilities, open space, parks and playgrounds, sidewalks and public ways.

15. In accordance with Chapter 18.06 MCMC which allows reduction of wetland buffers, it has been determined the buffer in eastern division may be reduced to 90 feet. With this reduction it is possible to provide a 15-foot landscape tract along 25th Avenue. Combined with the undeveloped right of way there would be a 30-foot vegetative buffer between the edge of the curb on the west side of 25th Avenue and the rear lot lines in the proposed development.

16. If approved, subject to the conditions recommended below, the proposed plat will be consistent with the requirements of Title 16 MCMC, Plats and Subdivisions; Title 17 MCMC, Zoning; and Chapter 18.06, Environmentally Critical Areas.

17. 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 27. Construction shall be limited to single-family detached residences.

3. In accordance with the provisions of Chapter 16.12 MCMC, the following modifications of the development standards of Chapter 17.04 MCMC are permitted:

- Modification to the 35 percent lot coverage requirement to allow a maximum building coverage of 40 percent.

4. Stormwater management plans and a final drainage study 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.

In addition, a final drainage study for the site shall be submitted for approval. The final study shall address the potential impacts of the increased downstream runoff volume to the culvert crossing of Seattle Hill Road that was installed as part of the Winslow subdivision.

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

6. All roadway sections shall be designed by a licensed engineer and the design reviewed and approved by the City Engineer. The interior plat street section shall be shown on the preliminary plat, reflecting the proposed curb-to-curb width (22 feet is adequate if parking is restricted to one side only, 26 feet if parking on both sides of the streets is desired).

Standard sidewalks are required on both sides of the public streets within the plat and along 23rd Avenue, 25th Avenue, and along Seattle Hill Road. Four-foot sidewalks may be permitted with the construction of vertical curbs on the interior plat streets. If rolled curbs are constructed, the sidewalk width shall be five feet.

Construction of a sidewalk along the entire site on the west side of 25th Avenue SE and shall include redirection of drainage at the south end of the existing improvements to the underground system.

7. Street lights are required to be installed on 25th and 23rd Avenues at locations to be determined by the City Engineer.

8. The road serving lot 15 - 19 shall be a private drive. The design of the intersection of the drive and the public road serving lots 1 - 14 shall include a turning radius, with the design and dimensions to be determined by the City Engineer.

9. The subdivider shall dedicate visibility easements at the intersections of 23rd and 25th Avenues and Seattle Hill Road.

10. Repair or replacement of any inadequate paving, curb and gutter, sidewalk, or drainage in the adjacent rights-of-way of 25th Avenue SE and Seattle Hill Road.

11. Improvement of the adjacent frontage of Seattle Hill Road to include street lighting and installation of landscaped traffic safety islands. Street lighting along Seattle Hill Road shall be located and designed to create no impact on adjacent wetlands.

12. Contribution of \$36,276.00 to mitigate impacts on City park and recreation facilities. Of this amount, \$12,884.00 shall be used for the development of Nickel Creek park. The balance of the mitigation, \$23,392.00 shall be used for the acquisition and development of a Community Park.

13. Contribution of \$365.00 per dwelling unit to mitigate impacts on Fire District 7 facilities.

14. Submittal and approval of landscape and street tree planting plans for all interior streets within the plat, the vegetative buffers along 23rd and 25th Avenues, and the landscape median for Seattle Hill Road. The plans shall be prepared by a licensed landscape architect and reviewed and approved by the Design Review Board prior to final plat approval. The plans shall be implemented commensurate with house construction.

15. Submittal and approval of a supplemental reforestation and habitat enhancement plan for the cutting preserve adjacent to Seattle Hill Road. The plan shall be reviewed and approved by the Design Review Board and shall be implemented or secured with a performance surety prior to final plat approval.

16. The precise location and limits of clearing for the wetland mitigation area and stormwater detention facilities south of Lot 17 shall be established by City staff in order to preserve the existing stand of evergreen trees adjacent to 25th Avenue across from 163rd Street SE.

In addition, the applicant shall prepare a tree planting/landscape buffer plan for the area between the wetland mitigation area and 25th Avenue SE to be reviewed and approved by the Design Review Board. It shall include a combination of preservation of existing trees and supplemental tree and shrub plantings.

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27. The final wetland mitigation plan shall include an interpretive element that includes written information for homeowners, and the construction of signs and other interpretive postings on the perimeters of the central wetland (Tract A) and along the trail connections through the wetland. Interpretive sign text shall be approved by the Department of Community Development.
28. Prior to final plat approval, the applicant shall present proof, satisfactory to the City Attorney, that the 23rd Avenue road construction agreement (the "obligation") which currently exists between the City and United Development Corporation has been paid in full or satisfied. If the holder of the obligation desires to satisfy the obligation by partial payment in conjunction with partial construction of 23rd Avenue from Seattle Hill Road to the entrance of the plat, credit shall be given to the holder of the obligation for the actual cost of any road improvements that are installed as a condition of approval for this plat application, provided that such improvement(s) would have been required to fulfill all or any part of the 23rd Avenue road construction agreement.
29. Public access easements shall be granted for the pathways located in Tracts A, B, E, and H. The pathways shall be designed to the satisfaction of the City Engineer and Community Development Director and shall be maintained by the Homeowners' Association. The subdivider shall submit all appropriate documents and include certificates on the final plat as required by the City Attorney to ensure proper maintenance and assignment of liability for the proposed paths.

30. The proposed pedestrian bridge and path at the southwest corner of the site shall be located within the right-of-way of 23rd Avenue SE and maintained by the homeowners' association. The subdivider shall obtain all appropriate local, state, and federal permits for activities in the Nickel Creek area, including, but not limited to, installation of the path and crossings of Nickel Creek.

31. In accordance with Section 17.22.170 MCMC, the applicant shall remove the existing overhead utilities on the west side of 25th Avenue and install underground utilities.

32. The applicant shall install a landscape buffer between the western edge of the right-of-way on 23rd Avenue and the edge of the improvements to be constructed within the 23rd Avenue right-of-way.

Excerpt from May 15, 1997 Planning Commission Minutes

B. William E. Buchan, Inc. Preliminary Plat 97-49 (Tract D-2) and Appeal of the Mitigated Determination of Non-Significance

Several Commissioners acknowledged receiving ex parte communications regarding this project. Chair McElhose said that he had received 25 phone calls and several letters but asserted that he had informed the callers he was unable to discuss the issue. Commissioner Grannis received four calls and one letter which he submitted into the record. Commissioner Mittlestaedt received one letter and two messages on her answering machine. Vice Chair Beyerlein acknowledged that several messages had been left on her answering machine but she had not listened to them.

Senior Planner Friedman advised the Commission that the City had received a letter from Ronald Kennedy, dated May 15, 1997, and copies had been distributed to the Commission for information only. He went on to briefly review the plat and explained that revisions that are being recommended to the proposed plat, based on discussions with the applicant subsequent to the April 28, 1997 meeting. The east division is to be shifted to the west 10 feet reducing the buffer, from the edge of the wetland to the rear property line, to 90 feet. Senior Planner Friedman stated that staff had discussed this with the City's wetland consultant and it was their opinion, given the reduced number of lots in the plat, this reduction in the buffer would not have a detrimental effect on the wetlands.

Senior Planner Friedman explained that staff is proposing a 15-foot landscaped tract between the 25th Avenue right-of-way and the rear lot lines. The additional 15 feet plus the right-of-way will make a 30-foot green area. He stated that the landscaping for this tract will be approved by the Design Review Board.

Subsequent to the April 28, 1997 meeting, staff has reviewed the requirement to install the utilities on 25th Avenue underground and is recommending that three power poles and overhead lines be replaced with underground utilities. The one power pole at 25th Avenue and Seattle Hill Road will remain since it is a part of the line on Seattle Hill Road.

Senior Planner Friedman stated that staff was suggesting one additional revision to Condition 31 as follows:

31. In accordance with Section 17.22.170 MCMC, the applicant shall remove the existing overhead utilities on the west side of 25th Avenue and install underground utilities excluding the pole and overhead lines located at 25th Avenue and Seattle Hill Road.

Senior Planner Friedman stated that, based on the findings and conclusions, staff is recommending that the Planning Commission recommend approval of the plat as conditioned in staff report Addendum III.

Joel Haggard, 1200 IBM Building, Seattle, Washington 98012

Mr. Haggard, legal counsel for the applicant, expressed the applicant's opinion that they should not be required to underground the existing power lines on 25th Avenue. He asserted that the Mill Creek Municipal Code requires utilities to be placed underground. The applicant is not placing these utilities; the utilities already exist.

Mr. Haggard asked that a letter from PUD, dated May 12, 1997, regarding the cost of placing utilities underground, be entered into the record. City Attorney Missall advised that the letter could not be entered into the evidentiary record but could be given to the Commission on the same basis that Mr. Kennedy's letter, which was for information only.

Commissioners Beyerlein and Weight stated that they would not be participating in the discussion, since they had not been in attendance at the initial public hearing. Commissioner Pazevic stated that since he had been at the first meeting and had reviewed the minutes from the second meeting, he felt comfortable participating in the deliberations.

Commissioner Pazevic stated that while he was pleased with the process and the fact that citizen comments were taken into consideration, he feels that limiting the size of the project, limits diversity of housing types for the City. He also expressed his agreement with staff's recommended condition to underground the utilities on 25th Avenue.

Chair McElhose expressed his approval of the plat as conditioned, including the condition to underground the utilities. He asked if staff, during the permitting process, could encourage having more than the minimum five-foot rear yard setback on the lots that abut 25th Avenue, wherever possible.

Commissioner Grannis stated that he was pleased with the democratic process and the diligent efforts of staff and the applicant to reach a compromise that was in the best interest of all the residents of the City. He also expressed his support for undergrounding the utilities on 25th Avenue.

Commissioner Dye asked if the Commission had the authority to consider a zoning change at this point. City Attorney Missall explained that state law gives the developer the right to develop a plat under the rules that were in existence at the time a complete application is submitted, so any subsequent zoning changes made by the Commission would not apply.

MOTION: Commissioner Dye moved to adopt Resolution 97-62 with staff's recommend conditions. Commissioner Grannis seconded the motion. The motion passed with five in favor and two abstentions from Commissioners Beyerlein and Weight.