

RESOLUTION NO. 1104

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, AUTHORIZING THE EXECUTION OF AMENDMENT NO. 2 TO THE DEVELOPMENT AGREEMENT WITH MCCORMICK CREEK, LLC RELATED TO AN APPROVED PRELIMINARY PLAT AND PLANNED RESIDENTIAL DEVELOPMENT (FILE NOS. PL-PPLAT-09-0003 AND PL-PRD-09-0002), AND REVISIONS PROPOSED TO PHASE 3 OF THE PROJECT (FILE NOS. PL-PPLAT-16-0003 AND PL-PRD-16-0002), LOCATED NORTHEAST OF BURNHAM DRIVE AT THE INTERSECTION WITH MCCORMICK CREEK DRIVE, IN CITY OF GIG HARBOR.

WHEREAS, RCW 36.70B.170 authorizes a local government and a person having ownership or control of real property within its jurisdiction to enter into a development agreement; and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by the local government planning under chapter 36.70A RCW (RCW 36.70B.170(1); and

WHEREAS, the City of Gig Harbor has adopted development regulations for development agreements in Chapter 19.08 of the Gig Harbor Municipal Code; and

WHEREAS, the Developer has a fee simple or other substantial beneficial interest in the real property totaling 52.17 acres, located northeast of Burnham Drive at the intersection with McCormick Creek Drive, Gig Harbor, Washington, which is legally

described in Exhibit A of the Development Agreement, attached hereto and incorporated herein by this reference; and

WHEREAS, on April 7, 2010 the City of Gig Harbor Hearing Examiner conditionally granted preliminary plat and preliminary planned residential development (PRD) to McCormick Creek LLC for a 185 subdivision and initially desired to develop and record the final plat in four separate phases; and

WHEREAS, pursuant to Resolution No. 832 adopted by the City Council on April 26, 2010, the City and McCormick Creek LLC entered into a Development Agreement, which was recorded in the real property records of Pierce County, Washington, under Auditor's File No. 201004290173; and

WHEREAS, pursuant to Resolution No. 858 adopted by the City Council on March 29, 2011, the City and McCormick Creek LLC terminated the first Development Agreement and entered into a new Development Agreement to allow a three phase schedule and to incorporate additional changes, which was recorded in the real property records of Pierce County, Washington, under Auditor's File No. 201104040155; and

WHEREAS, pursuant to Resolution No. 970 adopted by the City Council on July 29, 2014, the City approved Amendment No. 1 to the Development Agreement with McCormick Creek LLC, allowing the Planning Director to approve minor modifications to the preliminary plat and PRD that reduced the number of lots in the project and undertake a different phasing schedule, which was recorded in the real property records of Pierce County, Washington, under Auditor's File No. 201408070397; and

WHEREAS, on August 14, 2014 the Planning Director conditionally approved the minor modifications to the preliminary plat and PRD, reducing the total number of lots in

the project from 185 down to 160 (157 residential lots and 3 nonresidential lots) and made minor modifications to the park and open space tracts to accommodate the lot revisions; and

WHEREAS, pursuant to Resolution No. 1029 adopted by the City Council on March 14, 2016, the City approved the final plat and final PRD for McCormick Creek Phase 1, which was recorded in the real property records of Pierce County, Washington, under Auditor's File No. 201603225002; and

WHEREAS; pursuant to Resolution No. 1044 adopted by the City Council on September 26, 2016, the City approved the final plat and final PRD for McCormick Creek Phase 2, which was recorded in the real property records of Pierce County, Washington, under Auditor's File No. 201609305003; and

WHEREAS, on October 4, 2016, McCormick Creek LLC filed with the City a complete application for preliminary plat and PRD approval to revise Phase 3 of the project (PL-PPLAT-16-0003 and PL-PRD-16-0002) and a complete application for Amendment No. 2 to the Development Agreement (File No. PL-DEV-AGREE-16-0001); and

WHEREAS, the City's SEPA Responsible Official issued a Revised Mitigated Determination of Non-Significance (MDNS) for the McCormick Creek Preliminary Plat and PRD project (File No. PL-SEPA-16-0016), determining that the Phase 3 revisions would not have a probable significant adverse impact on the environment, provided the mitigation measures specified in the MDNS are imposed; and

WHEREAS, on August 3, 2017 the City of Gig Harbor Hearing Examiner held a public hearing on the underlying permits associated with Amendment No. 2 to the

Development Agreement and has forwarded a recommendation on the development agreement amendment, which is attached hereto as Exhibit A; and

WHEREAS, on September 25, 2017 the City Council held a public hearing on Amendment No. 2 to the Development Agreement during a regular public meeting and after considering the application, the staff report and all public testimony presented, requested the developer revise the proposed Amendment No. 2; and

WHEREAS, on November 13, 2017 the City Council held a public meeting to review and discuss a presentation by the developer's consultant on the proposed Amendment No. 2 to the Development Agreement during a regular public meeting and after considering the presentation, requested the developer revise the proposed Amendment No. 2; and

WHEREAS, on November 27, 2017 the City Council held a public hearing on Amendment No. 2 to the Development Agreement during a regular public meeting and after considering the developer's revisions, the staff report and all public testimony presented, requested the developer make minor revisions to the language of the proposed Amendment No. 2; and

WHEREAS, on December 11, 2017 the City Council held a public hearing on Amendment No. 2 to the Development Agreement during a regular public meeting and after considering the developer's revisions, the staff report and all public testimony presented, approved Amendment No. 2 to the Development Agreement attached hereto as Exhibit B; Now, Therefore,

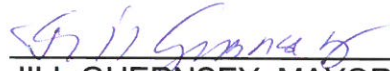
THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The City Council hereby authorizes the Mayor to execute Amendment No. 2 to the Development Agreement with McCormick Creek LLC attached hereto as Exhibit B.

Section 2. The City Council hereby directs the Planning Director to record Amendment No. 2 to the Development Agreement against the Property legally described in Exhibit A to the Development Agreement, at the cost of the applicant, pursuant to RCW 36.70B.190.

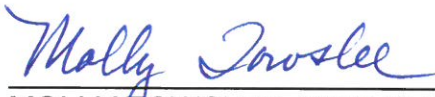
PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 11th day of December, 2017.

APPROVED:



JILL GUERNSEY, MAYOR

ATTEST/AUTHENTICATED:



MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY

BY: 

Angela G. Summerfield

FILED WITH THE CITY CLERK: 11/22/17
PASSED BY THE CITY COUNCIL: 12/11/17
RESOLUTION NO. 1104

Name & Return Address:

City Clerk
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Washington State Recorder's Cover Sheet (RCW 65.04) Please print legibly or type information.

Document Title(s)

Amendment No. 2 to McCormick Creek Development Agreement

Grantor(s)

CITY OF GIG HARBOR

Grantee(s)

McCormick Creek LLC

Legal Description

(Abbreviated: i.e., lot, block & subdivision name or number OR section/township/range and quarter/quarter section)

THE NORTH 80 FEET OF THAT PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2, EAST OF THE WILLAMETTE MERIDIAN LYING EASTERLY OF THE CITY OF TACOMA'S LAKE CUSHMAN ELECTRIC POWER LINE RIGHT OF WAY

Complete Legal Description on Page 8 of Document

Auditor's Reference Number(s)

201104040155 and 201408070397

Assessor's Property Tax Parcel/Account Number(s)

0222313076, 4003250030 through 4003250520, 4003250940 through 4003251010, 4003300010, 4003300530 through 4003301200

The Auditor/Recorder will rely on the information provided on this cover sheet.

Staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

**AMENDMENT NO. 2
TO THE DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF GIG HARBOR AND
MCCORMICK CREEK LLC FOR THE
MCCORMICK CREEK DEVELOPMENT**

THIS AMENDMENT NO. 2 to that certain Development Agreement by and between the City of Gig Harbor and McCormick Creek LLC for the McCormick Creek Development dated March 29, 2011, as amended by that certain Amendment 1 dated July 29, 2014 (the "Development Agreement") is made and entered into this 8th day of December, 2017, by and between the CITY OF GIG HARBOR, a Washington municipal corporation (the "City"), and MCCORMICK CREEK LLC, a Washington limited liability company ("Developer"), collectively referred to as the "parties."

WHEREAS, by Resolution No. 858, the City Council authorized the Mayor to sign the Development Agreement, recorded at Pierce County Auditor's File No. 201104040155, as subsequently amended on July 29, 2014 recorded at Pierce County Auditor's File No. 201408070397; and

WHEREAS, since the effective date of the Development Agreement, the Developer has determined it would like to change the number of lots in the Project, remove Lot 2 from Phase 1 and remove the storage lot from the development and incorporate a parking lot for public use, and has submitted an application for a minor plat revision, file number PL-PPLAT-16-0003, the approval of which is being held in abeyance until the City Council takes action on this Amendment No. 2 in accordance with section 19.08.040(B) of the Gig Harbor Municipal Code; and

WHEREAS, the Development Agreement requires additional revision in order to reflect the new tract and lot designations; and

WHEREAS, after a public hearing, by Resolution No. 1104, the City Council authorized the Mayor to sign this Amendment No. 2 to the Development Agreement with the Developer;

NOW, THEREFORE, the parties agree to further amend the Development Agreement as follows:

1. Section 1. The Project. Section 1 of the Development Agreement is hereby amended to read as follows:

Section 1. The Project. The Project is the development and use of the Property contemplated in this Agreement. The preliminary plat and PRD application and Hearing Examiner Decision originally described the Project as a preliminary plat and planned residential development resulting in a total of 185 lots, 18 individual wetland, stormwater and open space tracts and associated roads. As revised, and in addition to the wetland, stormwater, open space tracts and associated roads, the Project now results in ~~160 lots, with 157 of the lots proposed to be residential and three of the lots proposed to be nonresidential: one for office use, one for a mini storage type of development to serve the residents of the plat, and one lot that contains an existing church~~ 171 lots, with 170 of the lots proposed to be residential and one for public/private services use.

2. **Section 4. Exhibits.** Section 4 is hereby amended to delete Exhibit B-1, and replace it with Exhibit B-2, attached hereto and incorporated herein by this reference.

3. **Section 6. Term of Agreement.** Section 6(G) of the Development Agreement is hereby deleted.

4. **Section 11. Financing of Public Facilities.** Sections 11(A) and 11(C) of the Development Agreement, as previously amended, are hereby amended to read as follows:

A. Developer acknowledges and agrees that it shall ~~participate in the granting of~~ grant a non-exclusive wetland and public use easement over all of the areas shown as Tract I and ~~on Exhibit B~~ W on Exhibit B-2.

The easement over the areas shown as Tract I and ~~Tract J~~ Tract W shall be dedicated to the City within 60 days of the effective date of the Adopting Resolution approving this agreement.

The City acknowledges that portions of Tract I contain an existing vehicular access easement. The Developer shall remove and relocate the existing vehicular access no later than September 15, 2014 consistent with the plans set forth in Developer's clear and grade permit #EN-14-0011 issued on June 4, 2014. The Developer hereby acknowledges that such relocation is necessary as the City will be constructing the Cushman Trail Phase 4. In the event Developer fails to

move the road in a timely manner and such failure causes the City to suffer construction delay damages or other damages, the Developer shall be responsible for all costs associated with such damages, including but limited to the City's reasonable attorneys' fees associated with such damages. The City acknowledges the vehicular access that was previously in Tract I has been removed as required above and the wetland mitigation for Road 1 has also been completed to the City's satisfaction.

The Developer acknowledges that wetland mitigation for Road 1 improvements will continue to be the Developer's responsibility and must be completed prior to recording the final plat for phase 1. The City's easement over Tract I and Tract W shall not restrict the Developer's plans for wetland mitigation of Road 1 as depicted in the approved conceptual wetland mitigation plans.

The Developer acknowledges that the wetland monitoring and maintenance will continue to be the Developer's responsibility until such time that the wetlands are deeded to the city.

* * *

C. Within 90 days of final plat recording for Phase 3, Developer shall grant fee ownership of ~~Tract I~~ Tract W to the City.

5. Section 13. Phasing of Development. Sections 13(B)(3) and 13(D) of the Development Agreement are hereby amended to read as follows:

B. Phasing.

....

3. Phase 3:

a. Street Improvements. The Developer shall construct and dedicate to the City Roads 2, 3, 10 and 11.

b. Potable Water and Fire Flow Facilities. The Developer shall construct an extension of the water line to the proposed lots within the phase.

c. Sewer Facilities. The Developer shall construct an extension of the sewer line to proposed lots within the phase.

d. Utilities. The Developer shall extend other utilities as necessary to the proposed lots within the phase. ~~Developer shall construct the storm facility shown on the plans as Tract Q~~ an underground storm facility and public-use parking lot on Lot 1, and all associated appurtenances per the Preliminary Plan Set. The existing storm pond on Tract Y shall remain as constructed.

e. Parks and Open Space. The Developer shall construct improvements, as shown in the Preliminary Plan Set, to Open Space Tracts E, J, ~~P and R~~ Q, R and Z. The Developer shall construct a parking lot on Lot 1 for Cushman Trail parking, Little League overflow parking and parking for any school bus stop. The parking lot shall be open at no charge to residents of the plat and the public alike.

McCormick Creek Homeowner's Association shall own and maintain, in perpetuity, the parking lot over Lot 1 and the storm facilities. In addition, the Developer shall construct as part of Phase 3 the following parking lot amenities:

- A 5.5' wide, ADA accessible and compliant, concrete sidewalk from the parking lot to the Cushman Trail;
- LED parking lot lighting that satisfies City code;
- Parking lot screening that satisfies Enhancement Corridor standards along the Cushman Trail property line of Lot 1 and landscaping that satisfies the requirements of the City's landscaping code for the remainder of the parking lot.

Developer shall also install a colored and patterned in-pavement crosswalk with Rectangular Rapid Flashing Beacon (RRFB) crosswalk lighting system, satisfying City Public Works Standards, across McCormick Creek Drive from the parking lot to Road 11 in Phase 3.

The parking lot schematic layout included as Exhibit C is shown as preliminary and may be adjusted during final design, including changes to the number of parking stalls only if necessary to accommodate landscaping, utilities, grading or other City requirements.

f. Maintenance. The Developer shall remove the invasive species from the existing detention pond located on Tract Y and shall paint the existing pond wall in an earthen color, such as brown or green. Further long-term maintenance of the pond shall be the responsibility of the McCormick Creek Homeowner's Association and shall be in perpetuity.

* * *

D. All improvements shall be constructed in accordance with the Preliminary Plan Set, the City of Gig Harbor Public Works Standards and engineering industry standards approved by the City of Gig Harbor. Construction of the street, potable water, sewer and utility improvements shall not be considered complete until the improvements have been accepted by the City in writing. Phases referred to above are to be as shown on the phasing plan, attached as ~~Exhibit B-1~~ Exhibit B-2 to this Agreement.

EXCEPT AS EXPRESSLY MODIFIED BY THIS AMENDMENT, ALL TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 2 to be executed as of the dates set forth below:

McCORMICK CREEK LLC

By: Bryan Stone
Its: Mar

CITY OF GIG HARBOR

By: Jill Guernsey
Mayor Jill Guernsey

ATTEST:

Molly M. Towslee
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

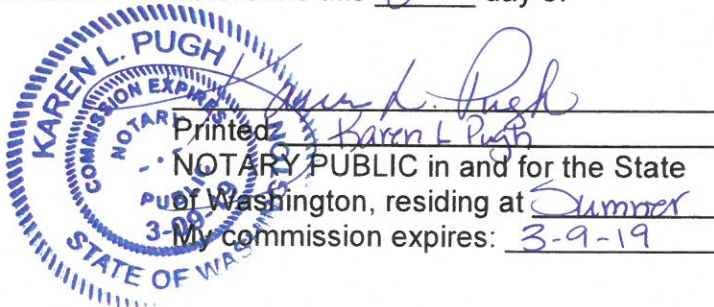
Angela G. Summerfield
Angela G. Summerfield

[Notaries on following page.]

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this 8th day of December, 2017, before me personally appeared Bryan Stow to me known to be the Managing Member of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

SUBSCRIBED AND SWORN TO before me this 8th day of December, 2017.



STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this 11th day of December, 2017, before me personally appeared Jill Guernsey, to me known to be the Mayor of Gig Harbor, the entity that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument.

SUBSCRIBED AND SWORN TO before me this 11th day of December, 2017.

Shawna Wise
Printed: Shawna Wise
NOTARY PUBLIC in and for the State
of Washington, residing at Gig Harbor
My commission expires: 7-16-18

LEGAL DESCRIPTION

McCORMICK CREEK PLAT AND PRD PHASE 1:

Lots 3 through 52, 94, 95 and Tracts A, B, C, D, F, H, S, T, U, V, W, X and Y, McCormick Creek Plat and PRD Phase 1, recorded under Auditor's File No. 201603225002;

TOGETHER WITH AND SUBJECT TO: Record of Survey for Partial Plat Vacation, McCormick Creek Plat and PRD Phase 1, recorded under Auditor's File No. 201705185001, records of Pierce County, Washington.

McCORMICK CREEK PLAT AND PRD PHASE 2:

Lots 1, 53 through 93, and 96 through 118 and Tracts G, I, K, L, M, N, O and P, McCormick Creek Plat and PRD Phase 2, recorded under Auditor's File No. 201609305003, records of Pierce County, Washington.

McCORMICK CREEK PLAT AND PRD PHASE 3:

Tract S, U and W, McCormick Creek Plat and PRD Phase 1, recorded under Auditor's File No. 201603225002, records of Pierce County, Washington;

TOGETHER WITH: Partial Vacation McCormick Creek Drive as described on Record of Survey for Partial Plat Vacation, McCormick Creek Plat and PRD Phase 1, recorded under Auditor's File No. 201705185001, records of Pierce County, Washington.

Project: McCormick Creek
Job No. 14830
August 28, 2017

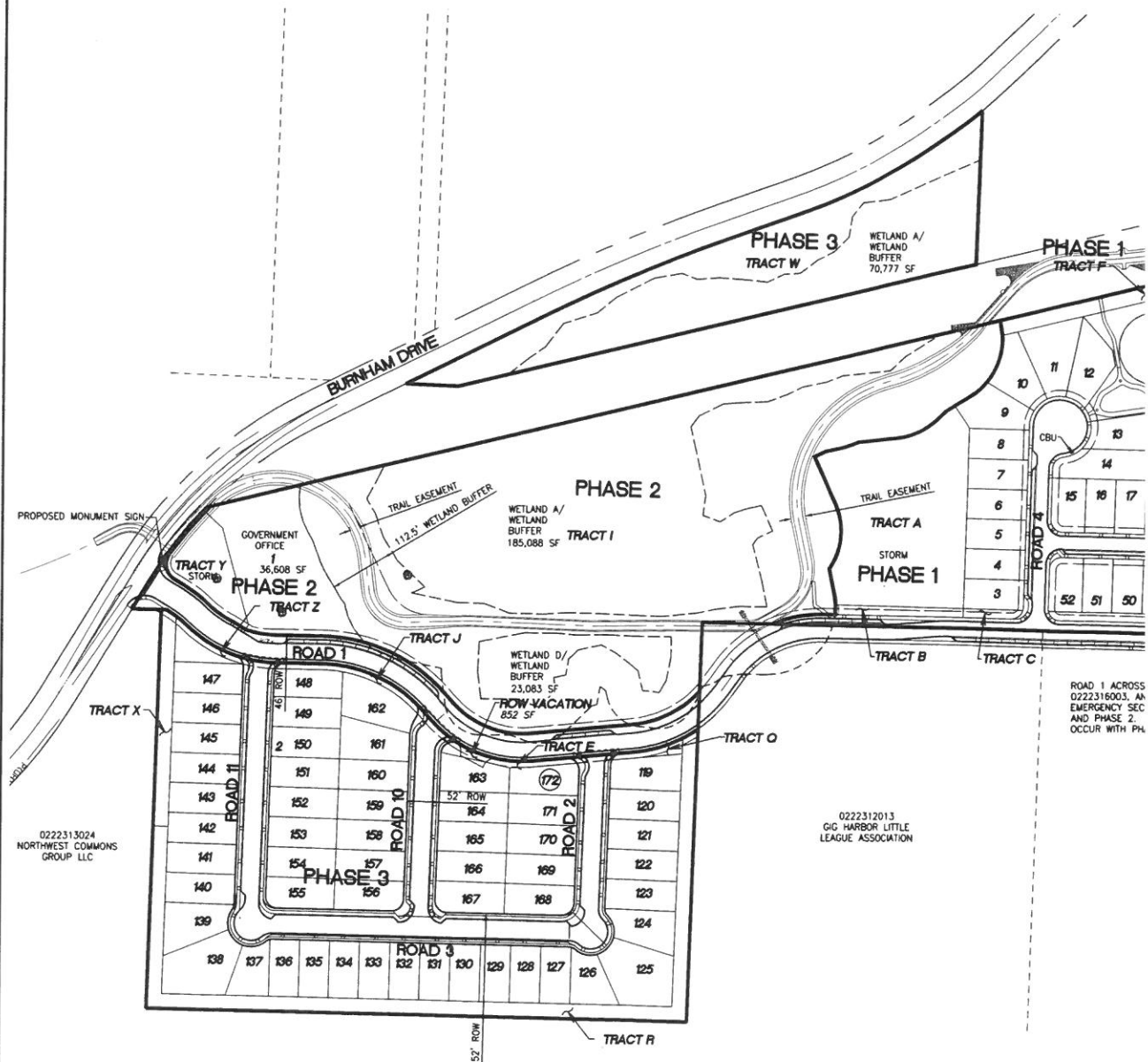
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EXHIBIT A Amendment No. 2 to McCormick Creek LLC Development Agreement PL-DEV-AGREE-16-0001



A PORTION OF THE W. 1/2 OF SECT. 31,
CITY OF GIG HARBOR, PIERCE CC

	GROSS AREA (SQ. FT.)	ROADS (SQ. FT.)	WETLANDS (SQ. FT.)	NET DEVELOPABLE AREA (SQ. FT.)	PROPOSED LOTS	DENSITY (DU/AC)	CUMULATIVE DENSITY (DU/AC)	INFRASTRUCTURE
PHASE 1	630,454	156,067	0	474,387	52	4.77	4.77	ROAD 1, 4, 5 AND PORTION OF ROAD 6 STORM FACILITY CONSTRUCTED.
PHASE 2	967,883	107,044	208,171	652,668	64	4.27	4.48	CONTINUATION OF ROAD 1 AND 6, ALL CONSTRUCTED
PHASE 3	674,187	87,087	96,218	490,882	54	4.79	4.58	ROAD 2 AND 3 CONSTRUCTED; STORM FACILITY
TOTAL	2,272,524	350,198	304,389	1,617,937	170	4.58	4.58	

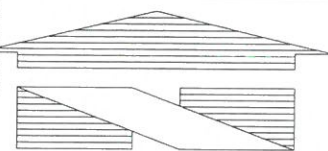


File:P:\14000s\exhibit\Phase 3\Exhibits\14830-Lot 1 SITE PLAN.dwg Date/Time: 12/5/2017 10:32 AM Scale: 1" = 1'

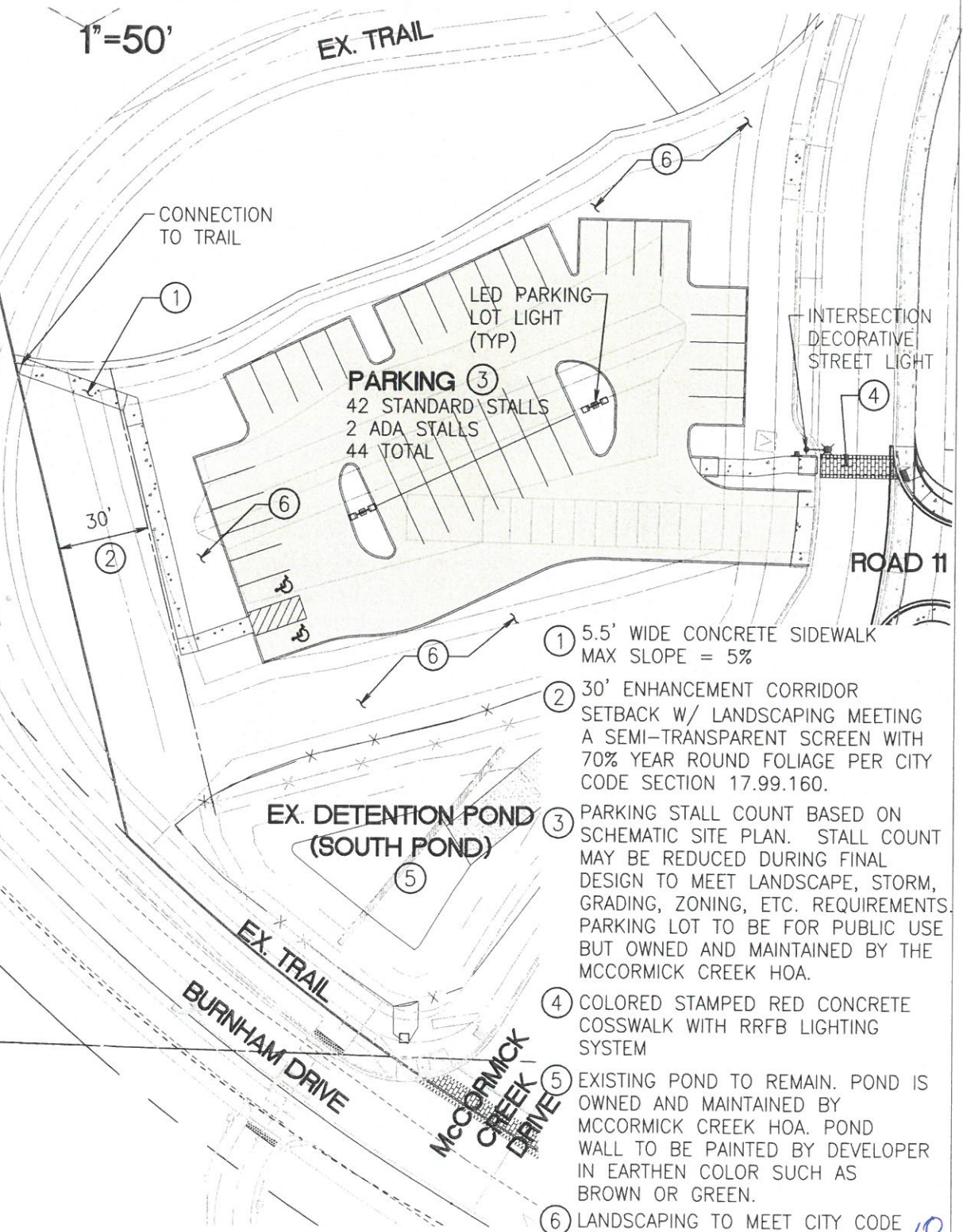
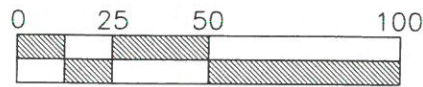
KHARRIS

SCHEMATIC SITE PLAN

EXHIBIT C



1"=50'



EX. TRAIL

CONNECTION TO TRAIL

LED PARKING LOT LIGHT (TYP)

PARKING ③
42 STANDARD STALLS
2 ADA STALLS
44 TOTAL

INTERSECTION DECORATIVE STREET LIGHT

ROAD 11

EX. DETENTION POND (SOUTH POND)

EX. TRAIL

BURNHAM DRIVE

MCCORMICK CREEK DRIVE

- ① 5.5' WIDE CONCRETE SIDEWALK
MAX SLOPE = 5%
- ② 30' ENHANCEMENT CORRIDOR
SETBACK W/ LANDSCAPING MEETING
A SEMI-TRANSPARENT SCREEN WITH
70% YEAR ROUND FOLIAGE PER CITY
CODE SECTION 17.99.160.
- ③ PARKING STALL COUNT BASED ON
SCHEMATIC SITE PLAN. STALL COUNT
MAY BE REDUCED DURING FINAL
DESIGN TO MEET LANDSCAPE, STORM,
GRADING, ZONING, ETC. REQUIREMENTS.
PARKING LOT TO BE FOR PUBLIC USE
BUT OWNED AND MAINTAINED BY THE
MCCORMICK CREEK HOA.
- ④ COLORED STAMPED RED CONCRETE
CROSSWALK WITH RRFB LIGHTING
SYSTEM
- ⑤ EXISTING POND TO REMAIN. POND IS
OWNED AND MAINTAINED BY
MCCORMICK CREEK HOA. POND
WALL TO BE PAINTED BY DEVELOPER
IN EARTHEN COLOR SUCH AS
BROWN OR GREEN.
- ⑥ LANDSCAPING TO MEET CITY CODE 10



December 5, 2017
EMAIL DELIVERY

City Council
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

RE: Developer's Agreement Amendment No. 2
McCormick Creek Plat/PRD Phase 3
Our Job No. 14830

Dear City Council Members:

On behalf of McCormick Creek LLC, we are re-submitting the Developer's Agreement Amendment No. 2 for the McCormick Creek Development for your review and comment.

Amendment No. 2 is to remove the church and private storage area from the residential plat PRD proposal. In order to mitigate the perceived negative impacts to the public that were made by removing these two uses from the PRD, the City Council is requesting that a public parking lot be incorporated into the plat design. This parking lot will be for public use at no charge, but will be owned and maintained by the McCormick Creek Homeowner's Association. The parking lot will serve as parking for the Cushman Trail, overflow parking from the Little League ball fields, and as a drop-off parking lot for the school bus stop on Burnham Drive.

The proposed parking lot will be located on Lot 1, which was previously designated as a government office lot and will now be designated as public/private services. Lot 1 is currently the location of a detention pond for Phase 3 of the residential plat, which will be converted to underground detention to accommodate the parking lot. The schematic parking lot is designed to incorporate many features to generously serve the public needs and to meet the City of Gig Harbor requirements. A 30-foot enhancement corridor will be provided along the west side of the parking lot adjacent to the Cushman Trail. The landscaping in this zone will be designed to meet the enhanced corridor requirements, including trees and shrubs that will provide a semi-transparent screen consisting of at least 70 percent year-round foliage. Outside of this buffer, a 5.5-foot-wide ADA accessible and compliant concrete sidewalk will be constructed to connect the parking lot to the existing Cushman Trail. Perimeter and parking lot island landscaping will be included in the design plans to meet City requirements. The attached schematic parking lot design currently includes 44 parking stalls (42 standard stalls and 2 ADA stalls). The current design is preliminary and the parking lot count may decrease in order to meet other requirements, such as landscaping, grading, utilities, zoning, etc. In addition to the parking lot, a colored and patterned in-pavement crosswalk with a Rectangular Rapid Flashing Beacon (RRFB) crosswalk lighting system will be added across McCormick Creek Drive to connect this parking lot to the proposed Phase 3 Road 11. Lighting will be incorporated both within the parking lot and at the crosswalk to promote pedestrian safety. This parking lot will be constructed by the project developer at an estimated cost of \$300,000. This cost does not include the revisions that will be required to provide redesigned storm facilities for Phase 3 that are estimated at an additional \$100,000. Finally, it does not include the land value, which is approximately \$400,000.

The City has expressed concern about the aesthetics of the existing detention pond located at the corner of McCormick Creek Drive and Burnham Drive. This pond was designed, approved and constructed as part of the Phase 1 improvements and is owned and maintained by the McCormick Creek Homeowner's Association. The developer agrees to remove the invasive plant species and to paint the existing pond wall in an earthen color such as brown or green. Painting the wall will reduce the visual impact of the wall and better incorporate it into the environment. It is infeasible to add an additional parking lot over this existing pond. Because it was constructed as part of Phase 1, it is already owned by the McCormick Creek Homeowner's Association and it cannot be redesigned/redeveloped by the developer. The proposed parking lot shown on the enclosed Exhibit C will have grades that are approximately 14 feet higher than the existing top of pond elevation. The cost

associated with filling the existing pond, re-grading the site, revising the storm detention, water quality, and conveyance design for Phase 1 is cost prohibitive and ownership issues make parking over the existing pond on Tract Y infeasible for this development.

The City Council has asked why sidewalk was not required along the wetland tracts adjacent to Burnham Drive. The parcel located on the west side of the Tacoma Public Utilities property is currently owned by McCormick Creek LLC. This area is designated on the Phase 1 plat map as Tract W. It is designated as a wetland and wetland buffer and is required to be deeded to the City of Gig Harbor as part of the original Development Agreement. A conservation easement recorded in 2007 covers the entire parcel. During early plat negotiations between the project developer and the City, Cushman Trail was to be constructed along Burnham Drive to the proposed project spine road (McCormick Creek Drive). It was determined that Cushman Trail would be the main pedestrian access and would eliminate the need for additional sidewalk on the east side of Burnham Drive and the west side of McCormick Creek Drive. Burnham Drive is also designated for improvement in the City's 6-year Transportation Improvement Plan (TIP). Additional frontage needs along Tract W, if necessary, can be incorporated into the future City improvements. Because of the sensitive area designation and the other noted factors, no frontage improvements to Burnham Drive were required by this plat proposal except to incorporate the left-turn pocket for McCormick Creek Drive. The McCormick Creek plat developer is already proposing a \$300,000 improvement for public use and the good of the community in the proposed parking lot. This cost does not include the cost of the land or the additional storm improvement costs that will be required. Adding a sidewalk along Burnham Drive, that does not provide a direct public benefit, is cost prohibitive to the development and is not proposed as part of the Phase 3 improvements.

The schematic site plan is attached for review, as well as a colored site plan showing the proposed concept. The schematic site plan will be included as Exhibit C and recorded with the Developer's Agreement Amendment No. 2.

This parking lot proposal, at the developer's expense, mitigates any perceived loss of public benefit from the removal of the church lot and private storage area from the plat. If you have any questions or need additional information, please contact me at this office.

Sincerely,



Jason Hubbell, P.E.
Senior Project Engineer

JH/ca
14830c.079.doc
enc: As Noted
cc: Bryan Stowe, McCormick Creek LLC (w/enc via efile)
Karen E. Harris, Barghausen Consulting Engineers, Inc.

EXHIBIT A

RECEIVED BY
AUG 21 2017
CITY OF GIG HARBOR

August 18, 2017


McCormick Creek, LLC
Attn: Bryan Stowe
P.O. Box 1054
Sumner, WA 98390

**RE: PL-PPLAT-16-0003, PL-PRD-16-0002, PL-DR-16-0169
PL-SEPA-16-0016 and PL-DEV-AGREE-16-0001
McCormick Creek Preliminary Plat and
Planned Residential Development Phase 3**

Dear Applicant:

Transmitted herewith is the Report and Recommendation of the City of Gig Harbor
Hearing Examiner regarding your request for the above-entitled matter.

Very truly yours,


STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

SKC/jjp
cc: Parties of Record

OFFICE OF THE HEARING EXAMINER

CITY OF GIG HARBOR

REPORT AND RECOMMENDATION

CASE NO.: PL-PPLAT-16-0003, PL-PRD-16-0002, PL-DR-16-0169,
PL-SEPA-16-0016 and PL-DEV-AGREE-16-0001
McCormick Creek Preliminary Plat and
Planned Residential Development Phase 3

APPLICANT/ OWNER: McCormick Creek, LLC
Attn: Bryan Stowe
P.O. Box 1054
Sumner, WA 98390

AGENT: Barghausen Consulting Engineers, Inc.
Attn: Jason Hubbell, P.E.
18215-72nd Avenue South
Kent, WA 98032

PLANNER: Kenneth George, Associate Planner

SUMMARY OF REQUEST:

Revision to the previously approved McCormick Creek preliminary plat and planned residential development that proposes 170 single family residential lots and one nonresidential lot. The original McCormick Creek subdivision received approval on April 7, 2010, for a phased development of 182 residential lots and 3 nonresidential lots. A subsequent minor preliminary plat revision approved a reduction in the number of lots to 157 residential and 3 nonresidential. Phases 1 and 2 have been completed and recorded. This proposal will modify the number of lots and street configurations for Phase 3 that includes approximately 15.48 acres. The applicant proposes 54 residential lots and related site improvements. The revision requires an amendment to the Development Agreement covering McCormick Creek to increase the number of lots in Phase 3; remove two of the approved nonresidential developments (residential mini-storage lot and the church lot); and to otherwise revise Phase 3. The site is located on the east side of McCormick Creek Drive (formerly 50th Avenue N.W.), approximately 500 feet north of intersection with Burnham Drive N.W.

SUMMARY OF RECOMMENDATION:

Approval of the proposed amendments to the Development Agreement.

DATE OF RECOMMENDATION:

August 18, 2017

PUBLIC HEARING:

After reviewing the Planning Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on August 3, 2017, at 1:30 p.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1" - Community Development Department Staff Report
- EXHIBIT "2" - McCormick Creek Preliminary Plat/PRD Phasing Map
- EXHIBIT "3" - McCormick Creek Preliminary Plat Plan Set C1-C29
- EXHIBIT "4" - Tree Protection, Landscape, and Irrigation Plan Set L1-L9
- EXHIBIT "5" - Existing Significant Tree Inventory Plan
- EXHIBIT "6" - Written Response to PRD Criteria from Barghausen
- EXHIBIT "7" - Revised Mitigation Determination of Nonsignificance
- EXHIBIT "8" - Geotechnical Engineering Report from GeoResources, LLC
- EXHIBIT "9" - Email from Steve Misiurak to Kenneth George
- EXHIBIT "10" - Original Preliminary Plat and Preliminary PRD Decision 4-7-10
- EXHIBIT "11" - Draft Covenants, Second Amendment to Declaration of Covenants, Conditions, and Restrictions for McCormick Creek
- EXHIBIT "12" - Spreadsheet of McCormick Creek Plat Phases 1-3 Impervious Coverage from Barghausen
- EXHIBIT "13" - Notice of Administrative Decision
- EXHIBIT "14" - Critical Area Assessment from Sewall Wetland Consulting, Inc.
- EXHIBIT "15" - Original Wetland Mitigation Plan
- EXHIBIT "16" - Letter from DOE
- EXHIBIT "17" - Draft Amendment 2 to Development Agreement, Amendment 1, and the Original Development Agreement by and Between the City and McCormick Creek
- EXHIBIT "18" - Memorandum from Trent Ward, Senior Engineer
- EXHIBIT "19" - Staff Report of Original Decision dated 3-25-10
- EXHIBIT "20" - Minor Preliminary Plat Revision, Administrative Approval
- EXHIBIT "21" - Approved Traffic Certificate of Reservation

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

KENNITH GEORGE appeared, presented the Community Development Department Staff Report, and testified that the request is to revise the Decision approving McCormick Creek issued in 2010 and subsequent minor revision issued in 2014. The applicant now proposes to increase the previously approved 157 lot subdivision to 170 residential lots and one nonresidential lot. Phases 1 and 2 have been approved and recorded. Phase 3 includes approximately 15.48 acres that will be subdivided into 54 residential lots. According to code, if an application revision is not minor, then the applicant must submit a new subdivision application as well as a new application for a PRD. In addition the Examiner must make a recommendation to the City Council regarding proposed amendments to the development agreement. The Examiner holds the final decision until such time as the City Council takes action on the agreement. In the present case the applicant proposes no substantial amendment to the development agreement, and any changes are basically a cleanup. The SEPA review is final as the responsible official issued a MDNS. The proposal maintains the approved density, but requests a slight difference in the structural setbacks. The revised preliminary plat generally conforms to all criteria.

JASON HUBBELL, appeared on behalf of the request and testified that he has reviewed conditions of approval, agrees with all, has no questions or concerns.

TRENT WARD, City engineer, appeared and testified that the east boundary of the plat did about the gun club.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at p.m.

NOTE: A complete record of this hearing is available in the office of the City of Gig Harbor Planning Department.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. The City issued a Revised Mitigated Determination of Non-Significance (MDNS) on June 1, 2017. The revised MDNS considered the entire McCormick Creek Plat/PRD Phases 1 through 3 and adopted existing environmental documents. The revised MDNS was also specific to Phase 3 as it removed SEPA conditions completed with

Phases 1 and 2, and added mitigating measures related to the proposed changes. No appeals of the MDNS were filed.

3. Legal notice of the proposed action was published in the Peninsula Gateway on October 13, 2016 (the Notice of Application). In addition, notice was mailed to all interested parties and property owners within 300 feet of the subject site on October 13, 2016. Notice was also posted on the subject site on October 13, 2016. The date of the scheduled hearing was published in the Peninsula Gateway on July 20, 2017. In addition, notice was mailed to all property owners within 300 feet of the subject site on July 20, 2017. Notice was also posted on the subject site on July 19, 2017.
4. The applicant requests a revision to the previously approved McCormick Creek preliminary plat and planned residential development (PRD) and an amendment to the Development Agreement (DA) executed by the City of Gig Harbor and the McCormick Creek, LLC, for the overall McCormick Creek development (Exhibit 17). The McCormick Creek subdivision received its original approval on April 7, 2010, that authorized 182 residential lots and three nonresidential lots. The City subsequently, administratively approved a reduction in the total number of lots to 157 residential and three nonresidential. The City also approved a three phase development for the overall subdivision, and Phases 1 and 2 have been completed and recorded. The applicant now requests revisions to Phase 3 due to the previously approved vacation of Lot 2 that was improved with a church. The applicant previously received approval to add Lot 2 to Phase 3. Furthermore, the applicant proposes to add a second, nonresidential lot previously approved for a private mini-storage facility. Phase 3 now contains 15.48 acres and the applicant proposes to subdivide the site into 54 single-family residential lots that would result in a density of 4.79 dwelling units per acre. If approved, the new density for the overall plat/PRD would calculate to 4.58 dwelling units per acre. The original McCormick Creek plat/PRD was approved with a density bonus of 20 percent that allows a maximum, overall density of 4.80 dwelling units per acre. Thus, the increase of 13 lots proposed for the Phase 3 revision will not cause the overall plat/PRD to exceed the originally approved density.
5. Of the three nonresidential lots approved within McCormick Creek, two will now be improved with single-family residential homes (previously approved for church and mini-storage), and the third lot will be improved with the Phase 3 stormwater facilities. Phase 3 consists of a generally rectangular parcel abutting the east side of McCormick Creek Drive, northeast of its intersection with Burnham Drive. The storm drainage facility is located at the northwest corner of said intersection, and the former church parcel is located on the opposite side of McCormick Creek Drive therefrom.
6. To accomplish the requested changes the applicant must obtain an amendment of the DA. However, the proposed amendments are minor in nature and represent a

“cleanup” of the DA presently in effect (Exhibit 17). The amendments primarily provide the correct designations of tracts; delete the term of the agreement (Section 11); and amend the phasing for public utilities, streets and parks/open space (Section 13).

7. The preliminary plat map shows three, separate, internal, plat roads extending south from McCormick Creek Drive and a road parallel therewith connecting the three said roads. Such provides a looped road system and internal access to all lots. The map also shows a 25 foot wide, uninterrupted, perimeter buffer along the south, east, and north property lines and street trees and a landscape strip along McCormick Creek Drive across the plat frontage. A large wetland is located on the west side of McCormick Creek Drive, and two wetland recharge areas extend west between and alongside plat lots to the wetland.
8. The site contains rolling topography with slopes ranging from five to 15 percent except in the area of the church parcel where the building pad was graded. A small section of said location has a 40 percent slope. Vegetation consists of mature, deciduous and evergreen trees, except in the areas of the former church and existing soccer field. The two wetlands located in the western portion of the site were delineated as part of the original McCormick Creek mitigation plan. The portion of the site proposed for development is not impacted by either wetlands or buffers.
9. The Phase 3 site is located within the Single-Family Residential (R-1) zone classification of the Gig Harbor Municipal Code (GHMC) with a Mixed Use District Overlay (MUD) and previously approved for a PRD. Zoning on abutting parcels is R-1 to the east, west, south and Public Institutional District (PI) to the north. Abutting uses include an athletic field to the north, firearms range to the east, vacant property to the south, and the stormwater pond and wetland to the west. The City of Gig Harbor Comprehensive Plan designates the site and area as Mixed Use. While single-family residential homes are not listed as intended uses within the Mixed Use designation, said designation is intended to provide economic diversity and multi-family housing opportunities near transit routes and business activities. Transit routes currently exist on Burnham Drive and McCormick Creek Drive and the site is in close proximity to major employment opportunities in Gig Harbor North. The overall project limits development within open space/preservation areas, and at the same time provides increased housing opportunities at a bonus density. The plat/PRD is generally consistent with the Comprehensive Plan, especially considering the bonus density.
10. The R-1 zone classification authorizes a maximum density of 4.0 dwelling units per acre. However, the McCormick Creek PRD was approved with a bonus density of 20 percent, or 4.8 dwelling units per acre. The Phase 3 density proposed by the applicant calculates to 4.58 dwelling units per acre, well within the maximum authorized.

11. Section 17.16.060 GHMC sets forth bulk development standards for lot width, structural setbacks, and maximum hard surface coverage. The project complies with the minimum lot width of .7 percent of the lot area in linear feet as shown and described on page 9 of the Staff Report. The R-1 classification requires minimum structural setbacks from the front property line of house 20 feet, porch 12 feet, garage 26 feet; from the rear property line of 30 feet; and from the side property line(s) of eight feet. The original McCormick Creek plat/PRD was approved with modified setbacks of 20 feet front, ten feet rear, and three feet side. The applicant proposes setbacks pursuant to the PRD for Phase 3 as follows: front yard, house, 15 feet; porch, 15 feet; garage, 20 feet; rear yard, ten feet, except 15 feet for Lots 119-124; side yard, three feet. Concerning maximum impervious coverage, the original PRD allows impervious surface coverage of individual lots to exceed the 40 percent maximum, provided, that the overall coverage of the PRD does not exceed 40 percent. Adding the existing coverage in Phases 1 and 2 to an estimated average of 3,000 square feet of individual lot coverage for each of the 54 lots in Phase 3, the impervious area coverage calculates to 39.9 percent. Therefore, individual lots may exceed the 40 percent impervious surface requirement, but the impervious coverage related to houses cannot exceed 162,000 square feet. Staff recommends a condition ensuring compliance with these calculations.
12. In accordance with GHMC 17.78 the project site shows a 25 foot wide, perimeter buffer. Furthermore, the applicant will retain all significant vegetation within said buffer areas and will provide a ten foot wide, "no construction zone" adjacent thereto.
13. Prior to obtaining preliminary plat approval the applicant must show that the request satisfies the criteria set forth in GHMC 16.05.003. It is initially noted that the applicant previously received preliminary plat/PRD approval for Phase 3 as part of the overall McCormick Creek plat/PRD approval. The revised Phase 3 plat also satisfies the criteria set forth in GHMC 16.05.003 as it complies and conforms with Chapter 16.08 GHMC for the reasons set forth in the Staff Report. The plat also makes appropriate provision for open spaces in accordance with the R-1 zone and PRD requirements as it will maintain a total of 20.71 acres or approximately 39.7 percent of the buildable area of the plat as open spaces. Such includes an internal trail system, open space park, and/or active and passive recreation. The plat will comply with City Public Works standards and the Stormwater Design Manual and will therefore make appropriate provision for drainage ways. The offsite detention pond will be privately owned and maintained by the homeowners association. The applicant will construct internal plat roads to City public road standards and all lots will access onto internal plat roads. The applicant submitted a Traffic Impact Analysis (TIA) that anticipates that the plat will generate 109 p.m. peak hour trips. Adequate entering and stopping sight distance is available at all intersections of the internal plat roads and McCormick Creek Drive. All impacted intersections will operate at an acceptable level of service (LOS). The plat will connect to the City water and sewer systems, and Pierce Transit made no requests for transit facilities.

The applicant will comply with the City School Impact Fee Ordinance at building permit stage. City street standards require a network of sidewalks within the plat and along McCormick Creek Drive. Compliance with conditions of approval will ensure that the proposed plat will not harm the public health, safety, and general welfare. Approval of the plat will serve the public use and interest by providing an attractive location for a single-family residential subdivision convenient to transit service and significant employment opportunities.

14. For the reasons set forth on pages 26-29 of the Staff Report the request for preliminary plat approval also satisfies all general requirements for subdivision approval set forth in GHMC 16.08.001.
15. The applicant requests PRD approval to modify setback and possibly impervious lot coverage requirements from the originally approved McCormick Creek plat/PRD. Staff has evaluated all applicable PRD criteria set forth in Chapter 17.89 GHMC on pages 12-16 of the Staff Report. The Examiner hereby incorporates staff's evaluations by this reference as if set forth in full.
16. Prior to obtaining approval of a preliminary PRD the applicant must show that the request satisfies the criteria set forth in GHMC 17.89.070. Again, the applicant previously obtained approval of a PRD for the overall McCormick Creek project, and staff's discussion on pages 29-36 of the Staff Report accurately evaluate all criteria set forth therein. The Examiner hereby adopts by this reference as if set forth in full all of staff's findings and evaluations of said criteria.
17. The project underwent administrative review for all categories of design review as set forth in Administrative Decision DRB-07-0011 issued by the City on August 22, 2008 (Exhibit 13). Said decision concluded that the initial preliminary plat/PRD of McCormick Creek met all applicable standards in the design manual, and no appeals of the decision were submitted. The current application for preliminary plat and PRD revisions to Phase 3 received 100 percent administrative review. The review determined the proposed plat/PRD complied with all specific requirements of the design manual.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and make recommendations on the issues presented by this request.
2. The applicant has shown that the request for preliminary plat approval, PRD approval, design review approval, and for an amendment to the development agreement satisfy all criteria set forth in the GHMC. Therefore, the Development Agreement should be amended as proposed, assuming imposition of the following conditions of approval:
 1. All perimeter landscape and screening buffers shall be vegetated to meet the requirements for residential plats. The buffer shall consist of a dense vegetated screen, as defined by Gig Harbor Municipal Code, along the perimeter of the plat. All evergreen and deciduous trees proposed to be planted within Tract R shall be a minimum of 6' in height. This requirement shall be met prior to approval of the final plat.
 2. Development shall comply with all mitigation measures found the Revised MDNS (PL-SEPA-16-0016) issued for the project (or as amended through any subsequent environmental review process).
 3. The owner shall ensure that all recommended requirements of the Geotechnical Engineering report, prepared by GeoResources LLC, dated September 6, 2016 are implemented, or as otherwise amended by updated reports.
 4. Prior to the issuance of each building permit for Phase 3 of the plat/PRD, a running total that calculates the total impervious surface coverage, to include the building permit being applied for, shall be submitted to the Planning Department by each lot owner for review and confirmation that the plat/PRD maintains compliance with maximum impervious coverage requirements.
 5. Prior to the inspection of the tree protection barricade by the Planning Department, the applicant shall provide a qualified arborist report that contain extra precautions for the construction activities within the drip line of trees to be retained.
 6. The required perimeter buffers shall be established as a covenant on the final plat and labeled to match their requirement as a Perimeter Buffer.
 7. The applicant shall provide to the City both a final record drawing and a final record survey of the proposed development, each in both Mylar format and digital format. These drawings shall be provided after the City accepts the construction improvements shown on the civil plans but prior to any certificate

of occupancy for any buildings or structures located on the site plan. The digital format of the drawings shall be in AutoCAD version 2008 or older and included all improvements in the right of way and all stormwater, water, and sewer utilities. The horizontal datum shall be NAD 1983 HARN State Plane South FIPS 4602 feet, or as otherwise approved by the City. The vertical datum shall be NGVD 29, or as otherwise approved by the City.

8. Proposed water and sewer utilities designs, stormwater facility designs, and roadway designs shall conform to the City's Public Works Standards and Stormwater Design Manual. These Standards also address specific City design requirements such as restoration of the City right of way and traffic control.
9. Erosion shall be controlled throughout the construction of the project per the City's Public Works Standards and Stormwater Design Manual.
10. City forces may remove any traffic control device constructed within the City right of way not approved by this division. Any liability incurred by the city due to non-conformance by the applicant shall be transferred to the applicant.
11. Permanent survey control monuments shall be placed to establish public street centerlines intersection, angle point, curves, subdivision boundaries and other point of control. A minimum of two permanent survey control monuments shall be installed at locations determined by the City in accordance with the City's Public Works Standards and recorded with the Pierce County Auditor prior to final engineering approval of civil improvements.
12. Site distance at all access points shall meet the minimum requirements of the AASHTO "Geometric Design of Highways and Streets," most current version. The property owner is responsible to maintain the minimum site distance.
13. Irrigation and maintenance of landscaping within the public right of way shall be the responsibility of the property owner(s) or it's heirs or assigns.
14. The owner is required to execute a Stormwater Covenant acceptable to the City Attorney on Lot 1 (Government Office) of McCormick Creek Plat & PRD Phase 2 recorded at Auditor's File No. 201609305003, providing for the right for all lot owners of Phase 3 to direct stormwater drainage from the plat (both from public property and private property) to the area on Lot 1 (Government Office) depicted on Phase 2 of McCormick Creek Plat & PRD, for the purposes of a stormwater detention facility compliant with the City's Public Works Standards. Stormwater and/or drainage easements also shall be

granted to the City for the inspection of utilities and drainage facilities. No encroachment will be placed within the easements that may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the property owner(s) or its heirs or assigns, as noted under the recorded stormwater covenant. The covenant shall set forth the obligations for maintenance, operation and repair, and further authorizing the City to enter upon the property for purposes of inspection and/or repair at the cost of the McCormick Creek Homeowners Association in the event of emergency or in the event the City incurs cost for maintenance or repair after providing notice to the Association of the need for such repair and the repair is not satisfactorily completed in the timelines provided. The recording number of the covenant shall be shown on the face of the final plat.

15. The final plat map shall note (where quoted) or delineate the following:
 - a. "WARNING: City of Gig Harbor has no responsibility to build, improve, maintain or otherwise service private roadways or driveways within, or providing access to, property described in this plat."
 - b. "Increased stormwater runoff from the road(s), building, driveway and parking areas shall not be directed to City infrastructure. Increased storm water runoff shall be retained/detained on site."
 - c. "Where seasonal drainage crosses subject property, no or disruption of the natural flow shall be permitted."
 - d. Stormwater for runoff from buildings and parking surfaces shall be shown on individual building lots, including drywell sizing or storm drain connection points.
 - e. If private roadways are proposed then provisions shall be made for the roads and easements to be open at all times for emergency and public service vehicle use.
 - f. "This plat is subject to stormwater maintenance agreement recorded under Auditor's file number (enter AFN here)."
 - g. "Stormwater/Drainage easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on this plat map. No encroachment will be placed within the easements shown on the plat that may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the property owner(s) or it's heirs

or assigns, as noted under the stormwater maintenance agreement for the plat."


16. Engineering recommended approval does not relieve the Permittee from compliance with all other local, state and/or federal approvals, permits, and/or laws necessary to conduct the development activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Permittee.
17. The existing Declaration of Covenants, Conditions, and Restrictions for McCormick Creek shall be amended to include Phase 3 for the continued purposes of maintaining the common open space. The association of owners under the laws of the state shall adopt and propose articles of incorporation or association and bylaws, and adopt and improve a declaration of covenants and restriction on the common open space that are acceptable to the city in providing for the continuing care of the space. No common open space may be put to a use not specified in the final development plan unless the final development plan is first amended to permit the use. No change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use permitted are expressly reserved to the city as well as the owners. Alternatingly, the applicant may convey the common open space to a public agency which agrees to maintain the common opens space.
18. School impact fees as required by GHMC 19.12.050(C)(11) shall be collected for all residential development prior to the issuance of a building permit.
19. Locations and details of markings of fire lanes must be provided at the time of civil plan review.
20. Since the plat is subject to a dedication, the certificate or a separate written instrument shall contain the dedication of all streets and other areas to the public, as shown on the plat, and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said road. Said certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.
21. Any dedication filed for record shall be accompanied by a title report confirming that the title of the lands as described and shown on said plat is in the name of the owners signing the certificate or instrument of dedication.

22. Any dedication, donation or grant as shown on the face of the plat shall be considered to all intents and purposes as a quitclaim deed to the said donee(s) grantee(s) for his/her/their use for the purpose intended by the donor(s) or grantor(s).
23. The owner shall grant fee ownership of Tract I to the City prior to final plat approval of Phase 3, unless Section 11(D) of the Development Agreement is agreed to be amended otherwise by the owner and the City Council.
24. Prior to or at the time of final plat approval of Phase 3, the owner shall submit easement documents to the City for review that close the utility easement gap in the right-of-way created by the street vacation under PL-PALT-16-0001 and PL-PRD-16-0001

RECOMMENDATION:

It is hereby recommended to the Gig Harbor City Council that Amendment No. 2 To Development Agreement By And Between The City Of Gig Harbor And McCormick Creek, LLC, For The McCormick Creek Development be approved as set forth in Exhibit 17.

RECOMMENDED this 18th day of August, 2017.



STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 18th day of August, 2017, to the following:

APPLICANT/ OWNER: McCormick Creek, LLC
Attn: Bryan Stowe
P.O. Box 1054
Sumner, WA 98390

AGENT: Barghausen Consulting Engineers, Inc.
Attn: Jason Hubbell, P.E.
18215-72nd Avenue South
Kent, WA 98032

OTHERS:

CITY OF GIG HARBOR

Concerning Further Review

There is no administrative appeal of the hearing examiner's recommendation. A request for reconsideration may be filed according to the procedures set forth in Ordinance No. 1073. If a request for reconsideration is filed, this may affect the deadline for filing judicial appeal (Chapter 36.70c RCW) (see Ord. 1073, Ch. 36.70C RCW and RCW 90.58.180). Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.