CITY COUNCIL AGENDA

15728 Main Street, Mill Creek, WA 98012 (425) 745-1891

Pam Pruitt, Mayor • Brian Holtzclaw, Mayor Pro Tem • Sean Kelly • Donna Michelson • Vince Cavaleri • Mike Todd • Mark Bond

Regular meetings of the Mill Creek City Council shall be held on the first, second and fourth Tuesdays of each month commencing at 6:00 p.m. in the Mill Creek Council Chambers located at 15728 Main Street, Mill Creek, Washington. Your participation and interest in these meetings are encouraged and very much appreciated. We are trying to make our public meetings accessible to all members of the public. If you require special accommodations, please call the City Clerk at (425) 921-5732 three days prior to the meeting.

The City Council may consider and act on any matter called to its attention at such meetings, whether or not specified on the agenda for said meeting. Participation by members of the audience will be allowed as set forth on the meeting agenda or as determined by the Mayor or the City Council.

To comment on subjects listed on or not on the agenda, ask to be recognized during the Audience Communication portion of the agenda. Please stand at the podium and state your name and address for the official record. Please limit your comments to the specific item under discussion. Time limitations shall be at the discretion of the Mayor or City Council.

Study sessions of the Mill Creek City Council may be held as part of any regular or special meeting. Study sessions are informal, and are typically used by the City Council to receive reports and presentations, review and evaluate complex matters, and/or engage in preliminary analysis of City issues or City Council business.

Times listed on the agenda are approximate only. Discussions may sometimes cause remaining agenda items to be considered before or after their scheduled time. Citizens are welcome and encouraged to attend all sessions (except for Executive Sessions) of the meeting.

Next Ordinance No. 2015-795
Next Resolution No. 2015-533

June 2, 2015
City Council Meeting
6:00 p.m.

6:00 p.m. CALL TO ORDER:

6:01 p.m. FLAG SALUTE:

6:02 p.m. ROLL CALL:

6:03 p.m. AUDIENCE COMMUNICATION:

A. Public comment on items on or not on the agenda

6:10 p.m. PRESENTATIONS

A. Donation from Brookdale for City's K9 Program
(Bob Crannell, Police Chief and Tom Price, Brookdale)

6:20 p.m. STUDY SESSION:

A. Comprehensive Plan - Addressing Redevelopment Opportunities
(Tom Rogers, Director of Community Development)
(Estimated Length of Discussion: 30 minutes)

B. East Gateway Zoning Options
(Tom Rogers, Director of Community Development)
(Estimated Length of Discussion: 30 minutes)

C. Proposed Amendments to the Critical Area Regulations (MCMC Title 18.06) Regarding the Wetland Rating System and Other Housekeeping Measures
(Tom Rogers, Director of Community Development)
(Estimated Length of Discussion: 15 minutes)

7:35 p.m. BUSINESS SESSION:

7:35 p.m. ACTION ITEMS:

A. Ordinance Approving Proposed Amendments to the Critical Area Regulations (MCMC Title 18.06) Regarding the Wetland Rating System and Other Housekeeping Measures *(If approved, would take Ordinance #2015-795)*
(Tom Rogers, Director of Community Development)

B. Appoint Mayor Pruitt and Councilmember Todd (and other Councilmembers who will be attending) as the City's voting delegates at the AWC Annual Business Meeting
(Landy Manuel, Acting City Manager)

7:45 p.m. REPORTS:

A. Mayor/Council
City Manager
City Attorney
Finance Director
Director of Community Development
Public Works Director
Police Chief
City Clerk

8:00 p.m. AUDIENCE COMMUNICATION:

A. Public comment on items on or not on the agenda

8:05 p.m. ADJOURNMENT

MILL CREEK CITY COUNCIL

AGENDA SUMMARY

Date on Council Agenda: June 2, 2015

Subject: **COMPREHENSIVE PLAN – ADDRESSING REDEVELOPMENT OPPORTUNITIES**

Budget Impact: None at this time

Contact Person/Department: Tom Rogers, Director of Community Development

SUMMARY/BACKGROUND:

Land Use Element – The City has been preparing the mandatory 2015 update to its Comprehensive Plan. The most recent element to be prepared and reviewed by the Planning Commission was the Land Use Element. The policies within the Land Use Element are reflected in the City's Land Use Map, which provides the basis for the zoning designations within the City. The policies also are the basis for the development regulations which guide the form that the City takes.

Significant Issue - Setting the Stage for Future Redevelopment

The regional growth strategy adopted in the Puget Sound Regional Council's Vision 2040 Plan directs the lion's share of new population and employment to the County's Metropolitan and Core Cities (Everett, Lynnwood, and Bothell). Since the 2035 population and employment targets are not significantly different than Mill Creek's 2020 targets, the City of Mill Creek's existing Comprehensive Plan land use designations and the implementing Zoning Map designations can already accommodate the initial 2035 population and employment targets established in the Countywide Planning Policies. As a result, no significant Land Use Changes are required to meet the 2035 growth targets. Also, there is relatively little vacant/ underdeveloped land left within the city limits.

With little vacant/underdeveloped land available, the City needs to consider how it will address redevelopment of aging properties when the structures near the end of their life, and/or when property values rise to a point that it makes sense to reinvest in the properties. Looking at residential properties, most of the residential stock is in very good condition; thus, large-scale redevelopment of the City's residential properties is unlikely. On the other hand, some of the commercial properties (Community Business (CB) and Business Park (BP) zones) throughout the City are showing some age, have vacant spaces, and may be ripe for redevelopment sometime in the 20-year planning period. In addition, Community Transit is proceeding with plans for a Swift 2 transit line between Canyon Park and Boeing Field. This Bus Rapid Transit line would run through Mill Creek along SR 527, with stops at or near several Community Business properties in the City and may lead to increased pressure to redevelop these properties with more intensive land uses.

In addition to the SR 527 corridor, there may be opportunities to redevelop the Business Park properties in the Main Street/Mill Creek Boulevard corridor between Town Center and 164th Street Southeast. These properties are mostly developed as office buildings. Because of their

close proximity to the City core and the generous width of right-of-way along Mill Creek Boulevard, this corridor may be a good candidate for more pedestrian friendly street improvements and a mixed use and/or commercial land use designation. In addition, staff and the Planning Commission have been working on potential amendments to the Critical Area Regulations that allow redevelopment of properties adjacent to North Creek within their existing impervious surface footprint. This would remove a large impediment to redeveloping these properties.

The existing Zoning Regulations for the Community Business and Business Park zone districts are attached. Without a change in the City's land use policies and zoning regulations, redevelopment of the existing commercial centers would likely result in a product similar to what is currently there; i.e. strip shopping centers/office buildings. The report prepared by the Economic Development Committee contains recommendations to change zoning regulations to allow taller buildings and allow mixed use in the Community Business zone districts. Current Community Business regulations limit residential uses to a "secondary use" (less square footage than the commercial uses) on a site. This makes true mixed use unfeasible because there would not be enough residential density to make underground parking economically viable. Surface parking thus dominates the site and limits the value and usability of the site. If the City wishes to allow mixed use in the CB zone district, policies and regulations could be put in place that would allow additional residential units and increased building heights subject to requirements for a prescribed percentage of structured parking or other amenities such as public spaces. Residential uses are not allowed in the Business Park zone district, except for a single care taker residence.

Draft Land Use Element Language - Because of the factors discussed above, one of the new issues raised in the City's Draft Land Use Element is how does the City want these Community Business and Business Park properties to be redeveloped when the market forces make redevelopment attractive to the property owners? The following excerpt is from the Draft Land Use Element under "Commercial Land Use Issues:"

> There are only a limited number of undeveloped sites designated for commercial use remaining within the City~~'s~~ and its MUGA. ~~There is also the potential to redevelop existing commercial sites.~~ However, many of the existing developed commercial properties (Community Business (CB) and Business Park (BP) zones) throughout the City are showing some age, have vacant spaces, and may be ripe for redevelopment sometime in the 20-year planning period. In addition, Community Transit is currently exploring the implementation of Swift 2 on Bothell-Everett Highway between Canyon Park and Paine Field/Boeing. This Bus Rapid Transit line could increase pressure on redevelopment of the commercial properties adjacent to the Swift 2 route. The City must ensure that these properties are redeveloped with high-quality design standards that reflect the image of the City and are compatible and complementary with surrounding residential and other commercial uses. ~~In addition, these commercial sites could~~ The City may wish to reevaluate the existing allowable uses to determine if the existing land use designation allows for a mix of uses that satisfy the needs of existing and future residents of the City as well as adding to the tax base revenues for the City.

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June 2, 2015
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Draft Land Use Element policy - Staff and the Planning Commission have discussed the issue described above and believe that significant changes to the CB and BP zoning regulations may be desirable. In the Draft Land Use Element update, staff is proposing the following new Commercial and Business/Office Park Policy in response to the issue raised earlier in the document:

> Policy 2.09
> In anticipation of the potential redevelopment of the City's Community Business and Business Park designated properties, prepare an analysis of the feasibility and desirability of alternative land uses. If alternative land uses are determined to be feasible and desired by the City, initiate comprehensive plan and zoning regulation amendments as appropriate to implement the desired land uses upon redevelopment of the properties.

If Policy 2.09 is adopted as part of the Comprehensive Plan update, staff would propose a budget amendment to hire a consultant to prepare said analysis.

STAFF RECOMMENDATION:

- Utilize the proposed strategy in the Land Use Element to address future redevelopment of commercial centers

COUNCIL PROCESS/ACTION:

- Presentation by Tom Rogers, Director of Community Development
- Council discussion

ATTACHMENTS:

- Zoning Map
- Land Use Map
- MCMC Chapter 17.16 Community Business (CB)
- MCMC Chapter 17.18 Business Park (BP)

Acting City Manager Approval: Finley M Summerville Date: 5/28/15

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Chapter 17.16
CB – COMMUNITY BUSINESS

Sections:

17.16.005 Purpose.
17.16.010 Principal uses.
17.16.020 Secondary uses.
17.16.030 Conditional uses.
17.16.035 Review requirements.
17.16.040 Minimum lot size.
17.16.050 Maximum density.
17.16.060 Maximum lot coverage.
17.16.070 Maximum height.
17.16.080 Setbacks.
17.16.085 Streetscape and roadway buffer/cutting preserves.
17.16.090 Project design.
17.16.100 Open space and recreation facilities.

Legislative history: Ords. 91-262, 92-275, 93-299, 95-349 and 97-406.

17.16.005 Purpose.

The purpose of this district is to implement the community business land use designation of the comprehensive plan by locating commercial businesses and higher density residential uses near activity areas, pedestrian accesses, and major transportation arterials. Uses permitted within this district are intended to provide a broad range of goods and services to the surrounding community. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.010 Principal uses.

Principal uses are:

A. Retail and wholesale sales;

B. Professional services;

C. Personal services, including self service;

D. Offices;

E. Health care, excluding overnight accommodations;

F. Restaurants and taverns;

G. Commercial recreation facilities;

H. Hotels and motels;

I. Accessory structures and uses;

J. Parking facilities;

K. Banks and similar uses;

L. Veterinary clinics and indoor animal boarding; and

M. Commercial day care centers. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.020 Secondary uses.

Secondary uses are:

A. Multi-family dwellings. For purposes of this subsection, the term "lot" in the definition of "secondary use" includes the entire area of the binding site plan within which the multi-family dwellings are located or were originally approved.

B. On-site hazardous waste treatment and storage facilities that are directly associated with principal uses; provided, that such facilities comply with the state siting criteria contained in RCW 70.105.210 and WAC 173-303-282, or their successors.

C. Outside sales, display, and eating and drinking establishment seating subject to the performance standards under MCMC 17.22.070(C). (Ord. 2014-776 § 3; Ord. 2009-702 § 2 (Exh. C); Ord. 2008-682 § 2; Ord. 2005-609 § 2)

17.16.030 Conditional uses.

Conditional uses permitted in this zoning district shall be processed in accordance with Chapter 17.28 MCMC. Conditional uses are:

A. Commercial kennels;

B. Religious facilities;

C. Schools;

D. Public and utility buildings and structures except transmission lines and structures;

E. Structures other than buildings over 35 feet high;

F. Service stations;

G. Vehicle sales and service;

H. Accessory satellite signal transmitting and receiving antennas over four feet in diameter external to or attached to the exterior of any building;

I. Wireless and cellular communication facilities;

J. Theaters; and

K. Essential public facilities. (Ord. 2009-702 § 2 (Exh. C); Ord. 2008-682 § 2, 2008; Ord. 2005-609 § 2)

17.16.035 Review requirements.

All development in the CB district shall be processed as either a preliminary plat or binding site plan in accordance with MCMC Title 16, Subdivisions and Plats. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.040 Minimum lot size.

The minimum lot size shall be 7,200 square feet. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.050 Maximum density.

The maximum density per acre is 16 dwelling units. Densities shall be calculated under the provisions of MCMC 16.12.050. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.060 Maximum lot coverage.

Maximum lot coverage: None. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.070 Maximum height.

The maximum height shall be 40 feet. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.080 Setbacks.

Setbacks shall be:

A. Front yard: zero feet.

B. Side yard: None, except when abutting a residential zone, which shall then be 25 feet.

C. Rear yard: None, except when abutting a residential zone, which shall then be 25 feet. (Ord. 2010-717 § 2 (Exh. B); Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.085 Streetscape and roadway buffer/cutting preserves.

Streetscape design and roadway buffer/cutting preserve tracts adjacent to arterial and collector streets shall be provided in accordance with the city's comprehensive plan, streetscape element. Roadway buffer/cutting preserves to be provided range from 50 feet from the edge of the right-of-way for residential uses to 35 feet for nonresidential uses. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.090 Project design.

Development within this zone district shall be designed in conformance with the design principles and standards set out in Chapter 17.34 MCMC, Design Review. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.16.100 Open space and recreation facilities.

Open space and recreation facility requirements are located in Chapters 16.12 and 17.22 MCMC. (Ord. 2009-702 § 2 (Exh. C); Ord. 2006-633 § 2)

Chapter 17.20
BP – BUSINESS AND INDUSTRIAL PARK

Sections:

17.20.005 Purposes.
17.20.010 Principal uses.
17.20.020 Secondary uses.
17.20.030 Conditional uses.
17.20.035 Review requirements.
17.20.040 Minimum lot size and maximum lot coverage.
17.20.050 Setbacks.
17.20.055 Streetscape and roadway buffer/cutting preserves.
17.20.060 Maximum height.
17.20.070 Required landscaping.
17.20.090 Project design.
17.20.100 Open space and recreation facilities.

Legislative history: Ords. 86-142, 91-262, 92-275, 93-299, 95-349 and 97-406.

17.20.005 Purposes.

The primary purpose of the business park (BP) zone classification is to implement the business park comprehensive plan designation. The intent of the business park zoning district is to provide suitable areas for commercial development where the primary land uses are manufacturing, product assembly, wholesale sales and professional and business office development. Other uses may include health care facilities and public facilities and utilities. This district is not intended for the development of retail sales and services; however, limited retail sales and services may be allowed to serve the needs of the business park tenants and users. (Ord. 2005-609 § 2)

17.20.010 Principal uses.

Principal uses are:

A. Offices, including but not limited to government, research and development, trade schools and professional services;

B. Wholesale sales;

C. Warehousing;

D. Manufacturing;

E. Financial institutions;

F. Commercial day care centers;

G. Health clubs;

H. Retail sales and services primarily intended to serve the principal BP zone uses. Such uses shall occupy no more than 15 percent of the constructed floor area of individual buildings. In addition to the limitation on floor area, restaurants, delis and other eating establishments are restricted to a maximum floor area of 3,000 square feet;

I. Mini-storage facilities; and

J. Outdoor storage and display. (Ord. 2005-609 § 2)

17.20.020 Secondary uses.

Secondary uses are:

A. Security guard quarters occupied by an employee of the operator of the principal use;

B. Retail sales of goods manufactured or assembled on the site of sales; and

C. On-site hazardous waste treatment and storage facilities that are directly associated with principal uses; provided, that such facilities comply with the state siting criteria contained in RCW 70.105.210 and WAC 173-303-282, or its successor. (Ord. 2005-609 § 2)

17.20.030 Conditional uses.

Conditional uses permitted in the business park zoning district shall be processed in accordance with Chapter 17.28 MCMC. Conditional uses are:

A. Adult businesses;

B. Public facilities/utilities and essential public facilities;

C. Commercial nurseries and greenhouses;

D. Hospitals and health care facilities;

E. Retirement homes, nursing homes, and congregate care facilities;

F. Restaurants and eating establishments exceeding 1,500 square feet but not to exceed the 15 percent floor area restriction for retail sales and services;

G. Accessory satellite signal transmitting and receiving antennas over four feet in diameter external to or attached to the exterior of any building; and

H. Wireless and cellular communication facilities. (Ord. 2005-609 § 2; Ord. 2001-523 § 2)

17.20.035 Review requirements.

All development in the BP district shall be processed through the binding site plan process as a planned area development pursuant to Chapter 16.12 MCMC. (Ord. 2005-609 § 2)

17.20.040 Minimum lot size and maximum lot coverage.

Minimum lot size and maximum lot coverage: None. (Ord. 2005-609 § 2)

17.20.050 Setbacks.

Setbacks shall be:

A. Front yard: zero feet from right-of-way or sidewalk (whichever is greater), or roadway buffer/cutting preserve, if applicable.

B. Side yard: none, except when abutting a residential or commercial zone, which shall then be 25 feet or one foot for each foot of height of the structure nearest the side lot line, whichever is greater.

C. Rear yard: none, except when abutting a residential or commercial zone, which shall then be 25 feet or one foot for each foot of height of the structure nearest the rear lot line, whichever is greater. (Ord. 2010-717 § 2 (Exh. B); Ord. 2005-609 § 2)

17.20.055 Streetscape and roadway buffer/cutting preserves.

Streetscape design and roadway buffer/cutting preserve tracts adjacent to arterial and collector streets shall be provided in accordance with the comprehensive plan, streetscape element. Roadway buffer/cutting preserves to be provided range from 35 feet from the edge of the right-of-way for nonresidential uses to 50 feet for residential uses adjacent to arterial streets. (Ord. 2005-609 § 2)

17.20.060 Maximum height.

The maximum height shall be 50 feet. (Ord. 2005-609 § 2)

17.20.070 Required landscaping.

All street setback areas and side and rear setback areas that abut residential or commercial zones shall be landscaped to a minimum depth of 20 feet with natural or installed plant material which will form a sight-obscuring screen. Landscaping in setback areas which abut residential zones shall include a five-foot-high earth berm and plantings which will reach a mature height of eight feet from the ground level of the lot. Such plantings may be installed on the top of the berm and shall be spaced to provide a continuous screen at maturity. (Ord. 2005-609 § 2)

17.20.090 Project design.

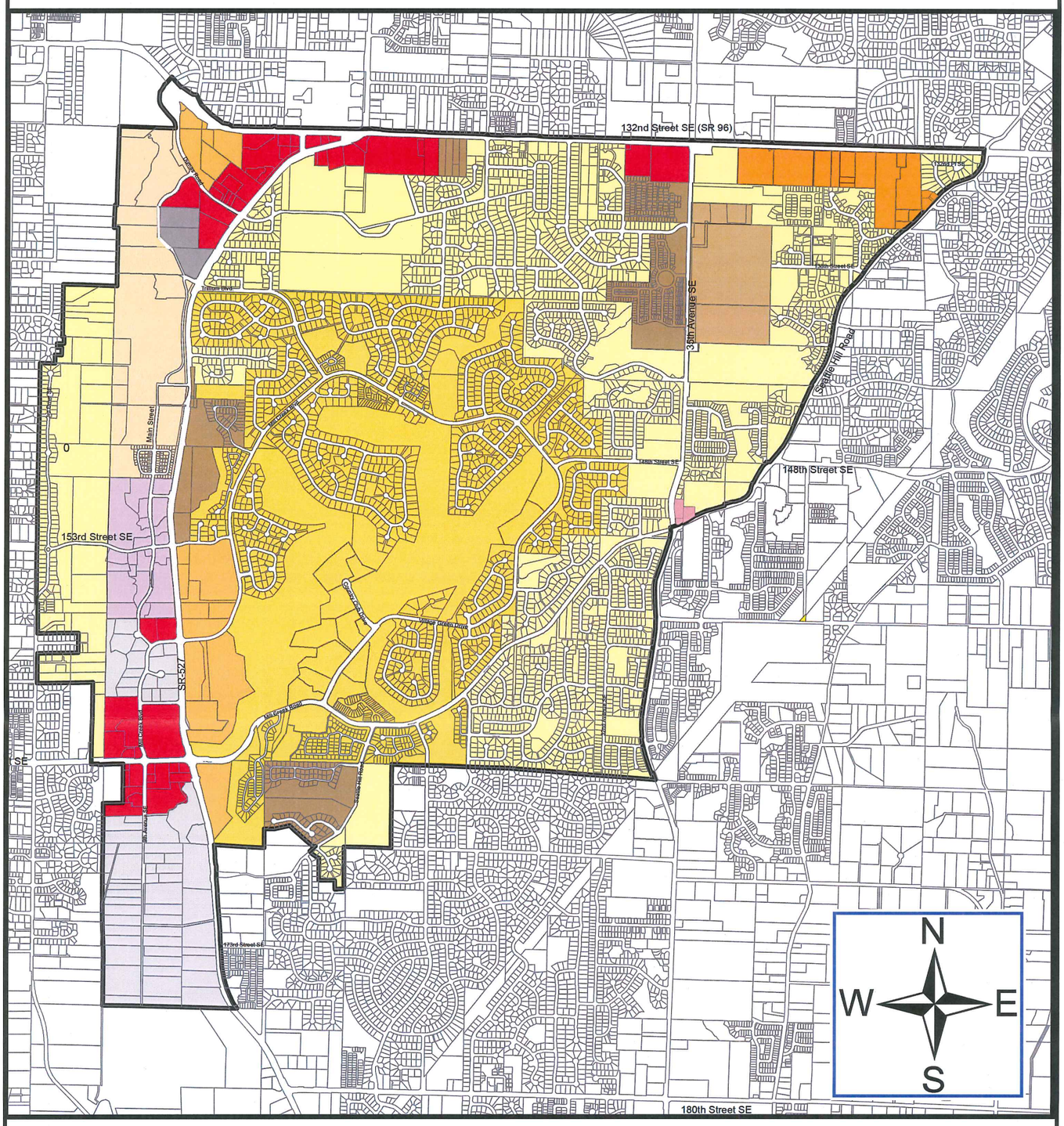
Developments within this zone district shall be designed in conformance with the design principles and standards set out in Chapter 17.34 MCMC, Design Review. (Ord. 2005-609 § 2)

17.20.100 Open space and recreation facilities.

Open space and recreation facility requirements are located in Chapters 16.12 and 17.22 MCMC. (Ord. 2006-633 § 2)

The Mill Creek Municipal Code is current through Ordinance 2014-784, passed September 9, 2014.
Disclaimer: The City Clerk's Office has the official version of the Mill Creek Municipal Code. Users should contact the City Clerk's

Zoning Map



Legend

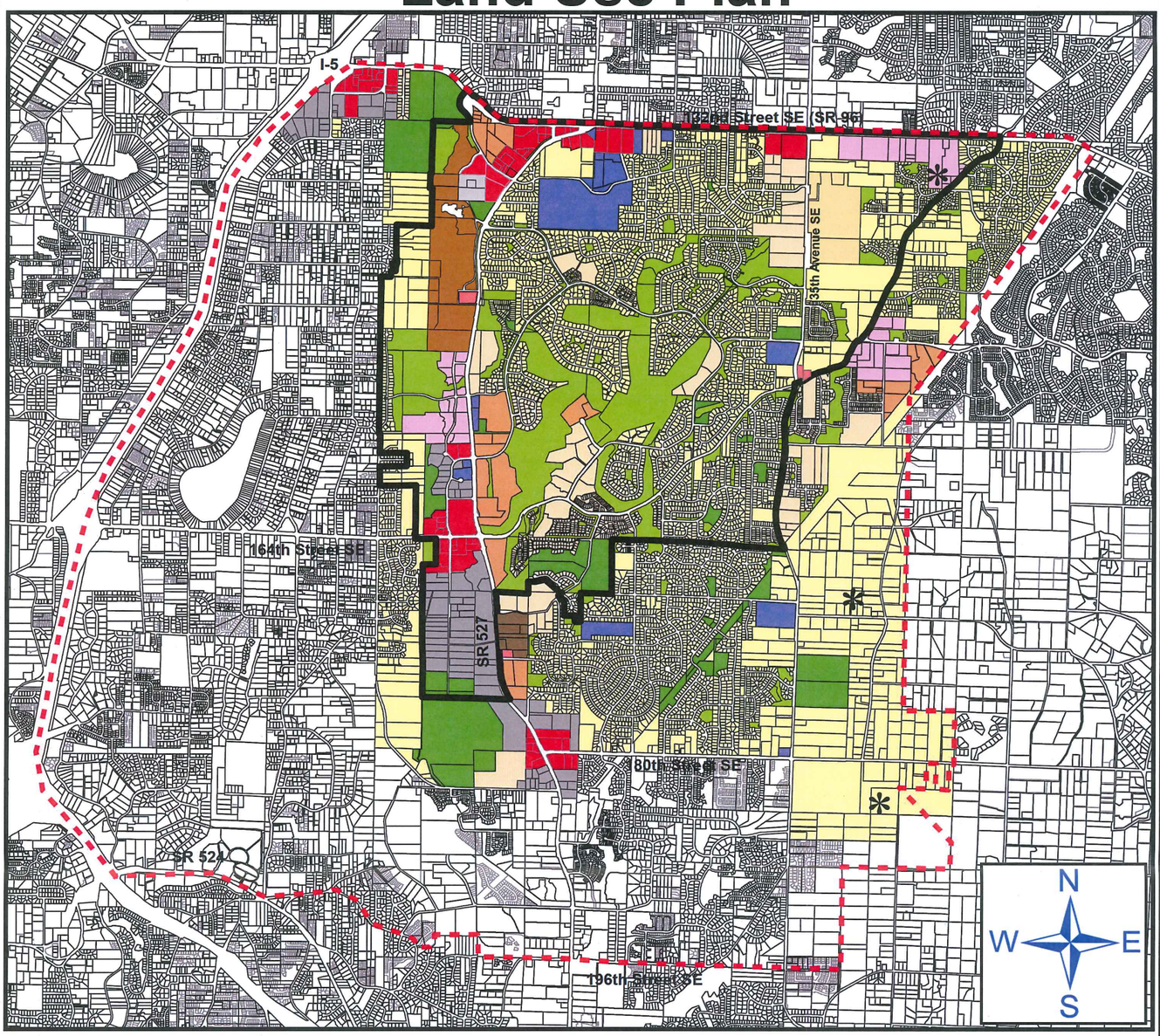
- City Limits
- Unincorporated Parcels
- LDR Low Density Residential
- PRD 7200 Planned Residential Development
- MDR Medium Density Residential
- HDR High Density Residential
- MU/HDR Mixed Use/High Density Residential
- PCB Planned Community Business
- CB Community Business
- NB Neighborhood Business
- BP Business Park
- OP Office Park
- EGUV East Gateway Urban Village

Ord. 2012-747
Effective 10-19-12

The City of Mill Creek Municipal Code
is available online at www.cityofmillcreek.com

CITY OF Mill Creek WASHINGTON

Land Use Plan



Ord. 2012-747
Effective 10-19-12

Land Use Designations

- Unincorporated Parcels
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Mixed Use/High Density Residential
- Open Space - Private
- Open Space - Public
- City Limits
- Municipal Urban Growth Area
- Community Business
- Neighborhood Business
- Town/Village Center
- Business Park
- Office Park
- Public & Quasi Public
- * Planned Neighborhood Park

CITY OF Mill Creek WASHINGTON

MILL CREEK CITY COUNCIL

AGENDA SUMMARY

Date on Council Agenda: June 2, 2015

Subject: **EAST GATEWAY ZONING OPTIONS**

Budget Impact: None at this time

Contact Person/Department: Tom Rogers, Director of Community Development

SUMMARY/BACKGROUND:

There has been discussion as to whether or not the implementation of the East Gateway Urban Village (EGUV) Plan is meeting expectations. The EGUV Plan and Zoning called for a pedestrian oriented, mixed use development with commercial, public and residential uses. The EGUV zoning as adopted prohibited stores over 60,000 square feet and required a minimum of 400 residential units. Since the EGUV Plan and Zoning was adopted in 2008, The Gateway Building was constructed just west of the Advent Lutheran Church and Polygon is nearing completion of developing approximately 18 acres on the east side of the subarea. The Polygon development consists of 302 dwelling units and 1.7 acres of commercial. When the Polygon development application was submitted to the City, the Council took steps to encourage commercial development and to prevent stand-alone residential uses west of 44th Avenue SE. These steps included amending the EGUV zoning to: 1) allow residential uses only on the second floor or above and in conjunction with ground floor commercial use; 2) remove the requirement for a minimum of 400 dwelling units; and 3) remove the 60,000 square foot maximum foot print for any one business. The current version of the EGUV Zone District is attached.

The City recently received an application from Vintage Housing for the 4-acre Mollgaard property in the EGUV. This development is proposing 216 senior housing units (age restricted to 55+ years) situated above approximately 15,500 square feet of ground floor commercial uses facing onto the future spine road and parking, but the amount of commercial area may be less than what was expected at the time the EGUV Code changes were made. At this point, approximately 14 usable acres of land is available west of 44th Avenue SE, 12 acres west of the Mollgaard property (Penny Creek Partners Property), and a 2-acre strip remains on the east side of the Mollgaard property (Rim/Kim Property). To put this acreage in perspective, the Mill Creek Plaza (SR 527/164th Street SE) is approximately 12.5 acres in area. If the City wants to ensure that a certain percentage of commercial development is achieved on the remaining parcels in the EGUV, changes to the EGUV Zoning Code could be adopted.

Limiting Residential Uses - Some Councilmembers have expressed an interest in preventing additional residential land uses and requiring commercial uses on the remaining, undeveloped property west of 44th Avenue SE. To prevent additional residential units could be relatively straight forward. A Code amendment to remove residential uses from the list of principal uses in the EGUV zone for properties west of 44th Avenue SE (or placing a cap on the number of residential units) could be processed within a couple of months. Another alternative would be

to allow residential uses only as a secondary use, which would mean that the total residential square footage would need to be less than the total square footage of the other principal uses within a development and the commercial type uses would need to be constructed first or concurrently with the residential use. Because of parking and other requirements, this limits the potential for residential uses to a small portion of the site (approximately 25% or so if the uses are separated). This is what is allowed currently in the City's Community Business zone district, yet no applications including residential as a secondary use have ever been submitted.

Either of these options may be appropriate as the original goal of providing residential uses in the EGUV has been realized with the Polygon development (302 units) and the pending senior housing/commercial project (216 units). As you will recall, EGUV originally had a requirement for a minimum of 400 dwelling units. Also, the portion of the EGUV east of 44th Avenue SE (adjacent to Seattle Hill Road) would still allow residential uses.

Allowing Only Revenue Producing Uses - The question has also been raised as to how the City could ensure that only revenue producing (sales tax) uses are allowed in the EGUV. Theoretically, the list of principal uses could be whittled down to eliminate professional services, medical and dental offices, banks, and other uses that provide little to no sales tax revenue. However, potential developers/landlords may find that the use restrictions would make it difficult to lease out the spaces; thus, it may be too risky to build. Even with the existing wide range of principal uses, the market has not provided commercial development on a large scale in the EGUV.

In addition, restricting uses to completely avoid non-sales tax based businesses could be argued that the zoning creates a regulatory taking and the City could be liable for damages. That situation would exist if the zoning effectively deprives the owner of economically reasonable use or value of their property. It could also exist if the land use regulations do not substantially advance any legitimate governmental interest. Perhaps the Code could be amended to require a certain amount of retail or restaurant businesses to provide a vibrant pedestrian based environment, which may be a legitimate governmental interest.

As a side note, staff had been in discussions with a potential developer of the western portion of the site (approximately 12 buildable acres), with no mention of residential uses. Uses mentioned include a grocery store, restaurant, bank and a drug store. A large vehicle fueling station has also been discussed; however, fueling stations are not permitted in the EGUV.

STAFF RECOMMENDATION:

- None at this time.

COUNCIL PROCESS/ACTION:

- Presentation by Tom Rogers, Director of Community Development
- Council discussion and provide direction to staff

ATTACHMENTS:

- EGUV Conceptual Master Plan
- Map from Reid Middleton Engineering Study
- MCMC 17.19 – EGUV Zoning Regulations (includes Principal Uses)

Acting City Manager Approval: _____ Date: 5/28/15

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Chapter 17.19
EGUV – EAST GATEWAY URBAN VILLAGE

Sections:

17.19.010 Purpose.
17.19.020 Detailed master development plan required.
17.19.030 Detailed master plan elements.
17.19.040 Principal uses.
17.19.045 Secondary uses.
17.19.050 Project design.
17.19.060 *Repealed.*
17.19.070 Maximum height.
17.19.075 *Repealed.*
17.19.080 Setbacks.
17.19.085 Streetscape and roadway buffer/cutting preserves.
17.19.090 Major and minor modifications.
17.19.100 Recoupment of costs.
17.19.110 Open space and recreation facilities.

17.19.010 Purpose.

The purpose of the planned urban village zone district ("PUV" or "district") is to implement the planned urban village policies and East Gateway Urban Village illustrative development plan contained in the Mill Creek comprehensive plan. This district is intended to accommodate pedestrian-oriented mixed-use commercial, office, residential and public uses that conform to the design and layout of an approved detailed master development plan. (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.020 Detailed master development plan required.

Development in this district requires approval of a detailed master development plan that shall include a binding site plan and a development agreement between the owner and the city setting forth conditions for development. The detailed master development plan may be for all or a portion of the site and shall be substantially consistent with the East Gateway Urban Village illustrative development plan. The detailed master development plan shall be reviewed in accordance with the binding site plan provisions of MCMC Title 16. All development and uses shall thereafter occur in accordance with the approved detailed master development plan. (Ord. 2012-746 § 1 (Exh. A); Ord. 2010-718 § 16 (Exh. P); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.030 Detailed master plan elements.

The detailed master development plan shall contain, at a minimum, the following elements:

A. A binding site plan that includes the specific location of the following:

1. Buildings;

2. Roads;

3. Parking areas;

4. Open spaces, e.g., plazas, squares or courtyards;

5. Wetland areas and required buffers;

6. Pedestrian pathways;

7. Transit facilities;

8. Landscape areas;

9. Additional requirements as set forth in MCMC 16.12.080 through 16.12.110;

10. Other elements as determined by the director.

B. An evaluation of consistency with the adopted urban village design guidelines that at a minimum specifically address the following design components as set forth in Chapter 17.34 MCMC:

1. Overall architectural character illustrated through building elevations and orientation of buildings to streets, parking areas, and pedestrian ways;

2. Public plazas, open spaces and buffer areas;

3. Relationship to adjacent properties, parcels, neighboring uses, and adjacent buildings;

4. Pedestrian pathways and sidewalks;

5. Construction materials and colors;

6. Coordinated signage and graphics;

7. Streetscape plan including landscaping and street tree location and species, street furniture such as benches, kiosks, fountains, etc.;

8. Landscape plans for individual sites and parking areas; and

9. Stormwater management facilities emphasizing low impact development (LID) techniques to minimize stormwater facilities that manage stormwater as close to where it falls as possible and help facilitate the natural hydrologic patterns of the area. LID stormwater management techniques include, but are not limited to, on-site bioretention facilities, the use of permeable surfacing alternatives, and the retention of clustered, native vegetation.

C. Development agreement in accordance with RCW 36.70B.170. (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.040 Principal uses.

All uses shall be identified on the approved detailed master development plan. Principal uses are:

A. Retail sales and services except automotive, boat, and recreational vehicle sales;

B. Eating and drinking establishments (drive-through service prohibited);

C. Banks, financial and professional services;

D. Multi-Family Residential.

1. West of the 44th Avenue SE intersection, multi-family residential is permitted only above ground floor commercial;

E. Business and professional offices;

F. Personal services, dry cleaners, salons, etc.;

G. Medical and dental clinics and offices;

H. Parking structures;

I. Commercial day care;

J. Craft shops and galleries;

K. Public buildings, facilities/utilities;

L. Transit facilities/stops;

M. Hotel and motels;

N. Open space, parks and plazas;

O. Religious facilities;

P. Theaters and performing arts uses; and

Q. Other uses consistent with the purposes of the district. (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.045 Secondary uses.[1]

Secondary uses are:

A. Outside sales, display and eating/drinking establishment seating subject to the performance standards under MCMC 17.22.070(C). (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-682 § 2)

17.19.050 Project design.[2]

A. The design, layout and distribution of uses and site elements such as buildings, roadways, landscaping, parking areas, open space, public areas, pedestrian facilities and streetscapes shall comply with the approved detailed master development plan and adopted design guidelines.

B. Buildings proposed for sites adjacent to the central spine street shall be designed to accommodate ground floor nonresidential uses. (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.060 Minimum number of dwelling units.

Repealed by Ord. 2012-746. (Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.070 Maximum height.

The maximum height shall be four stories not to exceed 50 feet, except for mixed-use residential buildings, which shall be a maximum of five stories and 60 feet; provided, that the maximum height shall be three stories and 35 feet for buildings built adjacent to the single-family homes in the adjacent LDR zoning district. (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.075 Maximum ground floor commercial use.

Repealed by Ord. 2012-746. (Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.080 Setbacks.

Setbacks will be established through the design guidelines, and in compliance with other applicable city regulations (e.g., Chapter 18.06 MCMC, and the streetscape element of the comprehensive plan). (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.085 Streetscape and roadway buffer/cutting preserves.

Streetscape design and roadway buffer/cutting preserve tracts adjacent to arterial and collector streets shall be provided in accordance with the comprehensive plan, streetscape element. Roadway buffer/cutting preserves to be provided range from 35 feet from the right-of-way for nonresidential uses to 50 feet for residential uses adjacent to arterial streets. (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.090 Major and minor modifications.

A. Minor amendments to an approved detailed master development plan may be administratively approved by the director of community development subject to the provisions of MCMC 14.09.010(A)(3).

B. Major amendments are changes that do not qualify as minor amendments. Major amendments shall be processed as a new development application pursuant to this chapter. Approval may require re-recording of project documents. (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.100 Recoupment of costs.

The city manager is authorized to keep account of all administrative time and costs expended in developing, reviewing and implementing the detailed master development plan(s) contemplated by this chapter. The city manager is authorized to assess against the developer of any parcel of land, or portion thereof, governed by a detailed master development plan, a fee or charge as determined by

Chapter 3.42 MCMC, which shall be payable prior to issuance of any building permit. (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

17.19.110 Open space and recreation facilities.

Open space and recreation facilities shall be provided pursuant to the provisions of Chapter 17.22 MCMC or as may be established through the approved detailed master plan. (Ord. 2012-746 § 1 (Exh. A); Ord. 2009-702 § 2 (Exh. C); Ord. 2008-676 § 2)

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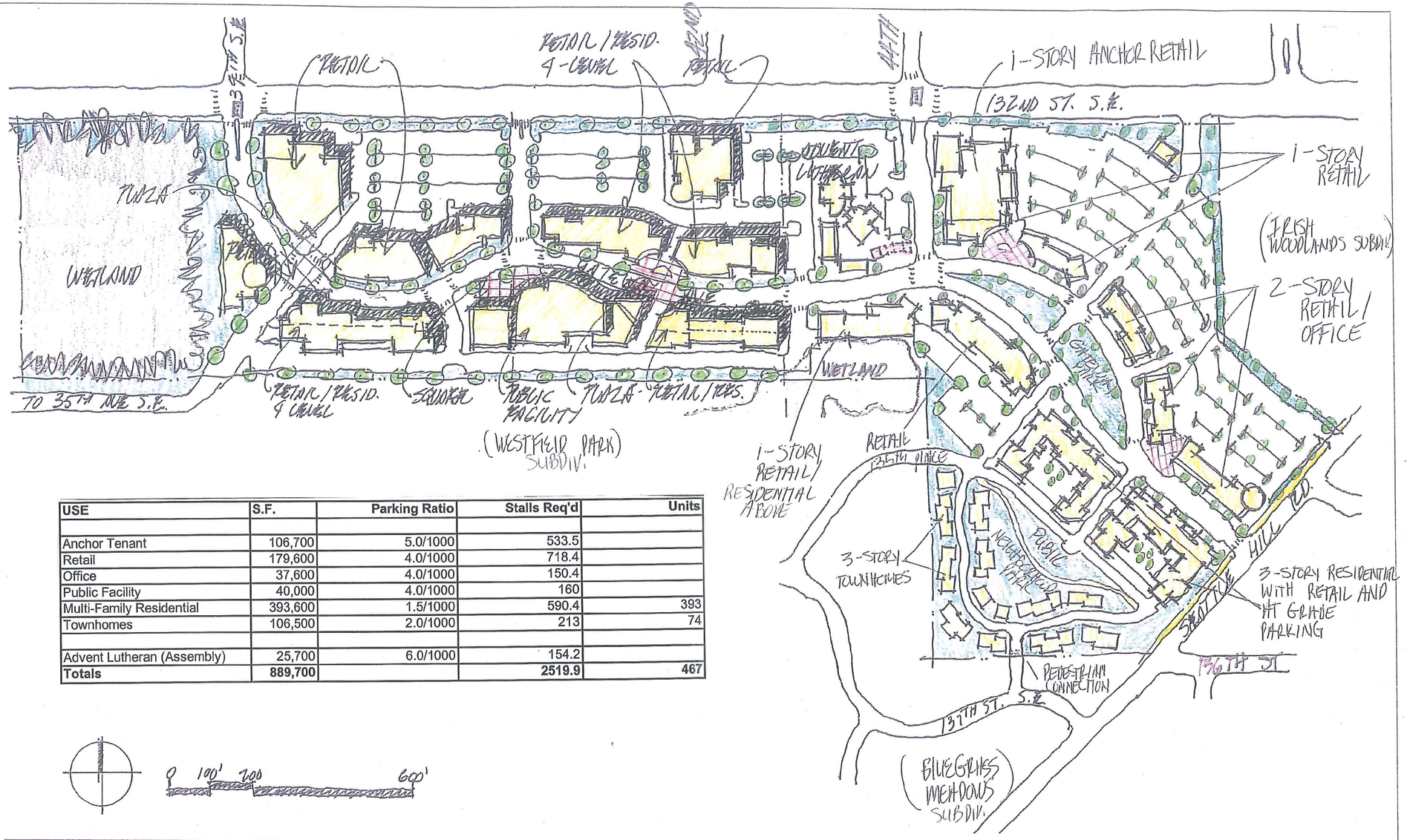
[1] Code reviser's note: This section was added by Ordinance 2008-682 as 17.19.050. It has been renumbered as 17.19.045 to prevent duplication.

[2] Code reviser's note: The East Gateway Urban Village Design Guidelines were adopted by Ordinance 2008-684 and are available for review in the city clerk's office.

The Mill Creek Municipal Code is current through Ordinance 2014-784, passed September 9, 2014.
Disclaimer: The City Clerk's Office has the official version of the Mill Creek Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.



USE	S.F.	Parking Ratio	Stalls Req'd	Units
Anchor Tenant	106,700	5.0/1000	533.5	
Retail	179,600	4.0/1000	718.4	
Office	37,600	4.0/1000	150.4	
Public Facility	40,000	4.0/1000	160	
Multi-Family Residential	393,600	1.5/1000	590.4	393
Townhomes	106,500	2.0/1000	213	74
Advent Lutheran (Assembly)	25,700	6.0/1000	154.2	
Totals	**889,700**		**2519.9**	**467**

TISCARENO ASSOCIATES
ARCHITECTURE + URBAN DESIGN

EAST GATEWAY MASTER PLAN
MILL CREEK, WA.
2/13/2008

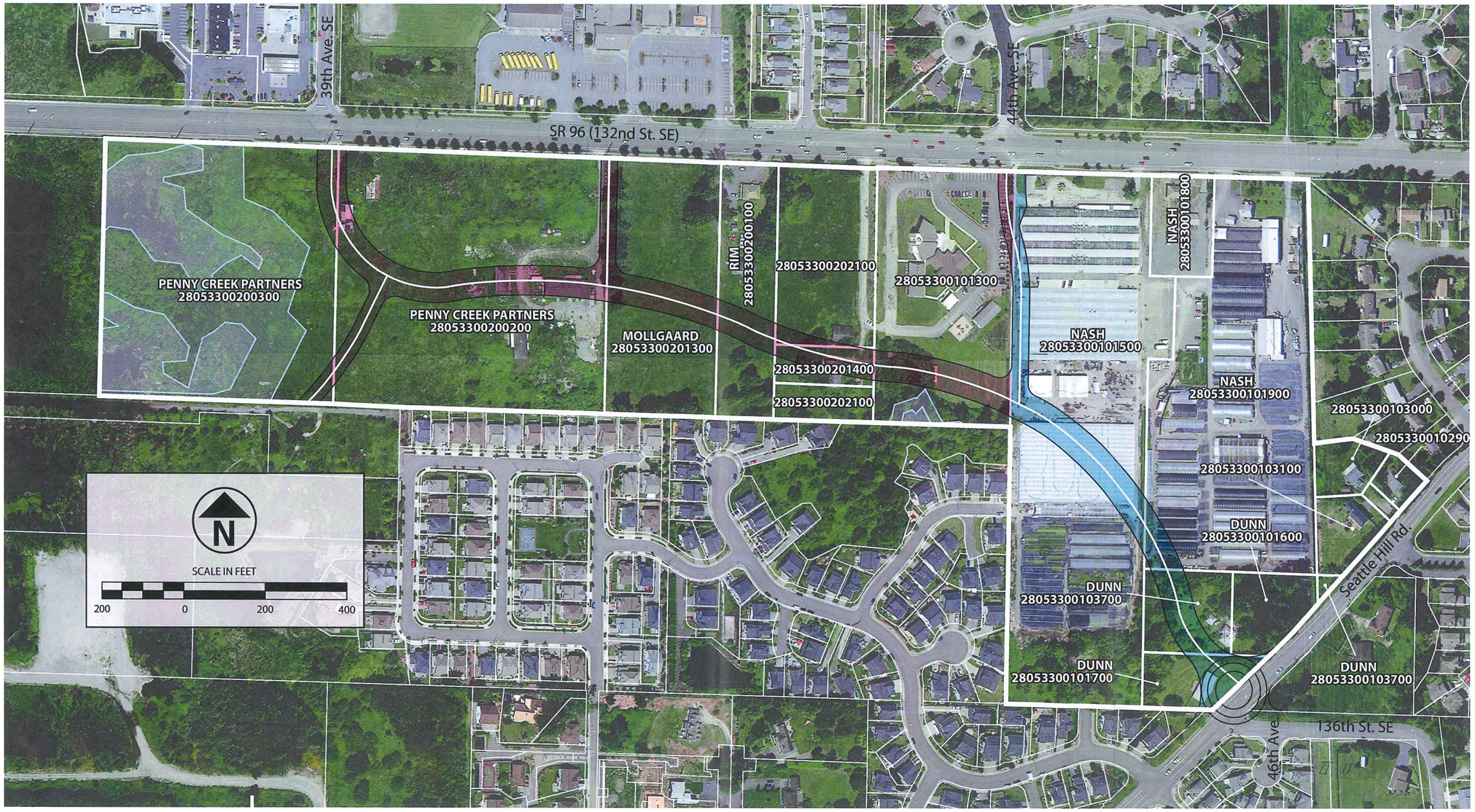
Tiscareno Associates PS - 500 Union Street, Suite 420 - Seattle, WA 98101 - T: 206.325.3356 - F: 206.436.6949

Exhibit B

SHEET NO.
Preferred Master Plan

© 2008 TISCARENO ASSOCIATES PS

FIGURE 2



ReidMiddleton

EAST GATEWAY URBAN VILLAGE MASTER PLAN
City of Mill Creek

MILL CREEK EAST GATEWAY
Property Owners

MILL CREEK CITY COUNCIL

AGENDA SUMMARY

Date on Council Agenda: June 2, 2015

Subject: **ORDINANCE APPROVING PROPOSED AMENDMENTS TO THE CRITICAL AREA REGULATIONS (MCMC TITLE 18.06) REGARDING THE WETLAND RATING SYSTEM AND OTHER HOUSEKEEPING MEASURES**

Budget Impact: None

Contact Person/Department: Tom Rogers, Director of Community Development

SUMMARY/BACKGROUND:

At the City's request, the City's on-call wetland consultant, ESA Associates, reviewed the Mill Creek Municipal Code (MCMC) Chapter 18.06 regarding Critical Area Regulations, to make sure they are current and in line with current practice. ESA suggested several amendments as a result of their review. The proposed amendments reference the current approved federal wetland delineation manual and regional supplement as approved and required by RCW 36.70A.175. References to the outdated Washington State Wetlands Identification and Delineation Manual and Wetland Rating System form are proposed to be removed. In addition, proposed language would clarify that the use of wetland mitigation banks qualify as a form of innovative mitigation as well as allowing applicants the option of purchasing mitigation credits from a certified bank to compensate for unavoidable impacts to wetlands in lieu of constructing and monitoring their own project. A new provision is also being proposed to allow for an alternative to the mitigation ratios contained in the City code as long as the proposed ratios are consistent with the method developed by the Department of Ecology.

The Planning Commission conducted a public hearing on May 21, 2015, and adopted Planning Commission Resolution 2015-161 recommending that the City Council approve the proposed amendments.

STAFF RECOMMENDATION:

- Adopt the attached ordinance approving the proposed amendments to MCMC Title 18.06.

COUNCIL PROCESS/ACTION:

- Presentation by Tom Rogers, Director of Community Development
- Council discussion
- Motion to approve, modify or deny the attached ordinance

ATTACHMENTS:

- Draft Ordinance
- Planning Commission Resolution with Staff Report
- Planning Commission Minutes of May 21, 2015

Acting City Manager Approval: Family Mammel Date: 5/28/15

ORDINANCE NO. 2015-_____

AN ORDINANCE OF THE CITY OF MILL CREEK, WASHINGTON, ADOPTING AMENDMENTS TO TITLE 18.06 IN THE MILL CREEK MUNICIPAL CODE SECTION 18.06.640 - INNOVATIVE MITIGATION, SECTION 18.06.910 - DESIGNATION, MAPPING, AND RATING, SECTION 18.06.970 - WETLAND MITIGATION – REPLACEMENT RATIOS, AND SECTION 18.06.980 – WETLAND MITIGATION – TYPES AND RATIOS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council is charged with the responsibility of amending Mill Creek Municipal Code (MCMC) land use and development regulations; and

WHEREAS, at the City's request, the City's on-call wetland consultant reviewed the City's Critical Areas Regulations to make sure they are current and in line with current practice and the proposed amendments have been suggested as a result of that review; and

WHEREAS, the recommended amendments were reviewed by the City Attorney and were found to be consistent with the City's Comprehensive Plan and applicable process requirements in the MCMC and other applicable laws; and

WHEREAS, the recommended amendment is subject to the provisions of the State Environmental Policy Act, RCW Chapter 43.21C and MCMC Chapter 18.04 (collectively "SEPA"); and

WHEREAS, on May 5, 2015, the City issued a SEPA threshold Determination of Non-Significance for the recommended amendment to the development code; and

WHEREAS, on May 19, 2015, the comment period for the Determination of Non-Significance expired and the City received comments from the Department of Fish and Wildlife; however, the comments did not request any revisions; and

WHEREAS, on May 5, 2015, the recommended amendment was submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106. On May 20, 2015, notice was received from the Department of Commerce that the City of Mill Creek had met the Growth Management Act notice to state agency requirements; and

WHEREAS, on May 21, 2015, the Planning Commission held a public hearing that included consideration of the recommended amendment. At the public hearing, the Planning Commission considered the staff report, and the recommended amendments. The Planning Commission found that the recommended amendment is consistent with the City's Comprehensive Plan, the Growth Management Act, and other applicable state and federal laws; will implement the Comprehensive Plan; and will benefit the public health, safety, and welfare; and

WHEREAS, at the public hearing, following review and consideration, the Planning Commission adopted Resolution No. 2015-161, which recommends approval of the recommended amendment; and

WHEREAS, during a regular Council meeting on June 2, 2015, staff presented the Planning Commission recommendation and the recommended amendment to the City Council; and

WHEREAS, the City Council reviewed the materials described above and, after review and consideration, concurs with and adopts the relevant findings and recommendations as contained in Planning Commission Resolution No. 2015-161; and

WHEREAS, the City Council finds that the recommended amendment is consistent with the City's Comprehensive Plan, the Growth Management Act, and other applicable state and federal laws; will implement the Comprehensive Plan; will benefit the public health, safety, and welfare; and should therefore be adopted; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Section 18.06.640 of the Mill Creek Municipal Code is hereby amended to read as follows:

18.06.640 Innovative mitigation.

A. The city may facilitate and approve the use of mitigation banks and other forms of innovative mitigation ~~projects~~ as compensation for impacts, including off-site and/or out-of-kind mitigation projects that allow linkages between natural systems and have the potential to restore ecological processes or provide unique and beneficial ecological functions.

B. The director may approve permittee-responsible innovative mitigation projects, including mitigation projects occurring outside city boundaries, when all of the following can be clearly demonstrated by the applicant:

1. The mitigation occurs in the same watercourse basin as the impacts and if possible in the same subbasin as the impacts;

2. The proposed mitigation site will provide greater improvement of critical area functions and values compared to other sites within city boundaries;

3. The proposed mitigation is approved by the local jurisdiction wherein the site is located, by state resource agencies, and other agencies and tribes that have jurisdiction over the proposed activity; and

4. The proposed mitigation is consistent with the general purposes of this chapter and the public health, safety, and welfare.

C. Permittee-responsible i~~I~~nnovative mitigation projects allowed under the provisions of this section include projects wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated by the applicant that all of the following circumstances exist:

1. The applicant and other proponents demonstrate the organizational and fiscal capability to act cooperatively;

2. The applicant and other proponents demonstrate that long-term management of the mitigation area will be provided;

3. There is a clear potential for success of the proposed mitigation project at the identified mitigation site; and

4. Performing mitigation as part of a cooperative process results in greater protection and conservation of critical areas than would be achieved using traditional mitigation approaches. (Ord. 2004-603 § 2)

D. In lieu of designing, constructing and monitoring their own mitigation project, an applicant may request approval to purchase mitigation credits from a certified mitigation bank to

compensate for unavoidable impacts to wetlands. The director may approve the use of a mitigation bank in accordance with MCMC 18.06.980.D.

Section 2. Section 18.06.910 of the Mill Creek Municipal Code is hereby amended to read as follows:

18.06.910 Designation, mapping, and rating.

A. Wetlands shall be identified in accordance with the ~~Washington State Wetlands Identification and Delineation Manual as required by RCW 36.70A.175 (Ecology Publication No. 96-94) or as amended~~ 1987 Corps of Engineers Wetland Delineation Manual (Publication no. Y-87-1) and the Western Mountains, Valleys, and Coast Regional Supplement (Publication no. ERDC/EL TR-10-3. All areas within the city meeting the criteria in the approved federal wetland delineation manual and regional supplement, regardless of any formal identification, are hereby designated critical areas and shall be subject to the provisions of this chapter.

B. The approximate location and extent of known or suspected wetlands are shown on the city's adopted critical area maps as contained within the environmental element of the comprehensive plan. These maps shall be used as a guide for the city, applicants and/or property owners, and may be updated as new wetlands are identified. The exact location of a wetland boundary shall be determined through field investigation by a qualified professional applying the approved federal wetland delineation manual and regional supplement methods and procedures.

C. Wetlands shall be rated and regulated according to the categories defined by the ~~Washington Department of Ecology Wetland Rating System for Western Washington (Ecology Publication No. 04-06-014)~~ Washington State Wetland Rating System for Western Washington 2014 Update (Publication no. 14-06-029) ~~or as amended~~. ~~This document~~ Publication no. 14-06-029 contains the methods for determining the wetland category ~~based on the following criteria~~ which are generally described below:

1. Category I. Category I wetlands are rare and irreplaceable in terms of their function and value to Mill Creek's natural aquatic systems. All wetlands with one or more of the following criteria shall be considered a Category I wetland:

a. Wetlands that are designated as natural heritage wetlands by the Washington State Department of Natural Resources.

b. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, and mature forested wetlands as defined in MCMC 18.06.210.

~~c. Wetlands that provide a very high level of functions as evidenced by a score of 70 points or more on the Western Washington Wetland Rating System form.~~

2. Category II. Category II wetlands are ecologically important and provide high levels of function. A wetland is considered a Category II wetland if it meets the following criteria:

a. Wetlands that do not meet the criteria of Category I wetlands; and

b. Wetlands performing significant wildlife habitat and/or hydrologic functions, which cannot be replicated through creation or restoration as determined by a critical area report.~~; or~~

~~c. Wetlands with significant functions and values as indicated by a score of 51 to 69 points on the Western Washington Wetland Rating System form.~~

3. Category III. Category III wetlands provide a moderate level of functions. They are typically more disturbed, smaller, and/or more isolated in the landscape than Category I or II wetlands.~~ Category III wetlands include all wetlands that score 30 to 50 points on the Western Washington Wetland Rating System form.~~

4. Category IV. Category IV wetlands provide the lowest level of function, but still provide important functions~~ as demonstrated by a score of less than 30 points on the Western Washington Wetland Rating System form~~.

The above descriptions are meant to provide a general overview. Refer to Publication no. 14-06-029 for the actual methods.

D. All wetlands shall be regulated and subject to the provisions of this chapter regardless of size, except that Category IV wetlands less than 1,000 square feet shall be exempt from this chapter if a critical area report prepared pursuant to this chapter demonstrates all of the following:

1. The wetland does not provide suitable habitat for amphibian species; and

2. The wetland does not possess unique characteristics that would be difficult to replicate through standard mitigation practices. (Ord. 2009-702 § 2 (Exh. C); Ord. 2004-603 § 2)

Section 3. Section 18.06.970 of the Mill Creek Municipal Code is hereby amended to read as follows:

18.06.970 Wetland mitigation – Replacement ratios.

A. When an applicant proposes to alter or eliminate a regulated wetland, the functions and values of the affected wetland and buffer shall be replaced through wetland creation or restoration according to the minimum ratios established in MCMC Section 18.06.980(A). The ratios shall apply to wetland creation or restoration that is in-kind, on-site, of the same category, timed prior to or concurrent with alteration, and has a high probability of success. Ratios for out-of-kind or off-site mitigation at certified mitigation banks shall be in accordance with the bank's mitigation banking instrument; otherwise replacement ratios for permittee-responsible off-site or out-of-kind mitigation may be greater than the minimum if the director determines that additional mitigation is warranted to replace impacts. Ratios for remedial actions resulting from unauthorized alterations shall be greater. The wetland creation and restoration ratios contained in MCMC 18.06.980(A) are given as replacement area to impact area.

B. Replacement ratios may be decreased by up to 25 percent by the director if the applicant demonstrates to the satisfaction of the director that all of the following criteria are met:

1. Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high likelihood of success;

2. Documentation by a qualified professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being altered; and

3. The proposed mitigation actions are conducted in advance of the impact and shown to be successful through post-construction monitoring and function assessment.

C. The director shall increase replacement ratios under the following circumstances:

1. Uncertainty exists as to the probable success of the proposed restoration or creation; or

2. A significant period of time will elapse between impact and replication of wetland functions; or

3. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

4. The impact was an unauthorized impact. (Ord. 2004-603 § 2)

D. At the director's discretion, applicants may be allowed to use an alternative to the mitigation ratios contained in MCMC 18.06.980 based on the credit/debit method developed by the Department of Ecology in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication #10-06-011).

Section 4. Section 18.06.980 of the Mill Creek Municipal Code is hereby amended to read as follows:

18.06.980 Wetlands mitigation – Types and ratios.

A. Minimum Ratios for Compensatory Mitigation. The minimum replacement ratio for wetland impact mitigation shall be as shown on the following table:

Affected Wetland	Wetland Mitigation Type and Ratio*				
Category	**Creation**	**Re-establishment**	**Rehabilitation**	**Re-establishment (R) or Creation (R) and Enhancement (E)**	**Enhancement**
Category IV	1.5:1	1.5:1	3:1	1:1 (R:C) and 2:1 (E)	6:1
Category III	2:1	2:1	4:1	1:1 (R:C) and 2:1 (E)	8:1
Category II	3:1	3:1	6:1	1:1 (R:C) and 4:1 (E)	12:1
Category I	As determined by the director – ratios will be greater than required for Category II wetlands				
*Ratio is the replacement area: impact area. See MCMC 18.06.210 for definitions					

B. Applicants proposing to enhance or rehabilitate wetlands shall produce a critical area report that identifies how the mitigation will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement or rehabilitation proposal shall also show whether existing wetland functions will be reduced by the mitigation actions.

C. Preservation. Impacts to wetlands may be mitigated by preservation of wetland areas in a separate tract in accordance with MCMC 18.06.830. Preservation shall be used as a form of mitigation only after the standard sequencing of mitigation (avoid, minimize, and then compensate) has been applied. Mitigation ratios for preservation shall range from 10-to-one to 20-to-one, as determined by the director, depending on the quality of the wetlands being impacted, mitigated and preserved. The following criteria shall apply to mitigation by preservation:

1. Preservation as mitigation is acceptable when done in combination with restoration, creation, or enhancement; provided that a minimum of one-to-one acreage replacement is provided by restoration or creation.

2. Preservation of at-risk, high-quality wetlands may be used as the sole means of mitigation for wetland impacts to Category III or IV wetlands when the impact area

is small and the preservation occurs in the same drainage basin as the wetland impact.

3. Preservation sites may include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

4. Wetland creation, restoration, and enhancement opportunities shall have been considered, and preservation is the best mitigation option.

5. The preservation site has the potential to experience a high rate of undesirable ecological change due to on- or off-site activities.

6. The area proposed for preservation is critical for the health of the watershed or basin.

D. Mitigation Banks. The director may approve use of c~~C~~redits from an approved wetland mitigation bank ~~may be approved for use~~ as compensation for unavoidable impacts to wetlands when:

1. The bank is certified by ~~the director~~federal and ~~by~~ state resource agencies with wetland jurisdiction;

2. The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

3. The proposed use of credits is consistent with the terms and conditions of the bank's certification. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification. ~~Bank credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification~~. (Ord. 2006-633 § 2; Ord. 2004-603 § 2)

Section 5. The City Clerk and Community Development Director are directed to make such changes to the Mill Creek Municipal Code and any other planning and regulatory documents as necessary or appropriate to implement the above amendments.

Section 6. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this ordinance or its application to any other person or situation. The City Council of the City of Mill Creek hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 7. This Ordinance shall be effective 30 days after passage but no earlier than 5 days following publication of a summary that consists of this Ordinance's Title.

Section 8. The City Clerk and/or other entity responsible for codification of this Ordinance are authorized to make necessary corrections to this Ordinance including correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbering and any references thereto.

Adopted this 2nd day of June, 2015 by a vote of _____ for, _____against, and _____abstaining.

APPROVED:

_____
PAM PRUITT, MAYOR

ATTEST/AUTHENTICATED:

_____
KELLY CHELIN, CITY CLERK

APPROVED AS TO FORM:

_____
SHANE A. MOLONEY, CITY ATTORNEY

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO.: _____

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PLANNING COMMISSION RESOLUTION NO. 2015-161

A RESOLUTION OF THE CITY OF MILL CREEK PLANNING COMMISSION, RECOMMENDING APPROVAL TO THE MILL CREEK CITY COUNCIL OF AMENDMENTS TO THE MILL CREEK MUNICIPAL CODE, SECTION 18.06.640 - INNOVATIVE MITIGATION, SECTION 18.06.910 - DESIGNATION, MAPPING, AND RATING, SECTION 18.06.970 - WETLAND MITIGATION – REPLACEMENT RATIOS, AND SECTION 18.06.980 – WETLAND MITIGATION – TYPES AND RATIOS.	) FINDINGS,) REASONS AND) RECOMMENDATIONS

WHEREAS, the Planning Commission is charged with the responsibility for conducting public hearings on proposed regulations concerning the use of land in the City of Mill Creek or amendments to existing regulations and for making recommendations to the City Council for appropriate action on such proposed land use regulations, as set forth in RCW chapter 35A.63 and Mill Creek Municipal Code (MCMC) Chapters 4.10 and 14.03; and

WHEREAS, RCW 36.70A.040 and 36.70A.120, portions of the Growth Management Act, require the City to adopt development regulations, including zoning regulations, to implement the City's Comprehensive Plan; and

WHEREAS, staff has prepared amendments ("Amendments") to MCMC Chapter 18.06 that would reference the current the approved federal wetland delineation manual and regional supplement as approved and required by RCW 36.70A.175 and references to the outdated Washington State Wetlands Identification and Delineation Manual and Wetland Rating System form are proposed to be removed. In addition, the City is proposing to add language to clarify that the use of wetland mitigation banks qualify as a form of innovative mitigation as well as allowing applicants the option of purchasing mitigation credits from a certified bank to compensate for unavoidable impacts to wetlands in lieu of construction or monitoring their own project. A new provision is also being proposed to allow for an alternative to the mitigation

ratios contained in the City code as long as the proposed ratios are consistent with the method developed by the Department of Ecology (Ecology Publication no. 10-06-011).; and

WHEREAS, the benefits of the amendments would be to ensure that the MCMC is consistent with the current federal supplement and regional manuals; and

WHEREAS, on May 5, 2015, the City issued a SEPA threshold Determination of Non-Significance for the proposed Amendments to the development code; and

WHEREAS, on May 19, 2015, the comment period for the Determination of Non-Significance expired and the City received comments from the Department of Fish and Wildlife; however, the comments did not request any revisions; and

WHEREAS, notice of a public hearing before the Planning Commission on the proposed Amendments was duly posted at City Hall on May 5, 2015, pursuant to MCMC Section 14.07.030(A); and

WHEREAS, notice of the public hearing before the Planning Commission on the proposed Amendments was duly advertised in the Everett Herald on May 8, 2015, in accordance with MCMC 14.07.030; and

WHEREAS, on May 5, 2015, the proposed amendments were submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106; and

WHEREAS, a staff report to the Planning Commission was prepared to present, analyze, and recommend to the Planning Commission adoption of the proposed Amendments to the development code; and

WHEREAS, on May 21, 2015, the Planning Commission held a public hearing on the proposed Amendments to the development code and solicited public testimony; and

WHEREAS, on May 21, 2015 the Planning Commission considered the comments received in response to the SEPA determination, the staff report, attached hereto as **Exhibit A** and incorporated in full by this reference, and the proposed Amendments to the MCMC and found that the proposed Amendments are consistent with the City's Comprehensive Plan, the Growth Management Act, MCMC Chapter 17.38, and other applicable state and federal law, will implement the Comprehensive Plan, and will benefit the public health, safety, and welfare.

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

Section 1: The Planning Commission finds the proposed Amendments as described within the Planning Commission staff report, attached and incorporated in full by this reference as **Exhibit A,** are consistent with and implement the policies of the Comprehensive Plan, the Growth Management Act, and other applicable state and federal law, and further finds that the proposed Amendments make appropriate provisions for and further the public health, safety and general welfare.

Section 2: The Planning Commission adopts the findings, conclusions, and recommendations contained in the staff report, attached as **Exhibit A**, except as may be expressly modified herein by **Exhibit B**, attached and incorporated in full by this reference.

Section 3: The Planning Commission therefore recommends to the City Council adoption of the proposed Amendments as set forth in **Exhibit A** and as may be further modified by specific action of the Planning Commission as set forth in **Exhibit B.**

Passed in open meeting this 21st day of May 2015, by a vote of 7 for, 0 against and 0 abstaining.

CITY OF MILL CREEK PLANNING COMMISSION

STAN EISNER, PLANNING COMMISSION CHAIR

TOM ROGERS, PLANNING COMMISSION SECRETARY

ATTACHMENT: Exhibit A – Staff Report
Exhibit B – Planning Commission Motion

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EXHIBIT A
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT
TO THE MILL CREEK PLANNING COMMISSION

PART I - SUMMARY INFORMATION

PUBLIC HEARING: May 21, 2015

REQUESTED ACTION: Review of proposed Mill Creek Municipal Code (MCMC) Amendments regarding Critical Area Regulations, MCMC Chapter 18.06. The proposed amendments reference the current approved federal wetland delineation manual and regional supplement as approved and required by RCW 36.70A.175. References to the outdated Washington State Wetlands Identification and Delineation Manual and Wetland Rating System form are proposed to be removed. In addition, the City is proposing to add language to clarify that the use of wetland mitigation banks qualify as a form of innovative mitigation as well as allowing applicants the option of purchasing mitigation credits from a certified bank to compensate for unavoidable impacts to wetlands in lieu of constructing and monitoring their own project. A new provision is also being proposed to allow for an alternative to the mitigation ratios contained in the City code as long as the proposed ratios are consistent with the method developed by the Department of Ecology (Ecology Publication no. 10-06-011).

SITE LOCATION: The regulations would be applied citywide

PROPONENT: City of Mill Creek
15728 Main Street
Mill Creek, Washington 98012

COMPREHENSIVE PLAN DESIGNATION: Not applicable.

ZONING DISTRICT: Not applicable.

PART II - STATUTORY REQUIREMENTS

SEPA COMPLIANCE:

The proposed amendments to the MCMC are subject to the provisions of the State Environmental Policy Act (SEPA). The City's SEPA Official has determined that the proposed

code amendments will not have a probable significant adverse impact on the environment. Thus, an Environmental Impact Statement (EIS) was not required.

On May 5, 2015, a Determination of Non-significance (DNS) was issued on the proposed code amendments. The comment period ended on May 19, 2015. The City received comments from the Department of Fish and Wildlife. Their comments, along with City responses, will be presented at the Public Hearing.

PUBLIC NOTICE:

Pursuant to MCMC Section 14.07.030 a notice of the public hearing was posted at Mill Creek City Hall on May 5, 2015, and published in the Everett Herald on May 8, 2015. All legal requirements for public notice have been satisfied.

PART III - DESCRIPTION OF PROPOSED AMENDMENTS

ZONING ORDINANCE AMENDMENT:

The provisions governing amendments to the text of the zoning ordinance are found in MCMC Section 17.38.020. This section states that text amendments may be initiated by the City Council, the Planning Commission, or City staff. The proposed amendments listed below have been initiated by City staff.

SUMMARY OF PROPOSED ZONING TEXT AMENDMENTS:

At the City's request, the City's on-call wetland consultant reviewed the City's Critical Areas Regulations to make sure they are current and in line with current practice. The following amendments have been suggested as a result of their review.

Staff Report Key
• Proposed new text is shown in red text with an underline and proposed deleted text is shown in ~~strikeout~~ form.
Code Amendment – MCMC Section 18.06.640 Innovative Mitigation
Issue: MCMC Section 18.06.040 does not specifically identify mitigation banks as a form of innovative mitigation. The term "permittee-responsible" is used by the state and federal agencies to differentiate between applicant-sponsored mitigation and third-party mitigation such as banks. In addition, there is no provision to allow for the purchase of mitigation credits from a certified mitigation bank. **Staff Recommendation:** Staff recommends adding language to: 1) clarify that banks qualify as a form of innovative mitigation, 2) adding "permittee-responsible" to

differentiate between applicant-sponsored mitigation and third-party mitigation, and 3) adding a section allowing the purchase of mitigation credits.

Proposed Text Amendments:
MCMC Section 18.06.640 – Innovative mitigation

A. The city may facilitate and approve the use of mitigation banks and other forms of innovative mitigation ~~projects~~ as compensation for impacts, including off-site and/or out-of-kind mitigation projects that allow linkages between natural systems and have the potential to restore ecological processes or provide unique and beneficial ecological functions.

B. The director may approve permittee-responsible innovative mitigation projects, including mitigation projects occurring outside city boundaries, when all of the following can be clearly demonstrated by the applicant:

1. The mitigation occurs in the same watercourse basin as the impacts and if possible in the same subbasin as the impacts;

2. The proposed mitigation site will provide greater improvement of critical area functions and values compared to other sites within city boundaries;

3. The proposed mitigation is approved by the local jurisdiction wherein the site is located, by state resource agencies, and other agencies and tribes that have jurisdiction over the proposed activity; and

4. The proposed mitigation is consistent with the general purposes of this chapter and the public health, safety, and welfare.

C. Permittee-responsible i~~I~~nnovative mitigation projects allowed under the provisions of this section include projects wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated by the applicant that all of the following circumstances exist:

1. The applicant and other proponents demonstrate the organizational and fiscal capability to act cooperatively;

2. The applicant and other proponents demonstrate that long-term management of the mitigation area will be provided;

3. There is a clear potential for success of the proposed mitigation project at the identified mitigation site; and

4. Performing mitigation as part of a cooperative process results in greater protection and conservation of critical areas than would be achieved using traditional mitigation approaches. (Ord. 2004-603 § 2)

D. In lieu of designing, constructing and monitoring their own mitigation project, an

applicant may request approval to purchase mitigation credits from a certified mitigation bank to compensate for unavoidable impacts to wetlands. The director may approve the use of a mitigation bank in accordance with MCMC 18.06.980.D.

Code Amendment – MCMC Section 18.06.910 Designation, mapping, and rating.

Issue: The Code is outdated in the references for the both the federal wetland delineation manual and regional supplements and the cited rating system is outdated.

Staff Recommendation: Staff recommends adding a new reference for the Regional Supplement and the new rating system as well as deleting references to the points system below since the 2014 rating scheme has a different point system.

Proposed Text Amendments:
MCMC Section 18.06.910 Designation, mapping, and rating.

A. Wetlands shall be identified in accordance with the ~~Washington State Wetlands Identification and Delineation Manual as required by RCW 36.70A.175 (Ecology Publication No. 96-94) or as amended~~ 1987 Corps of Engineers Wetland Delineation Manual (Publication no. Y-87-1) and the Western Mountains, Valleys, and Coast Regional Supplement (Publication no. ERDC/EL TR-10-3. All areas within the city meeting the criteria in the approved federal wetland delineation manual and regional supplement, regardless of any formal identification, are hereby designated critical areas and shall be subject to the provisions of this chapter.

B. The approximate location and extent of known or suspected wetlands are shown on the city's adopted critical area maps as contained within the environmental element of the comprehensive plan. These maps shall be used as a guide for the city, applicants and/or property owners, and may be updated as new wetlands are identified. The exact location of a wetland boundary shall be determined through field investigation by a qualified professional applying the approved federal wetland delineation manual and regional supplement methods and procedures.

C. Wetlands shall be rated and regulated according to the categories defined by the ~~Washington Department of Ecology Wetland Rating System for Western Washington (Ecology Publication No. 04-06-014)~~ Washington State Wetland Rating System for Western Washington 2014 Update (Publication no. 14-06-029) ~~or as amended~~. ~~This document~~ Publication no. 14-06-029 contains the methods for determining the wetland category ~~based on the following criteria~~ which are generally described below:

1. Category I. Category I wetlands are rare and irreplaceable in terms of their function and value to Mill Creek's natural aquatic systems. All wetlands with one or more of the following criteria shall be considered a Category I wetland:

a. Wetlands that are designated as natural heritage wetlands by the Washington State Department of Natural Resources.

b. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, and mature forested wetlands as defined in MCMC 18.06.210.

~~c. Wetlands that provide a very high level of functions as evidenced by a score of 70 points or more on the Western Washington Wetland Rating System form.~~

2. Category II. Category II wetlands are ecologically important and provide high levels of function. A wetland is considered a Category II wetland if it meets the following criteria:

a. Wetlands that do not meet the criteria of Category I wetlands; and

b. Wetlands performing significant wildlife habitat and/or hydrologic functions, which cannot be replicated through creation or restoration as determined by a critical area report.~~; or~~

~~c. Wetlands with significant functions and values as indicated by a score of 51 to 69 points on the Western Washington Wetland Rating System form.~~

3. Category III. Category III wetlands provide a moderate level of functions. They are typically more disturbed, smaller, and/or more isolated in the landscape than Category I or II wetlands.~~ Category III wetlands include all wetlands that score 30 to 50 points on the Western Washington Wetland Rating System form.~~

4. Category IV. Category IV wetlands provide the lowest level of function, but still provide important functions~~ as demonstrated by a score of less than 30 points on the Western Washington Wetland Rating System form~~.

The above descriptions are meant to provide a general overview. Refer to Publication no. 14-06-029 for the actual methods.

D. All wetlands shall be regulated and subject to the provisions of this chapter regardless of size, except that Category IV wetlands less than 1,000 square feet shall be exempt from this chapter if a critical area report prepared pursuant to this chapter demonstrates all of the following:

1. The wetland does not provide suitable habitat for amphibian species; and

2. The wetland does not possess unique characteristics that would be difficult to replicate through standard mitigation practices. (Ord. 2009-702 § 2 (Exh. C); Ord. 2004-603 § 2)

Code Amendment – MCMC Section 18.06.970 Wetland mitigation – Replacement ratios.

Issue: The code is currently out of date on mitigation banking ratios for out-of-kind or off-site mitigation.

Staff Recommendation: Staff recommends including the language to clarify mitigation banking ratios at approved site as well as a new provision to account for the state's credit/debit method of determining mitigation areas.

Proposed Text Amendments:
MCMC Section 18.06.970 Wetland mitigation – Replacement ratios.
A. When an applicant proposes to alter or eliminate a regulated wetland, the functions and values of the affected wetland and buffer shall be replaced through wetland creation or restoration according to the minimum ratios established in MCMC Section 18.06.980(A). The ratios shall apply to wetland creation or restoration that is in-kind, on-site, of the same category, timed prior to or concurrent with alteration, and has a high probability of success. Ratios for out-of-kind or off-site mitigation at certified mitigation banks shall be in accordance with the bank's mitigation banking instrument; otherwise replacement ratios for permittee-responsible off-site or out-of-kind mitigation may be greater than the minimum if the director determines that additional mitigation is warranted to replace impacts. Ratios for remedial actions resulting from unauthorized alterations shall be greater. The wetland creation and restoration ratios contained in MCMC 18.06.980(A) are given as replacement area to impact area.

B. Replacement ratios may be decreased by up to 25 percent by the director if the applicant demonstrates to the satisfaction of the director that all of the following criteria are met:

1. Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high likelihood of success;

2. Documentation by a qualified professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being altered; and

3. The proposed mitigation actions are conducted in advance of the impact and shown to be successful through post-construction monitoring and function assessment.

C. The director shall increase replacement ratios under the following circumstances:

1. Uncertainty exists as to the probable success of the proposed restoration or creation; or

2. A significant period of time will elapse between impact and replication of wetland functions; or

3. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

4. The impact was an unauthorized impact. (Ord. 2004-603 § 2)

D. At the director's discretion, applicants may be allowed to use an alternative to the mitigation ratios contained in MCMC 18.06.980 based on the credit/debit method developed by the Department of Ecology in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication #10-06-011).

Code Amendment – MCMC Section 18.06.980 – Wetland mitigation – Types and ratios.

Issue: The current code is unclear regarding approval of credits from a wetland mitigation bank and incorrectly identifies that the bank is to be certified by the director when it is certified by federal and state agencies.

Staff Recommendation: Staff is recommending housekeeping edits that clarify the Code and eliminate redundant language.

Proposed Text Amendments:
MCMC Section 18.06.980 Wetlands mitigation – Types and ratios.
A. Minimum Ratios for Compensatory Mitigation. The minimum replacement ratio for wetland impact mitigation shall be as shown on the following table:

Affected Wetland	**Wetland Mitigation Type and Ratio***				
Category	**Creation**	**Re-establishment**	**Rehabilitation**	**Re-establishment (R) or Creation (R) and Enhancement (E)**	**Enhancement**
Category IV	1.5:1	1.5:1	3:1	1:1 (R:C) and 2:1 (E)	6:1
Category III	2:1	2:1	4:1	1:1 (R:C) and 2:1 (E)	8:1
Category II	3:1	3:1	6:1	1:1 (R:C) and 4:1 (E)	12:1
Category I	As determined by the director – ratios will be greater than required for Category II wetlands				
*Ratio is the replacement area: impact area. See MCMC 18.06.210 for definitions					

B. Applicants proposing to enhance or rehabilitate wetlands shall produce a critical area report that identifies how the mitigation will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement or rehabilitation proposal shall also show whether existing wetland functions will be reduced by the mitigation actions.

C. Preservation. Impacts to wetlands may be mitigated by preservation of wetland areas in a separate tract in accordance with MCMC 18.06.830. Preservation shall be used as a form of mitigation only after the standard sequencing of mitigation (avoid, minimize, and then compensate) has been applied. Mitigation ratios for preservation shall range from 10-to-one to 20-to-one, as determined by the director, depending on the quality of the wetlands being impacted, mitigated and preserved. The following criteria shall apply to mitigation by preservation:

1. Preservation as mitigation is acceptable when done in combination with restoration, creation, or enhancement; provided that a minimum of one-to-one acreage replacement is provided by restoration or creation.

2. Preservation of at-risk, high-quality wetlands may be used as the sole means of mitigation for wetland impacts to Category III or IV wetlands when the impact area is small and the preservation occurs in the same drainage basin as the wetland impact.

3. Preservation sites may include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

4. Wetland creation, restoration, and enhancement opportunities shall have been considered, and preservation is the best mitigation option.

5. The preservation site has the potential to experience a high rate of undesirable ecological change due to on- or off-site activities.

6. The area proposed for preservation is critical for the health of the watershed or basin.

D. Mitigation Banks. The director may approve use of c~~C~~redits from an approved wetland mitigation bank ~~may be approved for use~~ as compensation for unavoidable impacts to wetlands when:

1. The bank is certified by ~~the director~~federal and ~~by~~ state resource agencies with wetland jurisdiction;

2. The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

3. The proposed use of credits is consistent with the terms and conditions of the bank's certification. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's

certification. ~~Bank credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification~~. (Ord. 2006-633 § 2; Ord. 2004-603 § 2)

PART IV – FINDINGS, CONCLUSIONS, AND RECOMMENDATION

The proposed amendments to the City's Municipal Code have been prepared to be consistent with the Growth Management Act, applicable state and federal regulations, the City's Comprehensive Plan, and the City's development code amendment process contained in MCMC Chapter 17.38. As reflected below, the proposed amendments have been reviewed for consistency with these requirements and are found to be consistent with applicable local, state and federal regulations.

FINDINGS AND CONCLUSIONS:

1. In accordance with the Growth Management Act (GMA), specifically RCW 36.70A.040 and 36.70A.120, the City is required to adopt development regulations, including zoning regulations, to implement the City's Comprehensive Plan.

2. In accordance with the MCMC Chapter 17.38, the City has the authority to initiate amendments to the code.

3. The amendments have been proposed by the City's on-call critical areas consultant to ensure that the City's regulations are up-to-date and in line with current practice.

4. The proposed amendments have been reviewed by the City Attorney and have been found to be consistent with the Comprehensive Plan, the Growth Management Act, other state and federal regulations, and MCMC Chapter 17.38, Amendments.

5. In accordance to MCMC Chapter 18.04, the proposed code amendments are subject to the provisions of the State Environmental Policy Act (SEPA). The City's SEPA Official has determined that the proposed code amendments will not have a probable significant adverse impact on the environment. Therefore, an Environmental Impact Statement (EIS) was not required.

6. On May 5, 2015, a Determination of Non-significance (DNS) was issued on the proposed code amendments. The comment period ended on May 19, 2015. The City received comments from the Department of Fish and Wildlife.

7. Pursuant to MCMC Section 14.07.030 a notice of public hearing was posted at Mill Creek City Hall on May 5, 2015, and published in the Everett Herald on May 8, 2015. All legal requirements for public notice have been satisfied.

8. On May 5, 2015, the proposed amendments were submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106.

9. In accordance with Chapter 35A.63 RCW and MCMC Chapters 2.04 and 14.03, the City Council is charged with the responsibility of making decisions on amendments to the existing MCMC regulations.

10. The Planning Commission reviewed the proposed amendments in a public hearing on May 21, 2015 and solicited public testimony.

11. The proposed amendments are consistent with the City's Comprehensive Plan, the Growth Management Act, MCMC Chapter 17.38, and other applicable state and federal law, will implement the Comprehensive Plan, and will benefit the public health, safety, and welfare.

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EXHIBIT B

PLANNING COMMISSION MOTION

MOTION: **Commissioner McNichol moved, seconded by Commissioner Teschlog, to approve Resolution 2015-161 recommending approval to the City Council of proposed amendments to the critical area regulations (MCMC Title 18.06) regarding the wetland rating system and other housekeeping measures as presented. The motion was approved unanimously.**

CITY OF MILL CREEK
PLANNING COMMISSION MEETING MINUTES
May 21, 2015

Draft

I. CALL TO ORDER:

Chair Eisner called the meeting to order at 7:00 p.m.

II. ROLL CALL:

Chair Stan Eisner
Vice Chair Matthew Nolan
Commissioner Randy Blair
Commissioner Ed McNichol
Commissioner Jared Mead
Commissioner Daniel Mills
Commissioner Dennis Teschlog

Staff:
Tom Rogers, Director of Community Development
Christi Amrine, Senior Planner
Shane Moloney, City Attorney
Sherrie Ringstad, Planning Specialist

Chair Eisner introduced the two new Planning Commission members Randy Blair and Daniel Mills.

III. APPROVAL OF MINUTES

Planning Commission Meeting of March 19, 2015

MOTION: Vice Chair Nolan moved, seconded by Commissioner Mc Nichol, to approve the March 19, 2015 minutes as presented. The motion was approved unanimously.

Planning Commission Meeting of March 24, 2015

MOTION: Vice Chair Nolan moved, seconded by Commissioner McNichol, to approve the March 24, 2015 minutes as presented. The motion was approved unanimously.

IV. AUDIENCE COMMUNICATION

Laura Gothro, Heatherwood PTA President
Ms. Gothro encouraged the Commission to consider amending the Code to allow digital reader board signs. She explained that it is important to the school and the students as a tool to improve communications. The PTA and ASB have been working to raise money for an electronic reader board. Ms. Gothro added that not all of the students at Heatherwood have the resources at home to access social media. She noted that approximately 30 percent of the student population at Heatherwood qualifies for free or reduced lunch and they may not have a computer at home or access to the internet.

Janet Gillingham, Principal at Heatherwood Middle School
Ms. Gillingham stated that the real impetus for moving forward came from the students, who felt there was a need to improve communication. They approached the PTA with a proposal to partner on the project because of the expense involved. She thanked the Commission for the opportunity to address them on the issue.

Dr. Peter Scott, Assistant Superintendent for Everett Public Schools
Dr. Scott encouraged the Commission to support the schools in this endeavor and thanked them for their consideration.

Commissioner McNichol asked if the school was ok with the proposed limiting criteria such as allowing only a single message for a fixed amount of time. He noted that the specifications call for a 20-30 second time for each message and he asked if that would meet the school's needs. Ms. Gortho said that it was within the realm of what they were considering and stated further that they did not have a concern with any of the proposed specifications.

Commissioner Mills asked what the students would like in a reader board sign (e.g., ability to display graphics, text only, etc.). Ms. Gortho stated that there is an existing stationary sign and the proposed reader board would go in that location and be of a similar size. While digital reader boards do have the capability of incorporating graphics, the primary concern of the school is the communication itself.

Chair Eisner stated that he hopes it is done in such a way that it isn't a distraction.

V. PUBLIC HEARING

Proposed Amendments to the Critical Area Regulations Regarding the Wetland Rating System and Other Housekeeping Measures

Chair Eisner opened the public hearing at 7:11 p.m., verified that the hearing had been properly noticed, and asked for a staff report.

Senior Planner Christi Amrine stated that the purpose of the public hearing is to consider proposed amendments to the Mill Creek Municipal Code regarding Critical Area Regulations. She officially entered into the record: the draft resolution, the staff report, staff's PowerPoint presentation, and any public testimony received this evening. She noted that the City had become aware of inconsistencies within MCMC 18.06 as a result of the recent update to the wetland rating system adopted by the Department of Ecology and asked the on-call wetland consultant, ESA Associates, to review the Mill Creek Municipal Code (MCMC) Chapter 18.06 regarding Critical Area Regulations, to make sure they are current and in line with current practice. ESA suggested several amendments as a result of their review.

Ms. Amrine stated that the proposed amendments reference the current approved federal wetland delineation manual and regional supplement as approved and required by RCW 36.70A.175. References to the outdated Wetland Rating System are proposed to be removed. She added that the City is proposing to add language to clarify that the use of wetland mitigation banks qualify as a form of innovative mitigation as well as allowing applicants the option of purchasing mitigation credits from a certified bank to compensate for unavoidable impacts to wetlands in lieu of constructing and monitoring their own project. Another provision being proposed is to allow for an alternative to the mitigation ratios contained in the City code as long as the proposed ratios are consistent with the method developed by the Department of Ecology.

Vice Chair Nolan asked if there were any established mitigation banks in the North Creek basin that would meet the criteria of a certified mitigation bank. Community Development Director Rogers stated that he isn't aware of any; however, the Code would be applicable should any be established in the future.

Commissioner McNichol wanted to clarify whether purchasing credits from a mitigation bank could be done as a matter of convenience or only when impacts to wetlands can't be compensated for onsite. Community Development Director Rogers stated that the Code requires the impact to be mitigated onsite and purchasing mitigation credits is only allowed as a last resort.

MOTION: Commissioner McNichol moved, seconded by Commissioner Teschlog, to approve Resolution 2015-161 recommending approval to the City Council of proposed amendments to the critical area regulations (MCMC Title 18.06) regarding the wetland rating system and other housekeeping measures as presented. The motion was approved unanimously.

V. OLD BUSINESS

Proposed Amendments to the Critical Area Regulations Regarding Redevelopment of Commercial Sites with Existing Non-Conforming Wetland Buffers

Director of Community Development Tom Rogers clarified that this agenda item is the continued discussion of proposed Mill Creek Municipal Code (MCMC) amendments that were presented in a public hearing at the Commission's last meeting. He explained that the proposed amendments would give the Community Development Director, as the SEPA Responsible Official, the discretionary authority to decrease the minimum width of all or a portion of the standard buffers for wetlands and/or fish and wildlife habitat on a case-by-case basis when a proposed development site is currently developed with existing, legally established structure(s) and/or impervious area that encroaches within the standard buffer and meets the definition of redevelopment as established in the most recent city-adopted version of the State Department of Ecology Stormwater Management Manual for Western Washington.

Director Rogers stated that the staff report has been revised to respond to the Commission's comments as well as the SEPA comments received from the Department of Ecology and the Muckleshoot Indian Tribe. There is also a draft response to the SEPA comments included in the packet. He explained that the revisions to the staff report include making the amendments applicable only in the Community Business or Office Park zone districts to narrow the focus of where it would apply.

Director Rogers noted that a section has been added that states that if the buffer is not in an acceptable condition, the developer is required to provide buffer mitigation/enhancement to bring it up to a certain standard. With their development application, the applicant would have to provide an analysis of the existing buffer condition and if it is less than 80 percent native trees and shrubs or had more than 10 percent non-native vegetation, the developer would have to submit a mitigation plan to bring it up to that standard.

Director Rogers stated that one of the issues brought up at the last meeting is the desire to protect the existing trail system. After considerable discussion, staff believes that the existing code gets us to where we want to be. There is already a 10 foot setback required from the edge of the buffer and the proposal would have to go through the SEPA process, which has an aesthetic component. In addition, the design standards strongly encourage the buildings to be put up next to the road and hide the parking in back. For those reasons, Director Rogers stated that staff is not suggesting any modifications to Title 18.06 regarding the trail. He stated that if the Commission feels they need stronger language regarding the North Creek Trail, he would recommend adding something in another section of the Code such as Chapter 17.34 Design Guidelines.

Community Development Director Rogers said that he is asking the Commission to consider adopting the resolution recommending approval of the amendments to the City Council this evening to keep it moving forward. However, the Council may not want to make the amendments effective immediately given that the Council may be considering amendments to the allowed uses in the Office Park and Community Business zone districts in the future. They may want to wait to make the amendments effective until that issue has been resolved.

MOTION: **Commissioner Teschlog moved, seconded by Commissioner Mead, to approve Resolution 2015-160 recommending approval to the City Council of proposed amendments to the critical area regulations (MCMC Title 18.06) regarding redevelopment of commercial sites with existing non-conforming wetland buffers. The motion was approved with six in favor and Commissioner McNichol opposed.**

VI. WORK SESSION

Proposed Amendments to the Comprehensive Plan Land Use Element

Director of Community Development Tom Rogers noted that a draft of the Land Use Element has been prepared. He reminded the Commission that the City's existing Land Use Map designations and zoning regulations result in enough capacity to hold the population and employment growth anticipated through 2035. Thus, no major revisions to the Land Use Element are required. He stated that most of the proposed revisions are housekeeping in nature. One exception is that the issue of the potential redevelopment of the Community Business and Business Park properties is raised and a policy calling for the City to evaluate alternative land uses for these areas in the future is proposed.

Director Rogers summarized the proposed amendments as follows:

- Added a discussion of Lynnwood/Mill Creek MUGA overlap -- will show on MUGA map.
- Deleted reference to SR 527 and East Neighborhood Subarea Plans.
- Referenced updated 2035 Growth Targets.
- Acknowledged that Essential Public Facilities cannot be precluded and are reviewed through the CUP process.
- Revised policies to remove should/shall statement and make declarative statements.
- Numerous housekeeping edits.

In addition, Director Rogers noted that the following more substantive issues were addressed:

- Addressed redevelopment potential for older commercial properties, including along Mill Creek Boulevard between Town Center and 164th Street SE.
- Included discussion about potential CT Swift 2 and potential pressure for redevelopment along route.
- Added a policy calling for an analysis of the feasibility and desirability of alternative land uses in the Community Business and Business Park zone districts.

Director Rogers stated that are two amendments proposed to the Land Use Map: one to change the designation on the Buffalo Park parcel to Public Open Space and the other is a property owner-initiated request to change the zoning on a parcel east of 35th Avenue from Low Density Residential to High Density Residential. He noted that the property is surrounded by medium density zoning; thus, staff is proposing that the property be re-designated and zoned to Medium Density Residential. Director Rogers said that the proposed land use change had been discussed previously at the December 18th meeting and following that discussion staff thought the consensus of the Commission was favorable toward considering MDR, but not HDR. He asked if that was still the case. After a brief discussion, it was the consensus of the Commission that they would be willing to consider the change to a Medium Density Residential zone designation.

Dan Stearns, resident of Webster's Pond Subdivision

Mr. Stearns said that he is concerned about the wetlands in that area and on the property to the south. He asked if an environmental impact study will be done. Director Rogers said that a Determination of Non-Significance is likely to be issued for the Comprehensive Plan update as a whole. Mr. Stearns asked if a traffic study had been completed. Director Rogers said that a traffic study would be required as a part of a future platting process. Mr. Stearns said that he believes the Thomas Lake area make a world class park and could be a great amenity for the community. It would maintain habitat for wildlife in the area and gain outdoor activities for residents. He is opposed to any high density development in that area. Director Rogers responded that the property owner currently does have the right to build a single-family house on the property. In addition, the area to the south (former Pacific TopSoils property) is currently in the platting process for a proposed for development that will designate approximately 60 acres as preserved wetland and save it forever. He stated that there may be some opportunity for public pedestrian easements to formalize the trail system and open that up so people will have access to the trails.

Commissioner McNichol referenced the language on Page 4 under Commercial Land Use Issues regarding Swift 2. It sounds like Swift 2 is the driving force for the recommendation to consider reevaluating the allowable land uses. He thinks we should consider the alternate land uses with or without Swift 2. Issues such as the aging of the commercial properties and the nature of how retailing has changed over the last 20 or 30 years are enough of a reason to reconsider the land uses without Swift 2. He is concerned that the way it is written, if Swift 2 should not be implemented than the City's reason to reevaluate the land uses would go away. Director Rogers said that he thinks it is really all of those things but agreed to take another look at the language.

Electronic Reader Board – Potential Code Amendments

Director of Community Development Tom Rogers stated that staff met with Everett School District officials and the school district made a case that an electronic reader board sign at

Heatherwood Middle School would be very helpful to them and would be in the public interest. The City Attorney is of the opinion that the Code could potentially be amended with specific criteria that would allow electronic reader boards only when they are not visible from the public right-of-way, which would eliminate some of the concerns regarding the issues of traffic safety and visual blight.

Director Rogers stated that a draft of the approach was provided in the packet and is summarized as follows:

- Electronic reader boards must be setback at least 50' from the public right of way. The intent of these types of signs is to display messages toward pedestrians or vehicles already on the site, not to the general public on the public roadway.
- Electronic reader boards must be setback at least 25' from residential uses, and shall be located to have the least impact on surrounding residential properties.
- Electronic reader boards may be freestanding or wall mounted. The maximum electronic reader board size allowed is per the current code language for an electronic reader board located in the zone/use in which the sign is located.
- Electronic reader boards shall not count toward the maximum sign allowances.

He noted that the criteria could be applied citywide and it would work for the school district as well.

Director Roger stated that the following are potential design standards that could be applied to electronic reader board signs:

- No flashing, blinking, scrolling messages, video or animation
- Monochromatic color
- Change of message to occur simultaneously for entire sign face
- Sign message area can be no more than 75% (or 50%) of the total sign size
- Text on reader board to be changed no more frequently than – once every 5-10 seconds
- Limit the hours that the reader board sign can be illuminated (e.g., no illumination between 10:00 p.m. and 6:00 a.m.)
- Subject to Design Review Board review and approval

Chair Eisner expressed a concern about commercial uses having the ability to use the electronic reader board signs. Director Rogers said that staff considered that as well and from a public perspective, given the proposed criteria and the fact that the sign couldn't be seen from the public right-of-way, what would be the harm.

It was suggested that the digital reader boards be restricted to institutional uses. City Attorney Moloney said when regulating signs you have to be careful that you are not regulating speech based upon the content of the signs, so we are trying to stay content neutral. He added that you can consider things like location, aesthetics, and time and place restrictions. Those are accepted restrictions.

The Commission discussed various options for structuring the criteria to gain the desired outcome. Director Rogers explained that at this time specific language isn't proposed, staff is just looking for feedback on the concept and if the Commission agrees, amendments will be proposed at a future meeting.

MOTION: Vice Chair Nolan moved, seconded by Commissioner Blair, to recess the meeting to Executive Session to discuss the potential legal risk involved in this decision. The motion was approved unanimously.

City Attorney Moloney stated that in accordance with RCW 42.30.110 subsection 1(i), which allows the Commission to recess to Executive Session to discussion potential litigation, the Commission needs to announce the length of time they plan to be in Executive Session and suggested five minutes. The Commission concurred.

The meeting was adjourned to Executive Session at 8:47 p.m.

Chair Eisner re-opened the meeting at 8:52 p.m.

Director Rogers asked if the Commission was interested in pursuing the proposed amendments further.

Commissioner McNichol said that he believes the school district has made a good case for their need for the sign. Originally he wasn't sure if there was a need but after the school district's statement that 30 percent of their student body qualifies for free or reduced lunch, he can see that everyone may not have access to social media and that there really is a need. Director Rogers confirmed that a consensus of the Commission agreed to direct staff to proceed with the amendments.

VII. FOR THE GOOD OF THE ORDER

Director Rogers noted that the Transportation Element and Capital Facilities Element were originally scheduled for the June meeting, but given the workload in the Engineering Division, they will not be ready. The one topic on the Agenda for June will be the reader board signs.

Chair Eisner noted that he had attended a Local Planning Short course in Moses Lake and that he brought back information to share with the Commission. City Attorney Moloney reminded the new Commissioners that they need to complete training within 90 days of appointment and said that he would email them information on available training.

VIII. ADJOURNMENT

Chair Eisner adjourned the meeting with the consensus of the Commission at 9:00 p.m.

Submitted by:

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Sherrie Ringstad, Planning Specialist

MILL CREEK CITY COUNCIL

AGENDA SUMMARY

Date on Council Agenda: June 2, 2015

Subject: **MOTION TO APPOINT CITY'S VOTING DELEGATES TO THE ASSOCIATION OF WASHINGTON CITIES ANNUAL BUSINESS MEETING**

Budget Impact: None

Contact Person/Department: Landy Manuel, Acting City Manager

SUMMARY:

The Association of Washington Cities (AWC) is holding its annual conference in Wenatchee from June 23 through June 26.

The AWC will hold its annual business meeting from 3:45 to 5:30 p.m. on Thursday, June 25. The association's annual business meeting provides an opportunity to debate issues that affect Washington cities, to hear reports from the State and Federal Policy Committee and to elect the association's Board of Directors (the people who guide the association's activities). The City of Mill Creek is entitled to three voting delegates who must be present at the meeting.

Mayor Pruitt and Councilmember Todd are registered to attend the AWC annual conference. The purpose of this study session is to determine if other councilmembers plan to attend, and if so, have Council appoint them as the City's voting delegate(s) at the annual meeting.

BACKGROUND:

- The AWC's 2015 annual business meeting is scheduled for June 25, 2015.
- Voting delegates need to be registered for the conference by June 17, 2015.

STAFF RECOMMENDATION:

- Appoint Mayor Pruitt and Councilmember Todd (and other Councilmembers who will be attending) as the City's voting delegates at the AWC Annual Business Meeting.

COUNCIL PROCESS/ACTION:

- Motion to appoint Mayor Pruitt and Councilmember Todd (and other Councilmembers who will be attending) as the City's 2015 voting delegates.

ATTACHMENTS:

- None.

City Manager Approval: Landy Manuel Date: 5/28/15

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