



City of Covington

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City of Covington

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The City of Covington is a place where community, business, and civic leaders work together with citizens to preserve and foster a strong sense of community.

PLANNING COMMISSION AGENDA

March 7, 2013

6:30 PM

CALL TO ORDER

ROLL CALL

Chair Daniel Key, Vice Chair Paul Max, Sonia Foss, Ed Holmes, Bill Judd, Sean Smith, & Alex White.

PLEDGE OF ALLEGIANCE

APPROVAL OF CONSENT AGENDA

1. Planning Commission Minutes for February 7, 2013.

CITIZEN COMMENTS - *Note: The Citizen Comment period is to provide the opportunity for members of the audience to address the Commission on items either not on the agenda or not listed as a Public Hearing. The Chair will open this portion of the meeting and ask for a show of hands of those persons wishing to address the Commission. When recognized, please approach the podium, give your name and city of residence, and state the matter of your interest. If your interest is an Agenda Item, the Chair may suggest that your comments wait until that time. Citizen comments will be limited to four minutes for Citizen Comments and four minutes for Unfinished Business. If you require more than the allotted time, your item will be placed on the next agenda. If you anticipate, in advance, your comments taking longer than the allotted time, you are encouraged to contact the Planning Department ten days in advance of the meeting so that your item may be placed on the next available agenda.*

PUBLIC HEARING – None

UNFINISHED BUSINESS – None

NEW BUSINESS –

1. Presentation & Discussion of City Forestry Plan by Glenn Akramoff, Public Works Director (See Attachment 1) (NO ACTION TAKEN)
2. Discussion of Proposed Code Language for Zoning Code Amendment to Add Developer's Agreement Option in the Town Center Zone-Staff Memo (Also See Attachments 3-4) (NO ACTION TAKEN)

ATTENDANCE VOTE

PUBLIC COMMENT: (Same rules apply as stated in the 1st CITIZEN COMMENTS)

COMMENTS AND COMMUNICATIONS OF COMMISSIONERS AND STAFF

ADJOURN

Any person requiring a disability accommodation should contact the City at least 24 hours in advance. For TDD relay service please use the state's toll-free relay service (800) 833-6384 and ask the operator to dial (253) 480-2400

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**CITY OF COVINGTON
Planning Commission Minutes**

February 7, 2013

City Hall Council Chambers

CALL TO ORDER

Chair Key called the regular meeting of the Planning Commission to order at 6:30 p.m.

MEMBERS PRESENT

Chair Daniel Key, Vice Chair Paul Max, Sonia Foss, Ed Holmes, Bill Judd, Sean Smith

MEMBERS ABSENT

Alex White

STAFF PRESENT

Richard Hart, Community Development Director
Salina Lyons, Senior Planner
Ann Mueller, Senior Planner
Kelly Thompson, Planning Commission Secretary

APPROVAL OF CONSENT AGENDA

- Ø **1. Commissioner Foss moved and Commissioner Smith seconded to approve the consent agenda and the minutes for November 15, 2012. Motion carried 6-0.**

CITIZEN COMMENTS – NONE

PUBLIC HEARING – NONE

UNFINISHED BUSINESS - NONE

NEW BUSINESS

1. Discussion of Northern Gateway Area Study Scope of Work for Hawk Gravel Pit

Community Development Director Richard Hart provided the Planning Commission a copy of the blue sheet that the City Council approved for the subarea plan for the Northern Gateway Area Phase II. There will be extensive public participation process that will involve the Planning Commission.

The City Council reviewed analysis about their vision on the Town Center as well as the Northern Gateway area at their recent retreat. They discussed how these properties can complement each other. The sub-area planning process will allow the developer, the public and the council to weigh in. The actual re-zoning (current zoning is mineral) specifics will not be determined until 1st quarter of 2014.

Chair Key opened the discussion to questions from the Planning Commission.

Commissioner Smith asked for clarification of the study area on the map.

Mr. Hart explained that this study deals with the area to the southeast of Highway 18 and clarified that a portion of the stream is not part of the Urban Growth Area (UGA).

Chair Key appreciated the scope of work and the start of the analysis of the vision between the two areas of the city.

2. Discussion of 2013 Comprehensive Plan Amendment Docket Items

Mr. Hart stated that the City has not received any applications for Comprehensive Plan Amendment Docket Items. But there are still a couple of weeks to see if anything is submitted. If nothing is, this will free up approximately 500 hours of staff time for code amendments.

3. Discussion of Potential Zoning Code Amendment to Add Developer's Agreement Option in the Town Center Zone

Senior Planner Salina Lyons reviewed the memo discussing Developer's Agreements. The variance process may make allowances based on specific criteria while Developer's Agreement may allow for some negotiation and mitigation measures. There is a legal basis for Developer Agreements outlined in the RCW's.

Mr. Hart shared that he met with the City Manager and two developers. The developers reviewed the current regulations for specific properties. One of the developers has experience with mixed use development. The 60% retail street frontage can be problematic especially when dealing with movie theaters and parking garages. The other developer was interested in more residential space with office use. The Developer's Agreements could offer some greater flexibility and greater public benefits without going through the variance process or going before the hearing examiner. This was discussed with the City Council at their annual retreat and the council supported considering some of the changes.

Commissioner Foss likes the idea and feels this is important to give developers options. The variance process is time consuming.

Mr. Hart stated that offering Developer's Agreements allows for some flexibility and control and it doesn't change the vision in the Town Center. The City Council would like the Town Center to have a variety of components and the city would not want to close the door to that opportunity.

Commissioner Judd likes the idea also. If the city has a reputation for being easy to work with, that momentum will work in the city's favor. Development is competitive and he appreciates the ability to help and make adjustments and draw in the developments.

Commissioner Holmes agrees that the regulations match the vision. He felt there has been a need for some compromise. His only concern was potential litigation.

Ms. Lyons stated that Developer's Agreements have been tested. These are voluntary agreements and the developer always has the option to go straight zoning. This is a negotiation process and generally involves attorneys. The decision goes before the City Council.

Mr. Hart stated that the minimum property sizes will be defined with some reason and logic and there are only a few pieces of property that would be able to utilize this process.

Vice Chair Max has experience in dealing with these agreements and has found them to be beneficial. He feels it is a great idea.

Chair Key talked about how this relates to the action we took last year. We have policies and the vision and required minimums as a starting point. He is glad the minimums were determined before this was introduced. He would like to see some examples of other cities Developer's Agreements.

ATTENDANCE VOTE –

Ø **Commissioner Holmes moved and Vice Chair Max seconded to excuse Commissioner White. Motion carried 6-0.**

PUBLIC COMMENT- NONE

COMMENTS AND COMMUNICATIONS FROM STAFF

Mr. Hart let the Planning Commission know that there will only be one meeting in February and March. In April and May there may need to be two meetings.

ADJOURN

The February 7, 2013 Planning Commission Meeting adjourned at 7:30 p.m.

Respectfully submitted,

Kelly Thompson, Planning Commission Secretary

City of
Covington

Urban Forest Strategic Plan



Final Draft

February 14, 2013

City of Covington

Urban Forestry Vision

Covington is dedicated to protect and manage the urban forest in order to preserve and enhance its benefit to the environment and the livability of the community.



The nation behaves well if it treats its natural resources as assets which it must turn over to the next generation increased, and not impaired, in value.

- Theodore Roosevelt

ACKNOWLEDGEMENTS

City Staff – Tree Team

Glenn Akramoff, Public Works Director
Scott Thomas, Parks and Recreation Director
Richard Hart, Community Development Director
Salina Lyons, Senior Planner
Nelson Ogren, Development Review Engineer
Ben Parrish, Engineer Tech II
Bill Fealy, Maintenance Worker

Consultant Team

Elizabeth Walker, Terra Firma Consulting
Ian Hanou, Plan-It Geo, LLC
Richard Thureau, Plan-It Geo, LLC

Table of Contents

Executive Summary.....	1
Purpose	1
Introduction	1
Tree Canopy Cover.....	1
Vision Statement.....	2
Strategic Plan	2
Summary Recommendations.....	2
1. Introduction/Background.....	4
2. Covington’s Urban Forest Assessment & Analysis.....	5
A. Current City Policy and Plan Review	5
B. Current Tree Cover – i-Tree Assessment	6
C. Urban Forest Criteria and Indicators Matrix.....	7
3. Public Process.....	8
4. Proposed Objectives & Strategies.....	9
Table 4.1 – Vegetation Resource	10
Table 4.2 – Resource Management	12
Table 4.3 – Community Framework.....	14
5. Recommendations	20

Appendices

- A. Urban Tree Benefits
- B. City of Covington, Washington, *I-Tree Canopy* Land Cover Assessment
- C. Combined Survey Results on Criteria and Indicators
 - C.1 – Vegetative Resource
 - C.2 – Community Framework
 - C.3 – Resource Management
- D. Resources

Executive Summary

Purpose

Covington is a rapidly growing new suburb and needs a logical direction for its urban forestry program. The city population has grown more than 40% during the 15 years since incorporation, and thousands of trees have been planted along new arterials, neighborhood streets and in parks. New trails and park facilities have been developed alongside existing trees. Conflicts with maturing trees and other maintenance issues require a reasonable and defensible strategic plan for responsible stewardship and management.

Introduction

Like other progressive municipalities, Covington has a goal to better manage its urban forest, however, it is a small city with limited resources. Currently the city has thousands of trees that provide tremendous benefit and have high value, but no cohesive plan for managing these assets. With a grant from the Washington State Department of Natural Resources, in partnership with the USDA Forest Service, the City now has a clear direction for a more effective and cost-efficient management of public trees and urban forest. Terra Firma Consulting was contracted to work with City staff to develop a strategic plan that addresses how to manage and maintain public trees and lead the City to more specific action plans and budgets over time.

The development of a strategic plan was a collaborative process between the consultants and an assembly of City staff from Planning, Parks and Public Works departments. The group was known as the “Tree Team” throughout the project. The main outcomes of the process were 1) a general assessment of the city’s tree canopy cover; 2) a vision statement for urban forestry; and 3) key objectives and strategies for the Tree Team to build upon for a successful urban forestry program.

The recommendations in this plan are provided to guide the community over the next five years regarding planning, management and maintenance of trees on public-managed properties (street rights-of-way, stormwater facilities, developed parks, and open space parks). The plan will also help promote a more unified effort to manage the entire urban forest between the City and residents, business owners, utilities, and other tree stewards in the community.

Tree Canopy Cover

Before one can define strategies for managing a resource, it is critical to understand the existing condition and extent of the resource itself. Terra Firma, in partnership with Plan-it Geo, provided a snapshot of the amount of urban tree cover in the city limits (private and public) as well as potential space for additional trees and other land cover, such as impervious surface. Using the I-Tree Canopy program, 600 random points were made throughout the city and determined as one of the three cover categories. Results utilizing 2012 high-resolution satellite imagery reveal that Covington’s overall Urban Tree Cover stands at approximately **37%**. The nationally recommended goal for average cover is at least 40%. This general cover assessment is useful in setting goals to maintain a highly functioning urban forest, especially during growth and development. The data and software can be used by City staff to further refine public tree cover analysis as well as gauge the change in tree cover levels over time.

Vision Statement

The City has several established documents and plans that have guided its programs and policies. The two plans that resonate well with an urban forest strategy are the Comprehensive Plan and the Parks, Recreation and Trails Plan (2010). Upon review of the language in these plans around the environment and natural resources, the Tree Team proposes the Urban Forest Vision Statement as follows:

Covington is dedicated to protect and manage the urban forest in order to preserve and enhance its benefit to the environment and the livability of the community.



Strategic Plan

Utilizing a model urban forest sustainability matrix, the consultants developed a survey on key criteria and objectives for an urban forestry program. Each Tree Team member weighed in on both current and desired levels for each criterion, and collectively, the group proposes six major objectives for the City’s urban forest strategy:

1. A **comprehensive inventory of the tree resource** to direct its management.
2. A detailed understanding of the **condition and risk potential** of all publicly-managed trees in order to be more responsive.
3. All publicly-owned, highly managed trees are **maintained to maximize current and future benefits**.
4. A detailed understanding of ecological structure and function of all **publicly-owned natural areas to implement best management practices** appropriately.
5. Ensure all **city departments cooperate** with common goals and objectives for urban forest management.
6. The **urban forest is recognized by the public as vital** to the community’s environmental, social and economic well-being.

Summary Recommendations



The six key objectives identified by the Tree Team, and supported by the Parks Commission and interested public, provide a solid basis for a reasonable and doable strategic plan and annual work plans that are appropriate for the City. Logically, the priority objective is to understand more about the public tree resource in order to better direct its management and maximize its benefits and function in the community. The recognition of good coordination with and within the City and other parties, including citizens and businesses, is also vital in achieving the urban forest vision.

The recommended urban forest strategies for the short-term are as follows:

1. Purchase a comprehensive tree inventory program and conduct an inventory of the public trees that includes condition and risk rating, where appropriate.
2. Generate a more accurate measurement of the public tree canopy cover by using the i-Tree software and initial database produced during this project; Establish a canopy goal for the City and commit to measure changes over time.
3. Develop an annual work plan for the maintenance of publicly-owned, highly-managed trees based on the reports generated by the inventory program.
4. Recognize the interdepartmental Tree Team and enable them to develop work plans and budget requests, review policy, regulation and BMP's, and coordinate project-based urban forestry.
5. Strive to have more than one staff person (ideally one in each of the three disciplines) acquire arborist certification to provide interdepartmental support, and provide necessary training to ensure qualified staff for the management of the urban forest.
6. Engage the community through neighborhood natural area planning, annual work plan discussions, information on best management practices, and the general promotion of the benefits of the urban forest.

Several strategies and tasks will require staff times and resources to accomplish. Even with the coordinated Tree Team, some projects may require contracting with a qualified professional or specify a designated staff person (part-time). The vision and key objectives all point toward an urban forestry program that will require dedicated staff resources over time.



1. Introduction/Background

There are many definitions for an *urban forest*, but it most commonly refers to all the trees and associated vegetation in a community. Often trees are planted as individuals in the suburban and urban environment, though many preserved natural areas in a city have remnant native forests. Vegetation in residential and commercial landscapes also contributes to the urban forest. Therefore, a healthy urban forest is best managed as an entire forest ecosystem.

The City of Covington understands that it needs to better manage its trees and urban forest. The City staff makes the connection that it is prudent to manage trees as an *asset* because they provide many tangible benefits to the community. Some of the benefits from Covington’s urban forest include (see Urban Forest Benefits, Appendix A):

- Reduces stormwater runoff and erosion;
- Provides shade and cooling;
- Improves air quality and mitigates wind effects;
- Provides wildlife habitat; and
- Increases property values



Every tree also has a monetary value. For example, if one is damaged by a car crash, there is a landscape value that is considered in its replacement cost. Trees, like other assets, also have maintenance costs, such as pruning young trees for structural integrity or for clearance on roadways and trails. Trees also have public safety liabilities that must be accounted for, for instance, when they get structurally unsafe or die and fall into the road or onto a park trail or sports field. A proactive removal and replacement program of high risk trees is responsible stewardship of the urban forest.

Strategic Planning Process

With a grant from the USDA Forest Service administered by the WA State Department of Natural Resources Urban and Community Forestry Program, Covington contracted with Terra Firma Consulting to help the staff develop a strategic plan for the management of public trees. Beginning in June of 2012, Terra Firma consultants met with the newly formed Covington “Tree Team” in order to develop the proposed strategic plan. This “Tree Team” consists of:

- Glenn Akramoff, Public Works Director
- Scott Thomas, Parks and Recreation Director
- Richard Hart, Community Development Director
- Salina Lyons, Senior Planner
- Nelson Ogren, Development Review Engineer
- Ben Parrish, Engineer Tech II
- Bill Fealy, Maintenance Worker

The initial steps included a review and discussion of the current city policies and plans that related to trees and urban forestry; a basic Urban Tree Cover assessment; and a survey of the Tree Team to identify staff's key objectives and desired levels of service for an urban forestry program.

With a draft plan, the Tree Team and consultant conducted a public meeting with the Parks Commission in November 2012 for additional input. The refined Preliminary Plan was then prepared for review in January 2013 to finalize for estimated adoption by City Council in March 2013.

2. Covington's Urban Forest Assessment & Analysis

A. Current City Policy and Plan Review

Upon review of existing City plans and documents, several important items relating to urban forestry called out in the Parks Recreation and Open Space (PROS) Plan, 2010 were incorporated into the Comprehensive Plan and excerpted below:

Comprehensive Plan –

Parks and Recreation Element (2010)

PRG 4.0 – Protect and manage the City's environmentally-sensitive land, remnant open spaces and natural and cultural resources to highlight their uniqueness and local history.

4.3 – Develop management plans for the City's larger natural areas and greenspaces and facilitate community-based volunteer restoration.

4.8 – Revise and adopt the Covington Community Forestry Plan to articulate a long-term strategy for tree protection, urban forestry management and public education and outreach.

4.9 – Consider creating community-based volunteer and stewardship opportunities as a way to inform and engage residents about urban forestry issues, such as tree planting, tree care and management and the benefits of urban trees.

4.10 – Analyze the City's existing tree canopy cover, establish canopy cover goals and promote urban forestry programs in order to maintain healthy atmospheric conditions [and other benefits].

4.11 – Establish a Heritage Tree program.

4.12 – Comply with Evergreen Communities Act and achieve status.

4.13 – Maintain Tree City USA.

4.14 – Promote the installation and management of street trees as an extension of urban habitat and providing green infrastructure benefits.



Environmental Element (2003)

EVP 7.5.1 – Foster recognition of the significant role played by natural features and systems in determining the overall environmental quality and livability of the community.

1.1 – Protect and enhance environmentally sensitive areas via the adoption of City regulations and programs that encourage well-designed land use patterns...in order to preserve natural features such as large wetlands, streams, steep slopes and wooded areas.

EVP 7.5.9 – Minimize the loss of vegetation as new development occurs. Continue to recognize the value of trees and other vegetation in increasing the livability of the City.
 9.1 – *Promote and support a systematic approach to enhancing the City through carefully-planned plantings and ongoing maintenance of street trees, public landscaping and public greenbelts.*

9.4 – *Utilize regulations, incentives and non-regulatory means to preserve, replace or enhance native vegetation that contributes to the City’s scenic beauty [and other benefits].*



A “Community Forestry Plan” was assembled in 2006. The document provides a compilation of good tree management practices and public information regarding tree care. While it has not been adopted, it can be updated to complement urban forest strategies implemented in the near future.

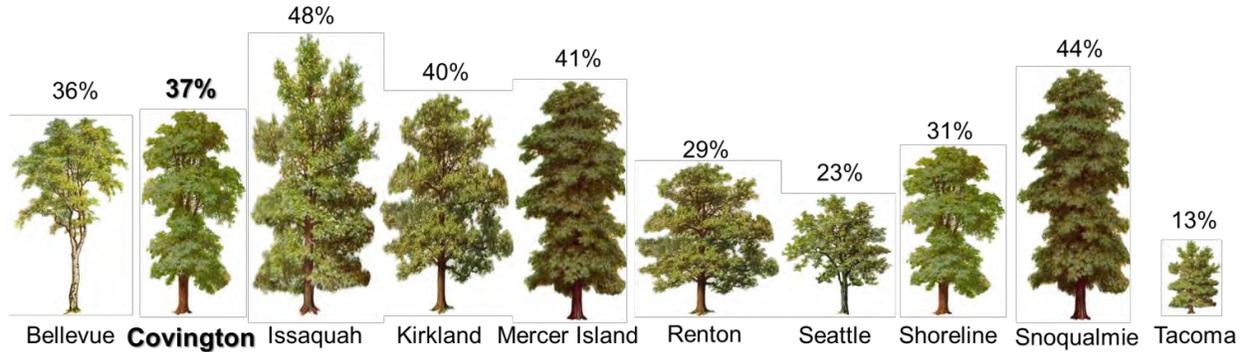
These references of urban forestry in significant documents provide a solid basis for supporting the recommended strategies and any funding requests for a City urban forestry program.

B. Current Tree Cover – I-Tree Assessment

Since Covington has no comprehensive data on its existing public tree resource, Terra Firma contracted with Plan-it Geo to conduct a snapshot assessment of the current tree cover in the city limits. Utilizing free software called i-Tree Canopy, an initial measurement of the canopy cover was made to start the conversation. The quick assessment also offers a good comparison metric with other communities and to the City’s goals toward a sustainable urban forest as a valuable asset.

The i-Tree Canopy software was used to assess Covington’s tree canopy cover based on 2012 aerial imagery. Land cover type was assessed at 600 randomly distributed points across the City to determine percent cover for (1) Canopy, (2) Plantable spaces, and (3) all other land cover types (Table 1). Points were then overlaid with land ownership to assess these three cover types by public vs. private property. Points were determined to be “Forest” if they were located on any part of a tree. Points were determined to be “Plantable vegetation” if they fell on grass or other non-tree vegetation, and not within agricultural or recreational fields. Points were determined to be “Other land cover” if they fell on all other locations (including impervious surface and agricultural or recreational fields). After the i-Tree Canopy analysis was completed, sample points were extracted and brought into a Geographic Information System (GIS) and separated by ownership type. The assessment report is Appendix B.

Results indicate that Covington’s overall canopy cover is approximately 37% (4% standard error). As shown below, this percentage is robust and comparable to other progressive communities in the area.



For Covington, grass and open areas comprises 28% and all other land cover 35%. Private ownership represents 81% of Covington’s total area and is comprised of 38% canopy, 30% grass and open areas, and 32% other land cover. Public ownership represents 19% of Covington’s total area with 30% canopy, 21% grass and open areas, and 50% other land cover.

Table 1. Land Cover Assessment for Covington using i-Tree Canopy

Land Cover Class	Private				Public				Citywide			
	3,088 acres (4.8 sq. miles), 80.6%				742 acres (1.2 sq. miles), 19.4%				3,830 acres (6 sq. miles)			
	No. of Points	Percent of Points	Standard Error	95% CI*	No. of Points	Percent of Points	Standard Error	95% CI*	No. of Points	Percent of Points	Standard Error	95% CI*
Canopy	187	38%	0.022	4.314	33	29%	0.043	8.443	220	37%	0.020	3.856
Plantable	146	30%	0.021	4.063	24	21%	0.039	7.599	170	28%	0.018	3.606
Other	155	32%	0.021	4.131	55	49%	0.047	9.259	210	35%	0.019	3.817
Sum	488	100%	0.064		112	100%	0.129		600	100%	0.058	

* CI = Confidence interval = Percent plus or minus to determine the actual coverage per class.

Note: The standard error (SE) for public lands is fairly high given the relatively small number of sampling points falling on public properties (112 out of 600).

For a more complete picture of the public portion of the City’s canopy cover, the City can utilize the free i-Tree Canopy software and the files provided to the City. Additional points can be added to reduce the standard error relatively quickly.

C. Urban Forest Criteria and Indicators Matrix

To understand the current perspectives and attitudes regarding urban forestry within the City, the consultants offered a survey to the Tree Team. This matrix was originally adopted from Clark and Matheny (G. Cross, and V. Wake. 1997) as part of a model of urban forest sustainability, as it provides a comprehensive look at all aspects of an urban forestry program.

The survey was divided into three sections: 1) Vegetative Resource, 2) Resource Management, and 3) Community Framework. In each section there is a matrix of urban forest criteria and different levels of performance for each criterion. Key objectives were also shown for each criterion. The Covington Tree Team members were instructed to independently indicate the current and desired

level for each criterion (Low, Moderate, Good, or Optimal). They were also to select the important key objectives for Covington to pursue.

Appendix C is a version of the matrix combining the responses regarding the criteria, indicators and objectives for the City's urban forest program. A memo from Terra Firma explaining the initial observations is also included. In summary, the Team recognized that all aspects in the three sections of urban forestry management were important and the desired level for each criterion was at least Moderate, with mostly Good selected.

After a group discussion of the individual responses, the Team proposed the following key objectives:

- Have a comprehensive inventory of the public trees to direct its management.
- Have a detailed understanding of the condition and risk potential of all the publicly-managed trees in order to be more responsive.
- Maintain all publicly-owned, highly managed trees to maximize current and future benefits.
- Have a detailed understanding of ecological structure and function of all publicly-owned natural areas to implement best management practices appropriately.
- Ensure all city departments cooperate with common goals and objectives for urban forest management.
- The public recognizes the urban forest as vital to the community's environmental, social and economic well-being.

3. Public Process

On November 7, 2012, the Parks and Recreation Commission hosted an open house for the draft plan. The event was prior to their scheduled meeting and included an explanation of why it is important to manage the urban forest; poster boards with the six primary objectives; a poster board with Covington urban forest photos; and an open roundtable discussion about the city's urban forest, its issues, concerns and benefits.

While the attendance was low, the City staff felt the conversation was very helpful. Attendees included a representative from a Homeowners Association, an environmentalist, and a business representative who shared opinions from their perspectives, as summarized below:

- The growth of trees in both the public rights-of-way and in parking lots can block business signage.
- Balancing canopy cover with business needs is a challenge.
- The selection of street trees must be appropriate for the site conditions and space available.
- The City should evaluate regulations regarding tree removal on private property. Permit fees and requirements are a barrier to private tree management, especially to the HOA's.
- Concern for the lack of follow-up with new plantings – staking was left on too long (in Wood Creek).
- Need management strategies for conifer root disease in open spaces.



Staff responded that new tree standards (installation and care) and a new species list were developed after the January 2012 storm. They also plan to incorporate a street tree maintenance bond as a component of bonding for development.

Participants, including Commission members, were asked to indicate their top three objectives with stickers on the poster board. The votes were as follows:

- Objective #1 – Tree Inventory (4 votes)
- Objective #2 – Assessment of Tree Condition and Hazard (6 votes)
- Objective #3 – Management to Maximize Benefits (8 votes)
- Objective #4 – Ecosystem Benefits of Natural Areas (5 votes)
- Objective #5 – Interdepartmental Coordination (0 votes)
- Objective # 6 – Community Involvement (4 votes)

With the comments and voting, the City staff felt they were on target with the proposed key objectives and priorities. Even with no votes for objective 5, staff interpreted that as something that is understood and in effect. It is important to note that while the strategic plan is focused on public tree management, concerns about private trees were received and forwarded to the Community Development Department, as it is responsible for responding to questions regarding trees on private property. The City adopted the Tree Preservation Ordinance in 2008 (CMC 18.45), which outlines how private trees are managed through development applications and criteria for removal of trees on private property.

Additional opportunities for public input on the plan include the review and comment on the Preliminary Plan by the Parks Commission and Planning Commission and through the presentation of the Proposed Plan to City Council in March 2013 for adoption.

4. Proposed Objectives & Strategies

A. Criteria and Strategies

In an effort to address each criterion, the following tables show the objective, desired level, and suggested strategies for the criteria in each of the three aspects of urban forestry. Table 5.1 is **Vegetation Resource** and pertains to urban forest metrics. Table 5.2 is **Resource Management** and refers to staffing, policy, and management planning. Table 5.3 is **Community Framework** and deals with citizen and business involvement and community engagement around the urban forest. This will provide a good basis to refine and update any urban forest plans as priorities change and tasks are completed over time.



Table 4.1 – Vegetation Resource

Criteria	Objective	Current Condition	Desired Level	Strategies/Tasks
1. Relative Canopy Cover	Achieve climate-appropriate amount of tree cover, community-wide	The canopy cover is estimated at 37% of the city-wide land cover according to I-Tree results (2012); [57% of total potential , forest canopy and plantable vegetation; see report]	Canopy cover equals 50-75% of the potential	<ul style="list-style-type: none"> • I-Tree software and data is sufficient to measure change in cover over time (every 5 years) • Set policy to ensure sufficient cover through development and change in land use
2. Age Distribution	Provide for an uneven – aged distribution city-wide and at the neighborhood level	Unknown	No relative diameter class represents more than 50% of the tree population	<ul style="list-style-type: none"> • Comprehensive tree inventory with size data (DBH)
3. Species Suitability	Establish a tree population suitable for the urban growing conditions and adapted to the regional environment	Perceived around half of the trees are of species suitable for the area	More than 75% of tree species are suitable for the growing conditions and regional environment	<ul style="list-style-type: none"> • Comprehensive tree inventory with species data • Update recommended tree list to latest trends in regional climate
4. Species Distribution	Establish a genetically diverse tree population city-wide and at the neighborhood level	Perceived no species representing more than 10-20% of the entire tree population city-wide	No species represents more than 10% of the highly managed tree population city-wide	<ul style="list-style-type: none"> • Tree inventory and mapping of species • Planting designs are to include a diverse palette of species

Table 4.1 – Vegetation Resource, cont’d

Criteria	Objective	Current Condition	Desired Level	Strategies/Tasks
5. Condition of Publicly-managed Trees (including ROW)	Detailed understanding of the condition and risk potential of all publicly managed trees	No tree maintenance or risk management; request-based/reactive system. Condition of the urban forest is unknown	Complete tree inventory which includes detailed tree condition and risk ratings	<ul style="list-style-type: none"> • Risk management approach to prioritize work plan and budget • Review species and size trends with condition ratings to refine planting and maintenance decisions.
6. Publicly-owned Natural Areas (e.g. woodlands, sensitive areas)	Detailed understanding of the ecological structure and function of all publicly-owned natural areas	The level and type of public use in publicly-owned natural areas is documented	The ecological structure and function of all publicly owned natural areas are documented through an Urban Tree Canopy Analysis and included in the city-wide GIS	<ul style="list-style-type: none"> • RFP for Urban Tree Canopy Analysis to determine cost • Apply for a grant for Analysis if high priority
7. Native Vegetation	Preservation and enhancement of local natural biodiversity	The use of native species is encouraged on a project-appropriate basis in actively managed areas; invasive species are recognized and discouraged; some planned eradication	Same as Current	<ul style="list-style-type: none"> • Engage the public in invasive removal and native plantings through volunteer efforts

Table 4.2 – Resource Management

Criteria	Objective	Current Condition	Desired Level	Strategies/Tasks
1. City Staffing	Employ and train adequate staff to implement a city-wide urban forestry plan <i>[certified arborists and program manager with professional development]</i>	Limited trained or certified staff	Certified arborists and professional foresters on staff with regular professional development.	<ul style="list-style-type: none"> • Consider in-house UF manager (existing staff) with invested professional development [both technical and program management] • (Short-term) Contract consultation services for specific projects • More than one staff person get arborist certification • Provide for cooperation and interaction among neighboring communities and regional groups [share resources with Black Diamond, Maple Valley?]
2. City-wide Management Plan	Develop and implement a comprehensive urban forest management plan for publicly-owned trees	No Plan	A comprehensive plan for publicly-owned, actively managed forest resources accepted and implemented	<ul style="list-style-type: none"> • Consider a 1-5 year strategic/work plan (outcome from this plan) • Update the Community Forestry Plan with BMP's

Criteria	Objective	Current Condition	Desired Level	Strategies/Tasks
3. Urban Forestry Funding	Develop and maintain adequate funding to implement a city-wide urban forest management plan	Funding for only emergency reactive management	Funding for proactive management to improve the public portion of the urban forest striving for a measurable increase in urban forest benefits	<ul style="list-style-type: none"> • WADNR and other grants for one-time projects (inventory, management plan) • Consider stormwater utility to subsidize with contributions from the 3 P's for ongoing funding
4. Tree Protection Policy	Benefits derived from large, mature trees are ensured by the enforcement of municipal-wide policies	Policies in place to protect public and private tree with enforcement	Same as current	<ul style="list-style-type: none"> • Periodically update policy if not adequate urban forest protection (inventory, mapping data)
5. Publicly-owned natural areas management [planning and implementation]	The ecological structure and function of all publicly-owned natural areas are protected and where appropriate, enhanced	Reactionary stewardship in effect to facilitate public use (e.g. hazard abatement, trail maintenance, etc.)	Stewardship/Management plan in effect for ALL natural areas and strives toward sustaining ecological benefit	<ul style="list-style-type: none"> • Part of city-wide plan and policies • Engagement of HOA's with the management of their natural areas

Table 4.3 – Community Framework

Criteria	Objective	Current Condition	Desired Level	Strategies/Tasks
1. Public Agency Cooperation (inter-departmental and with utilities)	Ensure all city departments cooperate with common goals and objectives.	Informal teams among the departments and or agencies are functioning and implementing common goals on a project-specific basis.	Municipal policy with established interdepartmental/ interagency working teams on ALL municipal projects.	<ul style="list-style-type: none"> • Tree Team meets on a regular basis - quarterly • Tree Team develops work plan, budget; reviews policy, regulation; coordinates project-based urban forestry following strategic plan • Tree Team reports to Parks Commission/Tree Board and other boards, as needed
2. Involvement of large institutional land holders (hospitals, campuses, utility corridors)	Large private landholders embrace city-wide goals and objectives through specific resource management plans	No proactive education or awareness of City goals/objectives.	Clear goals for tree resource by landholders. Incentives for preservation of private trees.	<ul style="list-style-type: none"> • Engage with new strategic plan and annually present work plan
3. Green Industry Cooperation	The green industry operates with high professional standards and commits to city-wide goals and objectives.	No cooperation among green industry (nurseries, tree care companies, etc.) No consistent adherence to industry standards.	Specific cooperative arrangements, such as purchase certificates for “right tree in the right place”	<ul style="list-style-type: none"> • Adopt City BMPs for tree care in the community; city license for tree work? • Provide City tree list to nurseries and encourage partnership

Table 4.3 – Community Framework, cont’d

Criteria	Objective	Current Condition	Desired Level	Strategies/Tasks
4. Neighborhood Action	At the neighborhood level, citizens understand the benefits derived from large, healthy trees - and cooperate in urban forest management	Neighborhood Associations/HOA’s exist but are minimally engaged or a limited number are engaged.	City-wide engagement and interaction	<ul style="list-style-type: none"> • Work with select HOA’s for a model neighborhood urban forestry plan; incentive to streamline permits for tree activity
5. Citizen-municipality-business interaction	All constituencies in the community interact for the benefit of the urban forest.	Informal and general cooperation	Interaction with City Tree Board and Tree Team for better policies, compliance and cooperation	<ul style="list-style-type: none"> • Work with Chamber, HOA’s and others to refine tree protection policy and increase appreciation
6. General awareness of trees as a community resource	The general public understanding the role and value of the urban forest.	Unknown	Urban forest recognized as vital to the communities environmental, social and economic well-being.	<ul style="list-style-type: none"> • Work with schools, incorporating urban forestry into curriculum; Urban Forest Stewardship program (Master Gardener model) • Develop/distribute public info brochures; provide incentives to stewards
7. Regional cooperation	Provide for cooperation and interaction among neighboring communities and regional groups.	Communities in area are independent re: urban forestry	Regional planning, coordination and/or management plans; shared resources	<ul style="list-style-type: none"> • Approach neighboring communities to share resources (Black Diamond, Maple Valley)

B. Key Objectives

When working with these criteria and the objectives, a logical combining of strategies to apply toward the six key objectives resulted. For instance, much of the vegetation resource criteria and objectives, including risk management, can be accomplished with a comprehensive inventory, two key objectives for resource management.



Another thing to note is that while the public recognizing the value of the urban forest is important, it is an indirect objective to meeting the plan's primary goal of better managing **public** trees. Nonetheless, strategies are provided to have the City work toward a holistic plan and program that affect both the private and public components of the urban forest.

The following is a table of the identified key objectives with some strategies and tasks, recommended timeline, and budget implications.

4.4 - COVINGTON’S KEY URBAN FOREST OBJECTIVES

OBJECTIVE	DESIRED LEVEL	STRATEGIES/TASKS	TIMELINE/BUDGET
<p>1. Tree Resource A comprehensive inventory of the tree resource to direct its management. (M1)</p>	<ul style="list-style-type: none"> Complete inventory of publicly-owned trees and sample-based inventory of privately-owned trees included in city-wide GIS; includes age and species distribution 	<ul style="list-style-type: none"> RFP for an inventory program and collection of first inventory In-house program provides the largest flexibility in use Consider using current database (record of new trees when planted) Train in-house or volunteers for maintenance of inventory 	<ul style="list-style-type: none"> \$\$ - \$15-20K for software and inventory (by college students?) Short-term – high priority WADNR grant (probably will need City match)
<p>2. Assessment of Tree Condition and Hazard Detailed understanding of the condition and risk potential of all publicly-managed trees in order to be more responsive. (V5)</p>	<ul style="list-style-type: none"> Complete inventory includes failure risk rating as a basis for a more proactive risk management. <i>[Publicly-owned trees are managed with safety as a high priority- M8]</i> Inventory includes tree condition to guide tree establishment/renewal and management decisions for tree health and optimal condition to ensure maximum longevity. (M6) 	<ul style="list-style-type: none"> Risk assessment must be done by a qualified professional (Tree Risk Assessment training) Must be part of the inventory program to generate priority reports, etc. Condition rating is collected as part of complete inventory 	<ul style="list-style-type: none"> \$ - contract professional (risk can be assessed on only larger trees in fair to poor condition; defects) Short-term; in tandem or proceeding general inventory Included in objective 1; training may be needed to identify defects, rate condition

Timeline - short = 1-2 yrs, mid = 2-3 yrs, long-term = 3-5 yrs; Budget - \$= <\$5k, \$\$= <\$15k, \$\$\$=\$20k or more

4.4 - COVINGTON’S KEY URBAN FOREST OBJECTIVES, cont’d

OBJECTIVE	DESIRED LEVEL	STRATEGIES/TASKS	TIMELINE/BUDGET
<p>3. Maximize Benefits All publicly-owned, highly-managed trees are maintained to maximize current and future benefits. (M7)</p>	<ul style="list-style-type: none"> The trees are systematically maintained; young, establishing trees are assessed for structural pruning. Based on inventory data; establish a defensible program and a reasonable cycle (5-7 years considered optimal) 	<ul style="list-style-type: none"> Annual data review from inventory to prioritize work Develop an annual work plan with a proposed budget Adopt BMP’s (update Community Forestry Plan, 2006) Develop a policy toward the desired maintenance cycle and reasonable timeline to achieve 	<ul style="list-style-type: none"> \$ - dedicated staff time Post inventory collection to prioritize workload – short-term (2 years) Part of annual work plan
<p>4. Ecosystem Function of Natural Areas Detailed understanding of the ecological structure and function of all publicly-owned natural areas. (V6)</p>	<ul style="list-style-type: none"> The ecological structure and function of all publicly-owned natural area are documented through an <u>Urban Tree Canopy Analysis</u> and included in the city GIS; <i>mapped urban tree cover using satellite imagery</i> 	<ul style="list-style-type: none"> I-Tree Eco software on entire public natural area inventory for ecological structure (see references) May need interim steps – Ex. natural area plans with appropriate BMP’s recommended 	<ul style="list-style-type: none"> \$ - staff time (software is free) or contract services Mid to long-term (3-5 years) Update ‘Community Forestry Plan’ (2006) as urban forest BMP’s and have policy to apply to natural areas
<p>5. City Team Ensure all city departments cooperate with common goals and objectives. (C1)</p>	<ul style="list-style-type: none"> Interdepartmental urban forest team acknowledged [formed] to implement city policy and common goals on [at least] a project-specific basis 	<ul style="list-style-type: none"> Tree Team develops work plan, budget; reviews policy, regulation; coordinates project-based urban forestry following strategic plan Team meets on a regular basis – quarterly Team reports to Parks Commission/Tree Board and other boards, as needed 	<ul style="list-style-type: none"> \$ - dedicated staff time from departments; short-term (immediate) \$\$ - program manager (P/T or contract) for Team Lead; mid to long-term (3-5 years) \$ - At least one certified arborist in each department - Parks, Public Works, Planning; short to mid-term (2-3 years)

Timeline - short = 1-2 yrs, mid = 2-3 yrs, long-term = 3-5 yrs; Budget - \$= <\$5k, \$\$= <\$15k, \$\$\$=\$20k or more

4.4 - COVINGTON’S KEY URBAN FOREST OBJECTIVES, cont’d

OBJECTIVE	DESIRED LEVEL	STRATEGIES/TASKS	TIMELINE/BUDGET
<p>6. Community Engagement The urban forest is recognized by the public as vital to the community’s environmental, social and economic well-being (C6)</p>	<ul style="list-style-type: none"> • Neighborhood action – at the neighborhood level, citizens understand and cooperate in urban forest management [<i>city-wide coverage and interaction</i>] • Citizen-city-business interaction – all constituencies in the community interact for the benefit of the urban forest [<i>informal and general cooperation</i>] • The green industry operates with high professional standards and commits to city-wide goals and objectives 	<ul style="list-style-type: none"> • Start with Timber Lane, Crofton Heights, Crystal View to develop and implement natural area plans • Generate, distribute public outreach materials to promote the urban forest and proper management • Engage Middle Green ‘group’ and Green River College for curricula and volunteer resources; forest stewardship program (Master Gardener model – Woodway project) • Establish a City tree worker license (LFP model) • Partner with local nurseries and/or electric utility for vouchers 	<ul style="list-style-type: none"> • \$ - dedicated, qualified staff to assist in plans; short to mid-term • \$ - research, collect and reproduce or post on city website; short-term • New community park development – opportunity? Mid to long-term • \$ - After adopted BMP’s and policies; mid to long-term • Begin discussions with approved tree lists; short to mid-term

Timeline - short = 1-2 yrs, mid = 2-3 yrs, long-term = 3-5 yrs; Budget - \$= <\$5k, \$\$= <\$15k, \$\$\$=\$20k or more

5. Recommendations

The six key objectives identified by the Tree Team, and supported by the Parks Commission and interested public, provide a solid basis for a reasonable and doable strategic plan and annual work plans that are appropriate for the City. Logically, the priority objective is to understand more about the public tree resource in order to better direct its management and maximize its benefits and function in the community. The recognition of good coordination with and within the City and other parties, including citizens and businesses, is also vital in achieving the urban forest vision.

The recommended urban forest strategies for the short-term are as follows:

7. Purchase a comprehensive tree inventory program and conduct an inventory of the public trees that includes condition and risk rating, where appropriate.
8. Generate a more accurate measurement of the public tree canopy cover by using the i-Tree software and initial database produced during this project; Establish a canopy goal for the City and commit to measure changes over time.
9. Develop an annual work plan for the maintenance of publicly-owned, highly-managed trees based on the reports generated by the inventory program.
10. Recognize the interdepartmental Tree Team and enable them to develop work plans and budget requests, review policy, regulation and BMP's, and coordinate project-based urban forestry.
11. Strive to have more than one staff person (ideally one in each of the three disciplines) acquire arborist certification to provide interdepartmental support, and provide necessary training to ensure qualified staff for the management of the urban forest.
12. Engage the community through neighborhood natural area planning, annual work plan discussions, information on best management practices, and the general promotion of the benefits of the urban forest.

Several strategies and tasks will require staff times and resources to accomplish. Even with the coordinated Tree Team, some projects may require contracting with a qualified professional or specify a designated staff person (part-time). The vision and key objectives all point toward an urban forestry program that will require dedicated staff resources over time.



APPENDIX A

Urban Tree Benefits

The benefits of urban trees, sometimes called “ecosystem services”, include environmental, economic, and social values. These are direct or indirect benefits provided by urban forests and individual trees that are often dismissed or underrepresented when valuing infrastructure because they don’t readily have an associated dollar value. Types of tree benefits are listed and briefly described below. While none alone are a “silver bullet”, when combined, trees and the collective urban forest are an impressive part of the solution for sustainability during urban planning and community development.

Environmental “Services” of Urban Trees:

- 🌳 Air Quality – trees absorb, trap, offset and hold air pollutants such as particulate matter, ozone, sulfur dioxide, carbon monoxide, and CO₂.
- 🌳 Greenhouse Gases (GHGs) and Carbon – trees store and sequester carbon through photosynthesis as well as offset carbon emissions at the plant due to energy conservation.
- 🌳 Water Quality and Stormwater Runoff Mitigation – trees infiltrate, evapo-transpire, and intercept stormwater while also increasing soil permeability and ground water recharge.
- 🌳 Erosion control – tree roots hold soil together along stream banks and steep slopes, stabilizing soils and reducing sedimentation issues in water bodies.
- 🌳 Urban heat island effect – trees cool the air directly through shade and indirectly through transpiration, reducing day and nighttime temperatures in cities.
- 🌳 Increased wildlife habitat – Trees create local ecosystems that provide habitat and food for birds and animals, increasing biodiversity in urban areas.

Economic “Services” of Urban Trees:

- 🌳 Property value – numerous studies across the country show that residential homes with healthy trees add property value (up to 15%).
- 🌳 Energy conservation – trees lower energy demand through summer shade and winter wind block, additionally offsetting carbon emissions at the power plant.
- 🌳 Retail and Economic Development – trees attract businesses, tourists, and increase shopping.
- 🌳 Stormwater facilities – trees and forests reduce the need for or size of costly gray infrastructure.
- 🌳 Pavement – tree shade increases pavement life through temperature regulation (40-60% in some studies).

Social “Services” of Urban Trees:

- 🌳 Public health – trees help reduce asthma rates and other respiratory illnesses.
- 🌳 Safe walking environments – trees reduce traffic speeds and soften harsh urban landscapes.
- 🌳 Crime and domestic violence – urban forests help build stronger communities. Places with nature and trees provide settings in which relationships grow stronger and violence is reduced.
- 🌳 Connection to nature – trees increase our connection to nature.
- 🌳 Noise pollution – Trees reduce noise pollution by acting as a buffer and absorbing up to 50% of urban noise (U.S. Department of Energy study).

From: Benefits of Trees and Urban Forests: A Research List

http://www.actrees.org/files/Research/benefits_of_trees.pdf, Published August 2011

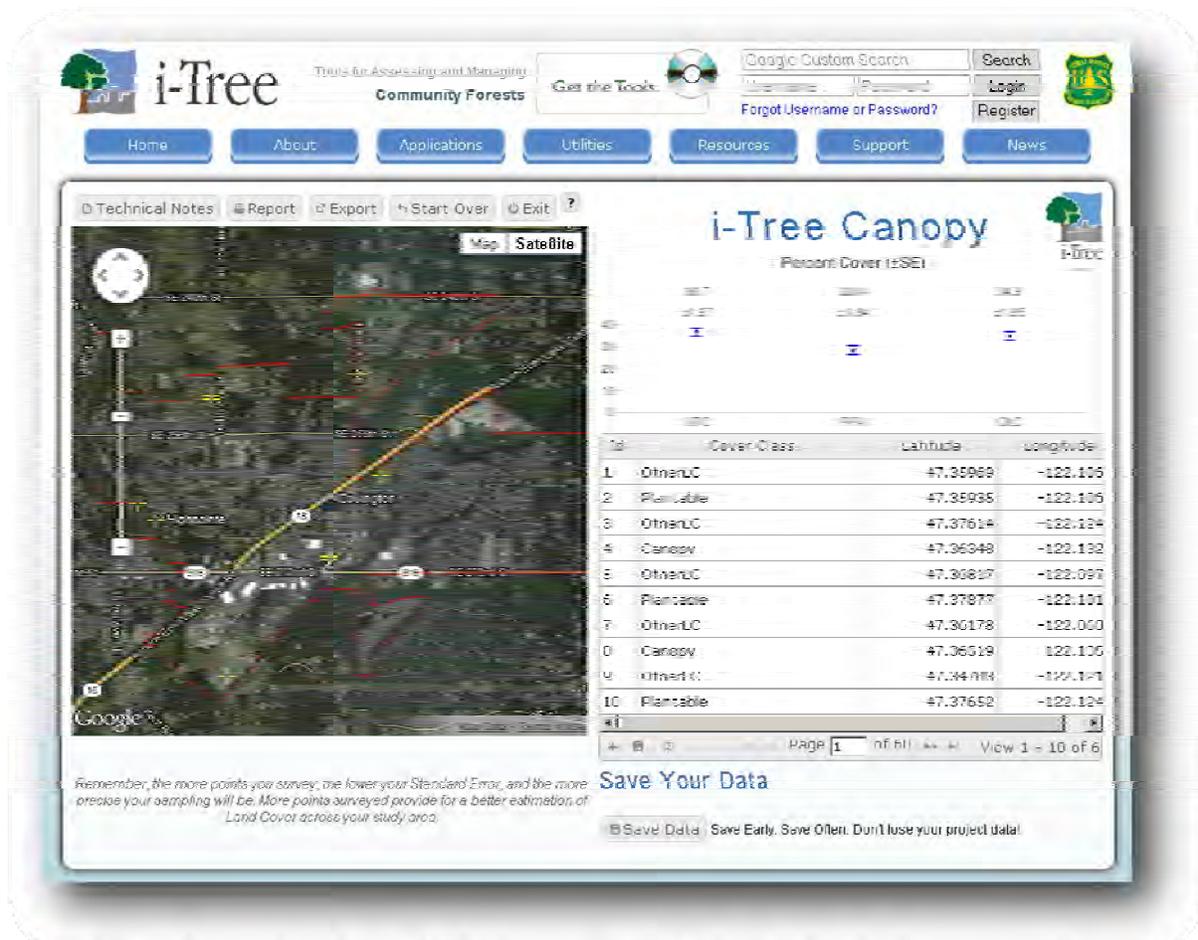
APPENDIX B

City of Covington, Washington, *I-Tree Canopy* Land Cover Assessment

Introduction

Urban forests provide many services essential for maintaining healthy and livable urban communities. Urban Tree Canopy (UTC) assessments provide an important all around measure of community forest health and sustainability. Traditionally, UTC assessments are completed using high-resolution aerial imagery and sophisticated remote sensing classification methods. The main limitation to these assessments is the expertise and cost required to accurately measure the extent of a community’s urban forest.

The U.S. Forest Service has partnered with several institutions and agencies to create the I-tree suite of tools targeted at measuring the benefits urban communities receive from trees (www.itreetools.org). One of the latest tools introduced to the I-tree suite is I-Tree Canopy designed to allow anyone with internet access in the continental United States and access to a study area boundary ESRI shapefile to conduct their own UTC assessment.

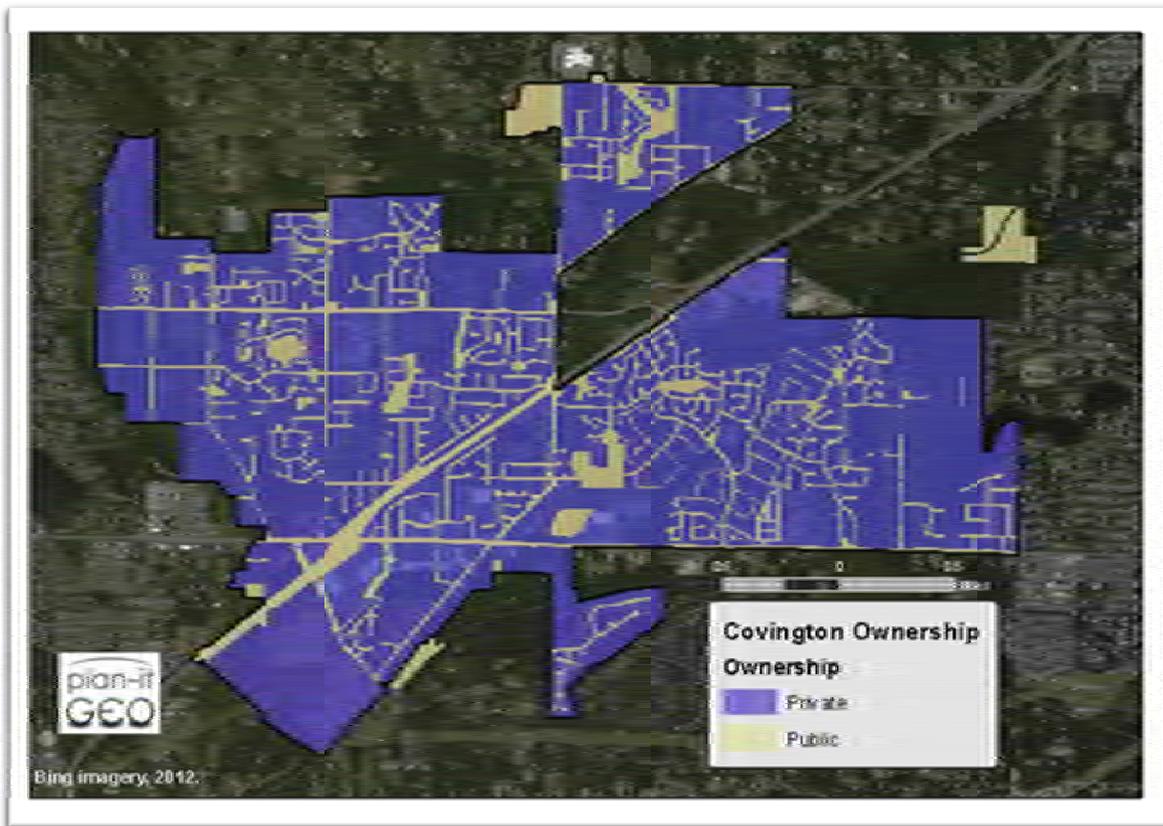


The I-Tree Canopy interface with Covington city limits (red), select land cover sampling points (yellow) and land cover data (table right).

Urban Tree Canopy Assessment Methods

I-Tree Canopy was used to conduct a UTC assessment for the City of Covington, WA using 2012 aerial photography. Land cover was assessed at 600 randomly distributed points across the City to determine percent cover for (1) Forest, (2) Plantable vegetation, and (3) Other land cover (Table 1). Points were determined to be “Forest” if they were located on any part of a tree. Points were determined to be “Plantable vegetation” if they fell on grass or other non-tree vegetation, and not within agricultural or recreational fields. Points were determined to be “Other land cover” if they fell on all other locations (including agricultural or recreational fields). After the I-Tree Canopy analysis was completed, sample points were extracted and brought into a Geographic Information System (GIS) and separated by ownership type.

Ownership within Covington was created in a GIS using data provided by the City. Public ownership was determined using two data layers: (1) Parcels were defined as public if they were identical to the public parcels layer provided by the city. All other parcels were then defined as private ownership. (2) A Rights of Way (ROW) feature class was created by mapping the inverse of the comprehensive parcels dataset (symmetrical difference between the parcels and city boundary). The ROW and Parcels features were then merged to create a city-wide ownership feature class. Spatial join was then used to assign an ownership class to each land cover sampling point.



Ownership classes used to assess land cover across Covington’s city limits.

Percent of each class relates directly to the percent of points falling on each land cover type during the assessment. Standard Error (SE) reports the probability of each land cover class's estimated percent being the actual percent cover across Covington. Confidence Intervals (CI), calculated using the SE and an acceptable margin of error, provide a plus and minus margin within which we are confident the actual percentage is. For Covington, we used a 95% CI to derive the plus/minus percent. This can be interpreted as saying if we conducted the same point-based land cover assessment 100 times, 95 of those times the city-wide canopy percent would be between 40.5% and 32.81% (see Table 1). Splitting the points between ownership classes reduces the number of available points used to estimate percent cover, which also increases the SE and CI.

Results

Results using 2012 high-resolution satellite imagery reveal that Covington's overall UTC stands at around 37% (plus or minus 3.8%). Plantable vegetation comprises around 28% and other land cover 35%. Private ownership represents 80.6% of Covington's total area and is comprised of 38% forest canopy, 30% plantable vegetation, and 32% other land cover. Public ownership represents 19% of Covington's total area with 30% forest canopy, 21% plantable vegetation, and 50% other land cover. Note that the SE and CI values for public lands is fairly high given the relatively small number of sampling points falling on public properties.

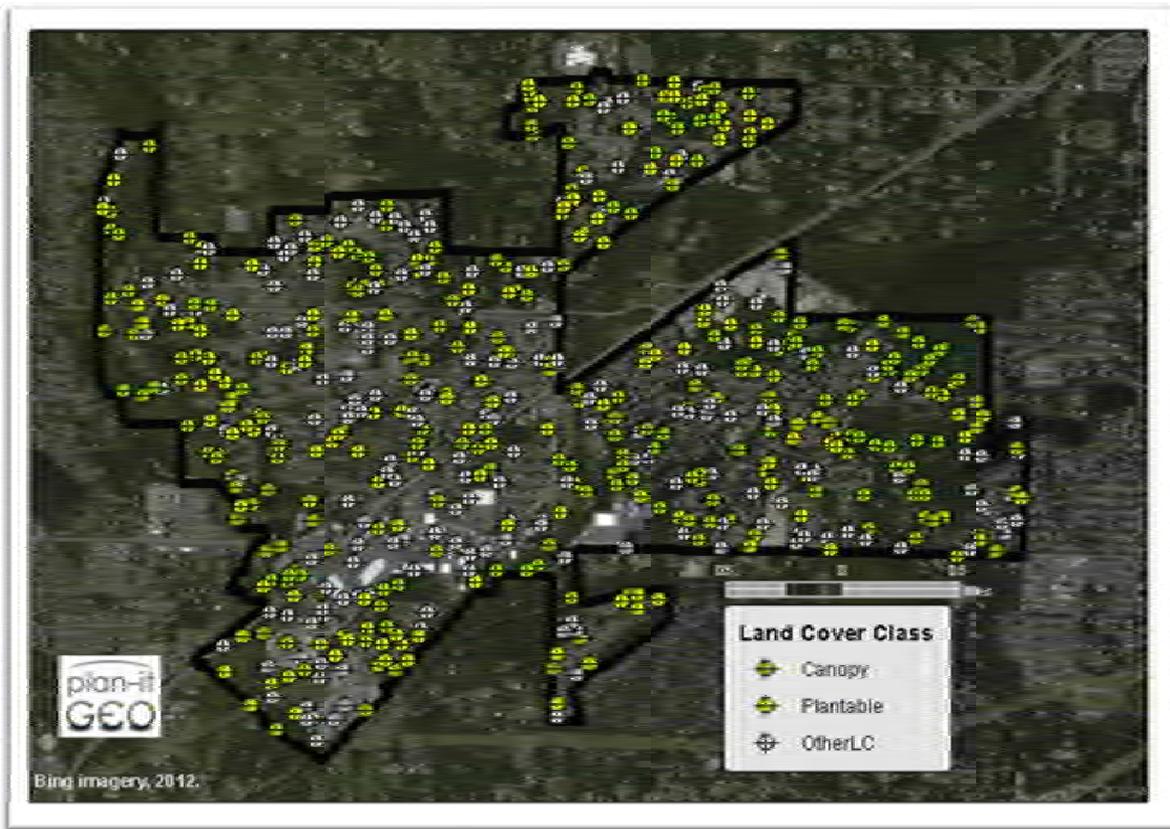
Table 1. Land cover assessment for Covington using I-Tree Canopy.

Land Cover Class	Private 3,088 Acres (4.8 sq. miles), 80.6%				Public 742 Acres (1.2 sq. miles), 19.4%				City-Wide 3,830 Acres (6 sq. miles)			
	Number of Points	Percent of Points	Standard Error	95% CI*	Number of Points	Percent of Points	Standard Error	95% CI*	Number of Points	Percent of Points	Standard Error	95% CI*
Canopy	187	38.32%	0.022	4.314	33	29.46%	0.043	8.443	220	36.67%	0.020	3.856
Plantable	146	29.92%	0.021	4.063	24	21.43%	0.039	7.599	170	28.33%	0.018	3.606
Other LC	155	31.76%	0.021	4.131	55	49.11%	0.047	9.259	210	35.00%	0.019	3.817
SUM	488	100.00%	0.064		112	100.00%	0.129		600	100.00%	0.058	

* CI = Confidence interval = Percent plus or minus to determine the actual coverage per class.

Traditional UTC vs. I-Tree Canopy Analysis

I-Tree canopy results provide a great first estimate of tree cover but have limited utility when compared with traditional UTC assessments (see Table 2 for a summary comparison). This method quickly provides a fairly accurate measure of land cover if the number of land cover classes are few and each represents a large proportion of the sampled landscape. From the land manager's perspective, there are several drawbacks to the point based assessment. First, land cover classes that represent a small proportion of the overall landscape (for example soil, water, or wetlands) can be difficult to estimate and impossible to estimate accurately without sampling a very large number of points. Secondly, point based estimates do not provide much spatial information regarding the distribution of land cover classes. For example, determining the canopy percent by Covington neighborhood would require the collection of many points for each land cover class in each neighborhood.



I-Tree Canopy land cover assessment results within a GIS.

The main advantages of traditional UTC assessments are: (1) Land cover is mapped for 100% of the study area. (2) Remote sensing and GIS methods can incorporate many data sources that the City is likely to already possess. (3) Results can be used to segment results for an unlimited number of management boundaries. Land cover classifiers are effective at mapping different land cover types regardless of their size (given the land cover type is larger than a single assessment pixel). Existing data (for example, land use, ownership, or parking lots) can be used to create additional land cover classes that are useful for determining tree planting opportunities. With 100% land cover coverage, results can be segmented in a GIS by using existing data sources (for example, neighborhoods, management areas, or rights of way).

How Would a Tree Canopy Assessment Move Covington Toward its Proposed Urban Forest Objectives?

Understanding the value of Covington’s urban forest resources will require many steps along the assessment process. Canopy cover assessments provide a snapshot of the City’s canopy extent from above. Individual tree inventories provide a framework for assigning per area forest values, but they require a significant investment of time and resources to manage properly. Both provide valuable information for maintaining a comprehensive inventory of the tree resource to direct its management, and understanding of risk potential and ecological structure. The UTC has become so important for managing urban forests today because they provide good information that can be collected rapidly and at multiple points of time to assess the success of urban forest management goals.

Table 2. Comparison of I-Tree Canopy and traditional UTC mapping.

Criteria	I-Tree Canopy	Traditional UTC
<i>Level of Effort</i>	Low (~1-day)	High (3-6 months)
<i>\$ - Cost - \$</i>	Low or free	Medium to High
<i>Method (generalized)</i>	Statistical sampling of Google maps imagery	Remote Sensing/GIS, comprehensive analysis
<i>GIS Software Needed</i>	No	Yes
<i>GIS Products Produced</i>	No	Yes
<i>Spatially Specific?</i>	No	Yes
<i>Use for Change Analysis</i>	Yes, with limitations	Yes
<i>Assessment Boundaries</i>	Limited; typically citywide only	Yes, numerous
<i>Use Results to Assess Ecosystem Services</i>	Not currently without additional effort / assumptions	Somewhat. Exs: CITYgreen, i-Tree Vue
<i>Overall / Summary</i>	Low cost, easy snapshot, no or fewer visual products	Target strategic areas, partners, needs, etc.

PR= Parks; PW = Public Works; CD = Community Development Team; ET = Engineering; CA = City Arborist

Resource Management Criteria and Indicators

Criteria	Performance Indicator Spectrum						*	Key Objective		
	Low		Moderate		Good		Optimal			
1. Tree Inventory	No inventory	C	Complete or sample-based inventory of publicly-owned trees	C	Complete inventory of publicly-owned trees AND sample-based inventory of privately-owned trees. <i>Desired by PW, CD, CA</i>	D	Complete inventory of publicly-owned trees AND sample-based inventory of privately-owned trees included in city-wide GIS <i>Desired by ET, PR</i>	D	*	Comprehensive inventory of the tree resource to direct its management. This includes: age distribution, species mix, tree condition, risk assessment.
2. Canopy Cover Assessment	No inventory	C	Visual assessment		Sampling of tree cover using aerial photographs or satellite imagery; I-Tree; <i>Desired by ET, CD, CA</i>	C	Mapped urban tree cover using aerial photographs or satellite imagery included in city-wide GIS; <i>Desired by PW, PR</i>			High resolution assessments of the existing and potential canopy cover for the entire community.
3. City-wide management plan	No plan	C	Existing plan limited in scope and implementation	C	Comprehensive plan for publicly-owned, intensively- and extensively-managed forest resources accepted and implemented	D	Strategic multi-tiered plan for public and private intensively- and extensively-managed forest resources accepted and implemented with adaptive management mechanisms. <i>Desired by PW; others indicated NO private tree management</i>	D	*	Develop and implement a comprehensive urban forest management plan for private and public property.
4. Municipality-wide funding	Funding for only emergency reactive management	C	Funding for some proactive management to improve the public portion of urban forest.	D	Funding to provide for a measurable increase in urban forest benefits.	D	Adequate private and public funding to sustain maximum urban forest benefits.		*	Develop and maintain adequate funding to implement a city-wide urban forest management plan

<p>5. City staffing</p>	<p>No staff.</p>	<p>Limited trained or certified staff.</p>	<p>C</p>	<p>Certified arborists and professional foresters on staff with regular professional development.</p>	<p>D</p>	<p>Multi-disciplinary team within an urban forestry program. <i>Desired by PW</i></p>	<p>D</p>	<p>*</p>	<p>Employ and train adequate staff to implement city-wide urban forestry plan</p>
<p>6. Tree establishment, planning and implementation</p>	<p>Tree establishment is ad hoc (no plan or budget)</p>	<p>Limited tree establishment occurs on an annual basis with minimal budget.</p>	<p>C</p>	<p>Tree establishment is directed by needs derived from a tree inventory or strategy</p>	<p>D</p>	<p>Tree establishment is directed by needs derived from a tree inventory and is sufficient to meet canopy cover objectives (see Canopy Cover criterion in Table 1)</p>	<p>D</p>	<p>*</p>	<p>Urban Forest renewal is ensured through a comprehensive tree establishment program driven by canopy cover, species diversity, and species distribution objectives</p>
<p>7. Maintenance of publicly-owned, intensively managed trees (not open space)</p>	<p>No maintenance of publicly-owned trees</p>	<p>Publicly-owned trees are maintained on a request/reactive basis. No systematic (block) pruning.</p>	<p>C</p>	<p>All publicly-owned trees are systematically maintained on a cycle longer than five years.</p>	<p>D</p>	<p>All mature publicly-owned trees are maintained on a 5-year cycle. All immature trees are structurally pruned.</p>	<p>D</p>	<p>*</p>	<p>All publicly-owned, intensively managed trees are maintained to maximize current and future benefits. Tree health and condition ensure maximum longevity.</p>
<p>8. Tree Risk Management</p>	<p>No tree risk assessment/remediation program. [Request based/reactive system?] The condition of the urban forest is unknown</p>	<p>Sample-based tree inventory which includes general tree risk information; Request based/reactive risk abatement program system. <i>Desired by PR, CD, CA</i></p>	<p>D</p>	<p>Complete tree inventory which includes detailed tree failure risk ratings; risk abatement program is in effect eliminating hazards within a maximum of one month from confirmation of hazard potential. <i>Desired by ET, PW</i></p>	<p>D</p>	<p>Complete tree inventory which includes detailed tree failure risk ratings; risk abatement program is in effect eliminating hazards within a maximum of one week from confirmation of hazard potential.</p>	<p></p>	<p>*</p>	<p><i>All publicly-owned trees are managed with safety as a high priority.</i></p>

9. Tree Protection Policy Development and Enforcement

<p>No tree protection policy</p>		<p>Policies in place to protect public trees.</p>		<p>Policies in place to protect public and private trees <u>[with enforcement desired]</u>.</p>	<p>C/ D</p>	<p>Integrated municipal wide policies that ensure the protection of trees on public and private land are consistently enforced and supported by significant deterrents</p>		<p>*</p>	<p>The benefits derived from large-stature/mature trees are ensured by the enforcement of municipal wide policies.</p>
<p>No stewardship plans or implementation in effect.</p>	<p>C</p>	<p>Reactionary stewardship in effect to facilitate public use (e.g. hazard abatement, trail maintenance, etc.)</p>	<p>C</p>	<p>Stewardship plan in effect for each publicly-owned natural area to facilitate public use (e.g. hazard abatement, trail maintenance, etc.) Desired by ET, CD, CA</p>	<p>D</p>	<p>Stewardship plan in effect for each publicly-owned natural area focused on sustaining the ecological structure and function of the feature. Desired by PW, PR</p>	<p>D</p>	<p>*</p>	<p>The ecological structure and function of allpublicly-owned natural areas are protected and, where appropriate, enhanced.</p>

10. Publicly-owned natural areas management planning and implementation

APPENDIX D

Resources

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<http://rentonwa.gov/uploadedFiles/Living/CS/PARKS/RentonUTCWebVersion.pdf>

van Wassenauer, P. Trees, People and the Built Environment Conference – Plenary Session.
A Framework for Strategic Urban Forest Management, Planning and Monitoring.

WA Department of Ecology. **Western Washington Hydrology Model**
http://www.ecy.wa.gov/programs/wq/stormwater/wwhmtraining/wwhm/wwhm_v3/index.html

Memo

To: Planning Commission
From: Salina Lyons, Principal Planner
CC: Richard Hart, Community Development Director
Ann Mueller, Senior Planner
Date: March 7, 2013
Re: Development's Agreements Draft Amendments

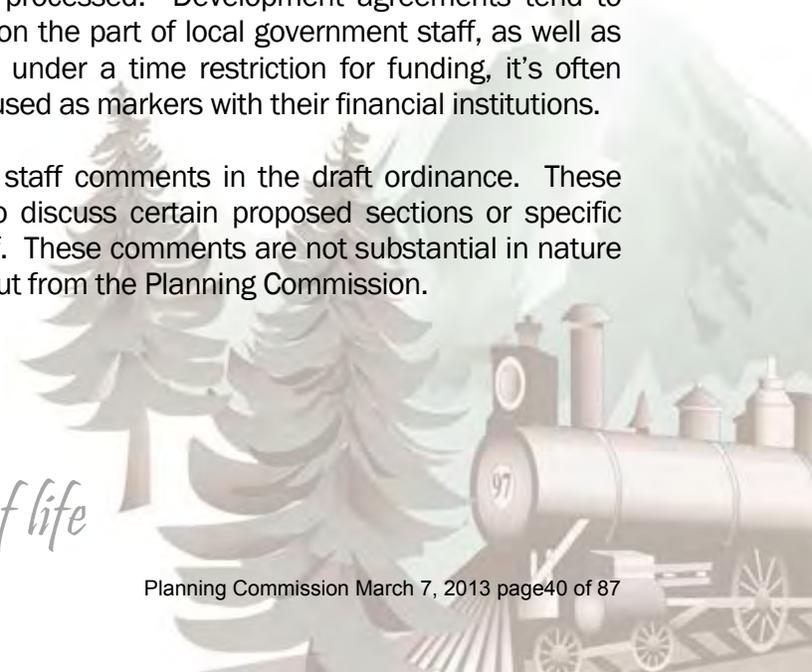
Attached is a copy of the draft development agreement ordinance and associated amendments to the various code sections to allow for the use of a development agreement in the Covington Town Center. As previously discussed, regulations pertaining to development agreements are outlined in the Revised Code of Washington (RCW) 36.70B.170-210.

Staff researched cities that have development agreement processes and found that the use of development agreements were adopted in a few different ways: by referencing the RCW, by codifying the RCWs as written, or by drafting an ordinance that includes more details regarding process and review. Staff is recommending the third option of drafting an ordinance that outlines a specific process and review for application of a development agreement in the Town Center.

The reason is twofold: 1) it allows the development agreement process to be a stand along document that can be applied initially to the Town Center zone and later to other appropriate zoning districts; 2) it provides a level of clarity for staff and the developer for how the development agreement will be reviewed and processed. Development agreements tend to require intensive review and processing efforts on the part of local government staff, as well as elected officials. If a proposed development is under a time restriction for funding, it's often helpful to have a very clear process that can be used as markers with their financial institutions.

Please note that we have also included a few staff comments in the draft ordinance. These comments are internal notes as a reminder to discuss certain proposed sections or specific language with the city attorney or other city staff. These comments are not substantial in nature and may also trigger additional discussion or input from the Planning Commission.

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Proposed code amendments include:

CMC Chapter 14.30 - Permit Types

The Development Agreement process was added to the decision types chart as a Type 4 permit with the decision made by the city council. This process is consistent with the RCW requirements and is further outlined in the draft ordinance.

CMC Chapter 18.31 - Downtown Development and Design Standards

This chapter is amended to include language that allows the use of a development agreement in the Town Center zone. Use of the development agreement process is limited to:

- 1.) Deviations to the requirement for ground floor retail/commercial, medical facilities and mixed- use; and
- 2.) Timing and phasing of a development project.

Draft language is provided to address the requirement for providing a public benefit for the granting of any deviation by the development agreement process. This language is proposed for further discussion by the Planning Commission and will be further evaluated internally by other city departments, including the city attorney.

CMC Chapter 18.31 – Design Requirements

Amendments to this chapter are basically “clean up” amendments that conflict within CMC Chapter 18.31. The provisions for mixed-use development and phasing originally applied to the entire downtown zoning districts as well as other neighborhood commercial and community commercial zones. With the adoption of the separate downtown zoning requirements, the language in this chapter is amended to specifically note the neighborhood (NC) and community commercial (CC) zones. The general content of the code requirements in this section is not changing; rather staff is clarifying the applicability of the requirements for mixed-use design and eliminating any conflict with other provisions of CMC 18.31.

CMC 18.110 - Commercial Site Development Permits

Amendments to this chapter include cross references to the development agreement process and minor amendments to clarify the deviation approval process for obtaining a commercial site development permit.

Chapter 18.114 **Development Agreements**

Sections:

18.114.010 Purpose

18.114.020 Authority

18.114.030 General Provisions of Development Agreements

18.114.040 Processing procedure for development agreements

18.114.050 No deadline for final decision, form of agreement, term, recording

18.114.060 Judicial Appeal

18.114.010 Purpose

A development agreement provides the opportunity for the City and the developer to agree on the scope and timing of the project, applicable regulations and requirements, mitigation requirements and other matters relating to the development process. A development agreement promotes the general welfare by balancing the public and private interests, providing reasonable certainty for a development project, and addressing other matters, including reimbursement over time for the financing of public facilities. Development agreements may provide public benefits such as affordable housing, pedestrian-oriented communities, mixed use development and creation of public amenities such as parks and open spaces.

18.114.020 Authority

(1) The execution of a development agreement is a proper exercise of city police power and contract authority. The city may consider, and enter into, a development agreement with a person having ownership or control of real property within the city limits. The city may consider a development agreement for real property outside of the city limits but within the urban growth area ("UGA," as defined in RCW 36.70A.030(15), or as designated by the county pursuant to RCW 36.70A.110) as part of a proposed annexation or a service agreement.

(2) A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall be consistent with applicable development regulations adopted by the city under Chapter 36.70A RCW.

(3) A development agreement shall reserve authority to impose new or different regulations to the extent required by serious threat to public health and safety.

18.114.030 General Provisions of Development Agreements

(1) Comprehensive Plan. A development agreement shall be consistent with the applicable policies and goals of the City of Covington comprehensive plan.

(2) Development Standards. A development agreement shall be consistent with applicable development regulations; provided, a development agreement may extend the durations of

approval of project permits and allow phasing plans different from those otherwise imposed under the Covington Municipal Code.

(a) A development agreement related to property in the Covington downtown zone, Town Center district (TC), may allow further deviations from development standards imposed under Chapter 18.31 CMC for the following reasons:

(i) To provide flexibility to achieve public benefits; or

(ii) In order to respond to changing community needs; or

(iii) To encourage deviations which provide the functional equivalent or adequately achieve the purposes of otherwise applicable city standards.

(b) A development agreement cannot authorize deviations from the uses, minimum and maximum densities, maximum gross floor area, or maximum structure height.

(c) A development agreement cannot authorize deviations from requirements of CMC Title 15, Buildings and Construction. Building permit applications shall be subject to the building codes in effect when a complete building permit application is submitted.

(d) A development agreement cannot authorize deviations from minimum requirements of CMC Title 16, Environment and Chapter 18.65 CMC, Critical Areas.

(e) Any approved development standards that differ from those in the code shall not require any further rezone, variance from city standards or other city approval apart from development agreement approval. The development standards as approved through a development agreement shall apply to and govern the development and implementation of each covered property in lieu of any conflicting or different standards or requirements elsewhere in the Covington Municipal Code.

(f) Subsequently adopted standards which differ from those of a development agreement adopted by the city shall apply to the covered property only where necessary to address imminent public health and safety hazards or where the development agreement specifies a time period or phase after which certain identified standards can be modified.

(3) As a minimum, the development agreement shall specify the following^[SKL1]:

(a) Project components which define and detail the permitted uses, residential densities, nonresidential densities and intensities or building sizes;

(b) The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

(c) Mitigation measures, development conditions and other requirements of Chapter 43.21C RCW State Environmental Policy Act;

(d) Design standards such as architectural treatment, maximum heights, setbacks, landscaping, drainage and water quality requirements and other development features;

(e) Provisions for affordable housing, if applicable;

(f) Parks and common open space preservation;

(g) Signage;

(h) Parking;

(i) Phasing;

(j) Financial guarantees for performance and maintenance of public improvements;

(k) Maintenance and operation standards for public improvements;

(l) A build-out or vesting period for applicable standards;

(m) Duration of agreement; and

(n) Any other appropriate development requirement or procedure which is based upon a city policy, rule, regulation or standard.

(4). As provided in RCW 36.70B.170, the development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

18.114.040 Processing procedure for development agreements^[SKL2].

Development agreements shall accompany and be processed in conjunction with the underlying project permit application, approval or annexation request. The type of project permit application or other approval shall control the type of application set forth in CMC 14.03.040.

(a) A development agreement associated with a legislative action such as a comprehensive plan amendment or area-wide rezone shall be processed in accordance with the procedures established in this title and pursuant to noticing requirements set forth in CMC 14.30.060. The planning commission shall make its recommendation on any development agreement relating to legislative action to the city council. A public hearing shall be held on the

development agreement and if approved, the council shall authorize the mayor, in a resolution or ordinance, to execute the development agreement on behalf of the city.

(b) A development agreement associated with a project permit application shall be processed in accordance with the permit application procedures established in Chapter 14.35 CMC and as further provide in this title as follows:

(i) If the underlying land use application is a Type 2, final decision by the director, then the director shall consider both the project permit application and the proposed development agreement together. The director shall make a recommendation to the council on the development agreement, and the director's decision on the underlying project permit application shall not be made until the city council considers the proposed development agreement in a public hearing. If the city council approves the development agreement, the council shall, by resolution or ordinance, authorize the mayor to execute the development agreement on behalf of the city. The director may then issue its final decision on the underlying project permit application. Nothing in this section obligates the director to forward a recommendation to the city council for further consideration if the director denies the underlying project permit application.

(ii) If the underlying land use application is a Type 3, final decision by the hearing examiner, then the hearing examiner shall consider both the project permit application and the proposed development agreement together during the required public hearing for a Type 3 land use. The hearing examiner shall make a recommendation to the council on the development agreement. The decision on the underlying project permit application shall not be made until the city council approves the proposed development agreement in a public hearing. If the city council approves the development agreement, the council shall, by resolution or ordinance, authorize the mayor to execute the development agreement on behalf of the city. The hearing examiner shall issue the final decision on the underlying project permit application. Nothing in this section obligates the hearing examiner to forward a recommendation to the city council for further consideration if the hearing examiner denies the underlying project permit application.

(iii) If a final decision on an underlying project permit application has been previously made by the hearing examiner or director and the application was approved, the director shall make a recommendation to the council on the development agreement. A public hearing shall be held on the development agreement and if approved, the council shall authorize the mayor, in a resolution or ordinance, to execute the development agreement on behalf of the city.

(c) Public Notice. All public meetings and public hearings on a development agreement shall be noticed pursuant to underlying land use type as set forth in Chapter 14.34 CMC.

18.114.050 No deadline for final decision, form of agreement, term, recording

(1) Pursuant RCW 36.70B.020 development agreements are not project permit applications and are not subject to processing deadlines. A written waiver of the deadline for issuance of final decision of the project permit application shall accompany a request for a development agreement.

(2) No development agreement shall be presented to the decision-making body unless in a form approved by the city attorney. Development agreements shall be signed by the property owner and all other parties with a substantial beneficial interest in the property that is the subject of the development agreement, prior to any public hearing held for the purpose of authorizing execution of the development agreement.

(3) Term.

(a) Development agreements may be approved for a maximum period of 20 years.

(b) In determining the appropriate term for a development agreement, the council should consider the type, size and location of development and phasing if proposed. The council may consider shorter terms with extensions.

(c) Extensions. If extensions are authorized in a development agreement, an applicant must request the extension at least 60 days prior to expiration. For development agreements associated with project permit applications, the planning director may grant an extension for up to five years if the applicant can satisfactorily show that at least 50 percent of the gross floor area is constructed. All other requests for extensions shall be reviewed by the city council, unless another process is expressly provided for in the development agreement.

(4) Recording. A development agreement shall be recorded against the property, in the real property records of the King County assessor's office. During the term of the development agreement, the agreement is binding on the parties and their successors, including the property owners in any area that is annexed to the city.

18.114.060 Judicial Appeal

If the development agreement relates to a land use application, the provisions of Chapter 36.70C RCW shall apply to the appeal of the decision on the development agreement and in accordance with the appeal procedures in Chapter 14.45 CMC for a Type 4 decision type.

**Chapter 14.30
PERMIT DECISION TYPES**

Sections:

- 14.30.010 Purpose.
- 14.30.020 Classification of permit decision types.
- 14.30.030 Determination of proper decision type.
- 14.30.040 Decision types.
- 14.30.050 Requirements by decision type.
- 14.30.060 Legislative decisions.
- 14.30.070 Administrative interpretations.

14.30.040 Decision types.1

Type 1	Type 2	Type 3	Type 4
Building Permit (15.05)	Short Plat (Including Revisions and Alterations) (17.20)	Preliminary Plat (17.20)	Final Subdivision ⁴ (17.25)
Grading Permit (18.60)		Plat Alterations (17.25)	
Boundary Line Adjustment (17.40)	Design and Construction Standards Variance (12.60)	Preliminary Plat Revisions (17.20)	Shoreline Environment Redesignations (16.05)
Right-of-Way Use Permit (12.35)	Design Departure from the City of Covington Design Guidelines and Standards (18.31)	Zoning Variance (18.125)	Plat or Short Plat Vacations (17.25)
Design and Construction Standards Deviation (12.60)	Downtown Permitted Use Determination (18.31)	Conditional Use Permits (18.125)	Street Vacations (12.55)
Shoreline Exemption (16.05)	Temporary Use (18.85)	New Wireless Communication Facility Towers and Height Modifications (18.70)	<u>Development Agreement (18.114)</u>
Code Interpretation (14.30)	Shoreline Substantial Development Permit ² (16.05)		
Miscellaneous Administrative Decisions	SEPA Threshold Determination ³		
Minor Tree Removal (18.45)	Commercial Site Development Permit (18.31 and 18.110)		
WCF Collocation on a			

Transmission Structure or WCF Tower (18.70)	Re-use of Facilities (18.85) Critical Areas Reasonable Use Exceptions (18.65) Binding Site Plan (17.30) Major Tree Removal (18.45) Stormwater Manuals Variance (13.25) Wireless Communication Facilities Collocations (18.70)		
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1 If a conflict between this chart and the text of the CMC exists, the text of the CMC controls.

2 When applications for shoreline permits are combined with other permits requiring Type 3 or 4 land use decisions, the Examiner, not the Director, makes the decision. All shoreline permits, including shoreline variances and conditional uses, are appealable to the State Shorelines Hearings Board and not to the Hearing Examiner.

3 Appeal to Examiner is limited to the SEPA threshold determination. The decision on the Type 1 permit itself is appealable to Superior Court.

4 Final subdivisions are submitted directly to the City Council for final decision without a recommendation by the Hearing Examiner.

Chapter 18.31
DOWNTOWN DEVELOPMENT AND DESIGN STANDARDS

Sections:

- 18.31.010 General.
- 18.31.015 City of Covington downtown design guidelines and standards.
- 18.31.020 Design review.
- 18.31.030 Nonconforming development.
- 18.31.040 Supplemental town center review criteria.
- 18.31.050 Downtown zoning districts map.
- 18.31.060 Downtown zoning districts street types map.
- 18.31.070 Downtown zoning districts established.
- 18.31.080 Permitted land uses.
- 18.31.085 Permitted land use determination process.
- 18.31.090 Downtown zoning districts density and dimension standards.
- 18.31.100 Maximum floor area ratio (FAR) – Bonus features.
- 18.31.110 Parking, access and circulation standards.
- 18.31.120 Public space requirements.
- 18.31.130 Landscaping requirements.
- 18.31.140 Sign requirements.

18.31.045 Development agreements- Town Center development

(1) The purpose of this section is to establish a process for allowing deviations to the development standards within the downtown zoning, Town Center (TC) district only, through a development agreement process consistent with Chapter 36.70B RCW, Chapter 18.114 CMC, Development Agreements and further outlined in this chapter.

(2) Unless otherwise provided herein, all development in the downtown zoning districts shall comply with all applicable codes. The following deviations to development standards within the Town Center (TC) district shall be authorized only through the use of a development agreement with the city:

(a) Requirement that medical office uses greater than two stories shall have a minimum of 60 percent ground floor retail trade and services and 40 percent business and professional services when fronting onto 171st Ave SE as conditioned in CMC 18.31.080(3)(8)(b).

(b) Requirement for mixed use structure greater than one story shall provide 60 percent of the ground floor as retail, restaurant or professional services as conditioned in CMC 18.31.080(3)(23).

(c) Requirement that multifamily residential dwelling units provide 60 percent or more of the ground floor abutting a street, public space, public plaza and/or public green space shall

be occupied by one or more of the following permitted uses: retail, restaurant or personal services as conditioned in CMC 18.31.080(3)(26)(b).

(d) Limitation of permit approval, as required in CMC 18.110, if the proposed development combines two or more distinct land use categories that are permitted in the Town Center district and is located on single or combined parcel of six acres or ~~more~~^[SKL3].

(3) Request for deviations through the development agreement process is subject to the provisions of CMC 18.114.020 for development standards.

(4) Deviations shall be supported by the goals and policies in the city’s comprehensive plan. If goals and polices of the comprehensive plan required amendments to support an applicant’s request for a deviation, then the goals and policies shall be amended and approved through the city’s annual comprehensive plan amendment docketing process, prior to submitting a development proposal and requesting a development agreement.

(5) To ensure a level of mitigation of public benefit proportionate to the increase impacts of development, a development agreement authorized under this section shall complete, acquire or contribute to the following options or combination thereof ,as approved by the ~~city~~^[SKL4].

(a) Transportation improvements or other improvement projects, including non-motorized improvements, within the six year or 20 year Comprehensive Plan Capital Improvement Program.

(b) Provide accessible public space equivalent to two and one half percent of the gross floor area of all the structures.

(c) Provide exterior public art or provide a contribution equivalent to at least 1% of the total value of the project’s construction cost.

(d) Other project that the city finds will provide mitigation and/or public benefit.

18.31.050 Downtown zoning districts map.

18.31.080 Permitted land uses.

(3) Permitted Use Table.

Use Categories	Town Center (TC)23	Mixed Commercial (MC)	General Commercial (GC)	Mixed Housing Office (MHO)1
Residential				
Dwelling Unit, Accessory	NP	NP	NP	P2

Dwelling Unit, Multifamily	P26	P	P	P
Dwelling Unit, Single-Family Attached, Detached or Cottage Housing ²¹	NP	NP	NP	P2
Senior Citizen Assisted Housing	P	P	P	C
Commercial				
Adult Entertainment	NP	P3	P3	NP
Business Services ¹⁹	P5	P	P	P4,5
Drive Through Use	NP	P	P	NP
Farmers' Markets and Public Markets ⁶	P	P	P	NP
Gambling and Card Rooms	NP	NP	NP	NP
Home Occupation and Live/Work	P	P	P	P
Outdoor Commercial	NP	NP	P	NP
Personal and Beauty Services ^{20,21}	P	P	P	P
Private Electric Vehicle Parking Facility (Primary Use)			P5,24	
Private Parking Facility (Primary Use)	NP	NP	NP	NP
Professional Office	P	P	P	P
Retail Trade and Services – 100,000 sq. ft. or less for all structures	P5	P	P10	P4,5
Retail Trade and Services – greater than 100,000 sq. ft. for all structures	C5,9,18	P	P10	NP
Shooting Ranges ²⁵	NP	NP	P	NP
Storage/Self Storage	NP	P5	P	NP
Temporary Lodging/Hotel	P	P	P	C22
Cultural/Recreation				
Cinema, Performing Arts and Museums	P	P	P	NP
Meeting Hall/Other Group Assembly	P	P	P	C
Recreation, Indoor or Outdoor	C	P	P	P
Religious	C7	P	P	C
Health Services				
Emergency Care Facility	C9,18	P	NP	NP
Hospital	NP	P	NP	NP
Medical Office/Outpatient Clinic	P8	P	NP	P
Nursing/Personal Care Facility	NP	P	NP	C

Industrial/Manufacturing				
Asphalt Plants	NP	NP	NP	NP
Light Industrial/Manufacturing	NP	NP	P10	NP
Government/Institutional ¹¹				
Essential Public Facilities	NP	NP	C	NP
Government Services	P	P	P	P12
Major Utility Facility	C14	C	P	C
Minor Utility Facility	P15	P	P	P
Schools: Compulsory, Vocational and Higher Education	C13	P	NP	C
Wireless Communication Facilities ¹⁶				
Antenna, Collocation on an Existing Structure ¹⁷	P	P	P	P
Wireless Communication Facility Tower	NP	NP	NP	NP

(4) Permitted Use Conditions.

8. a. Buildings greater than four stories shall provide 80 percent of required parking within a structure. Structured parking shall not front onto 171st Ave. SE.

b. Medical office uses greater than two stories shall have a minimum of 60 percent ground floor retail trade and services and 40 percent business and professional services when fronting onto 171st Ave. SE, unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045.

23. Mixed-use structures greater than one story shall provide ground floor retail, restaurant, or personal services along 60 percent of the building façade, unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045. Permitted uses under the headings of cultural/recreation and governmental/institutional in subsection (3) of this section are exempt from this provision.

26. a. Multifamily residential dwellings in the TC zone shall be located in a minimum three-story, mixed-use structure; ~~and-~~

b.- Sixty percent or more of the ground floor abutting a street, public space, public plaza and/or public green space shall be occupied by one or more of the following permitted uses: retail, restaurant or personal services, unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045. Driveways, service and truck loading areas, parking garage entrances and lobbies shall not be included in calculating the required percentages of ground floor use.

Chapter 18.35
DEVELOPMENT STANDARDS – DESIGN REQUIREMENTS

Sections:

- 18.35.005 Applicability.
- 18.35.010 Purpose.
- 18.35.020 General layout standards.
- 18.35.030 Lot segregations – Zero-lot-line development.
- 18.35.040 Lot segregations – Clustered development.
- 18.35.050 Townhouse development.
- 18.35.060 Attached dwellings and group residences – Applicability.
- 18.35.070 Attached dwellings and group residences – Vehicular access and parking location.
- 18.35.080 Attached dwellings and group residences – Building facade modulation.
- ~~18.35.090 Mixed-use development – Percentages of commercial uses.~~
- 18.35.100 Mixed-use development in the CC and NC zone as – Design features.
- ~~18.35.110 Mixed-use development – Phasing – Required plans, requirements, covenants, recordings – Review and approval.~~
- 18.35.120 Manufactured home parks – Standards for existing parks.
- 18.35.130 Manufactured home parks – Standards for new parks.
- 18.35.140 Manufactured home parks – Alternative design standards.
- 18.35.150 On-site recreation – Space required.
- 18.35.160 Recreation space – Fees in lieu of.
- 18.35.170 On-site recreation – Play areas required.
- 18.35.180 On-site recreation – Financial guarantees for construction.
- 18.35.190 On-site recreation – Maintenance of recreation space or dedication.
- 18.35.200 Storage space and collection points for recyclables.
- 18.35.210 Fences.
- 18.35.220 Hazardous liquid and gas transmission pipelines.
- 18.35.230 Trail corridors – Applicability.
- 18.35.240 Trail corridors – Design standards.
- 18.35.250 Trail corridors – Maintenance of trail corridors/improvements.
- 18.35.260 Wildlife habitat corridors – Applicability.
- 18.35.270 Wildlife habitat corridors – Design standards.
- 18.35.280 Short subdivisions or short subdivision alterations – Adequacy of access – Right-of-way use permits.
- 18.35.290 Proposed formal subdivisions, short subdivisions or binding site plans – Railroad buffer strips.
- 18.35.300 Preliminary subdivision and short subdivision approval – Maintenance of private streets, easements and utilities required.
- 18.35.310 Repealed.

~~18.35.090 Mixed-use development – Percentages of commercial uses.~~

~~Commercial uses in mixed-use developments shall be subject to the following limits:~~

~~(1) A minimum of 60 percent of the total ground floor area must be for commercial use.
(Ord. 42-02 § 2 (21A.14.110))~~

18.35.100 Mixed-use development in the CC and NC zone as – Design features.

Mixed-use development permitted by Chapter 18.25 CMC shall incorporate the following design features:

(1) Residential and nonresidential uses proposed for mixed-use development shall be only those uses permitted in the CC and NC zone, as established by Chapter 18.25 CMC;

(2) If residential and nonresidential uses are proposed for the same structure, nonresidential uses shall occupy no less than 60 percent of the ground floor. The Director may waive this requirement under the following circumstances:

(a) If the structure is located on a sloping lot that provides access from upper levels or from multiple levels. In such cases, the nonresidential use may be located on the levels that exit onto the primary pedestrian streets; or

(b) If views from the upper levels are valuable amenities that would help assure success of the nonresidential uses, such as a restaurant;

(c) Senior housing developments need not include commercial uses.

(3) Mixed-use development shall provide off-street parking behind or to the side of buildings, or enclosed within buildings consistent with CMC 18.50.030. Relief from this requirement may be granted by the Director only if the applicant can demonstrate that there is no practical site design to meet this requirement. The Director may allow only the number of parking spaces that cannot be accommodated to the rear or sides of buildings, or enclosed within buildings, to be located to the front of buildings. A 20 percent reduction of required parking is allowed if a mixed-use development meets the criteria of CMC 18.50.040 for shared parking. (Ord. 42-02 § 2 (21A.14.135))

~~18.35.110 Mixed use development – Phasing – Required plans, requirements, covenants, recordings – Review and approval.~~

~~When residential and commercial uses are proposed to be contained in separate structures and the structures containing residential uses are proposed to be built prior to those containing commercial uses, then a commercial site development permit shall be required and as well as the following:~~

~~(1) The applicant shall submit a site plan showing the entire mixed use development. The plan shall show project features including the location of the residential and commercial structures, parking areas, landscaping planters, sidewalks, and pedestrian linkages. The plan shall be drawn to scale and provide sufficient detail to ensure all zoning and development standards are met for the entire development.~~

~~(2) Infrastructure plans, including storm drainage facilities, shall be sized to accommodate the needs of the entire mixed use development. The infrastructure shall be installed with the first phase of the development up to or near the commercial building(s) unless the applicant demonstrates to the Department's satisfaction that there is potential for significant damage to the infrastructure during the construction of any later phase of construction.~~

~~(3) For the purpose of informing future property owners of limitations on future development because of the mixed use provisions of this title, the applicant shall record a covenant on the property that states the restrictions upon the remaining portions of the site that they shall only be used for commercial uses. The covenant shall be recorded prior to the issuance of the building permit for the residential structure(s). The covenant shall be subject to review and approval by the Department. (Ord. 42-02 § 2 (21A.14.145))~~

Chapter 18.110
COMMERCIAL SITE DEVELOPMENT PERMITS

Sections:

- 18.110.010 Purpose.
- 18.110.020 Applicability.
- 18.110.030 Complete application.
- 18.110.040 Public comments.
- 18.110.050 Application of development standards.
- 18.110.060 Approval.
- 18.110.070 Financial guarantees.
- 18.110.080 Limitation of permit approval.
- 18.110.090 Modification to an approved permit.
- 18.110.100 Administrative rules.

18.110.080 Limitation of permit approval.

(1) A site development permit approved without a phasing plan shall be null and void if the applicant fails to file a complete building permit application(s) for all buildings within three years of the approval date, or by a date specified by the Director; and fails to have all valid building permits issued within three years of the site development permit approval date.

(2) A site development permit approved with a phasing plan shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved phasing plan, unless otherwise approved through a development agreement pursuant to Chapter 18.114 CMC.

(3) A site development permit approved without a building permit shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved plan. If no time schedule is specified in the approved plan, then the applicant has one year to obtain a valid business ~~licence~~license.

(4) The Director may approve one two-year extension of the above stated limits if the applicant can show good faith progress, a justifiable basis for delay not occasioned by the applicant's own action or failure to act, and that the extension is reasonably necessary to complete the project. Requests for extension must be submitted in writing to the Director at least 14 days prior to the permit expiration date. Said request shall explain in detail the circumstances surrounding the request.

(5) Commercial site development permits associated with an approved and valid development agreement shall be subject to the terms and extension requirements in Chapter 18.114 CMC.

18.110.090 Modification to an approved permit^(SKL5).

(1) A subsequent building permit application may contain minor modifications to an approved commercial site development plan provided a modification does not:

- ~~(a) increase~~ Increase the building floor area by more than 10 percent;
- ~~(b) does not increase~~ Increase the number of dwelling units;
- ~~(c) does not increase~~ Increase the total impervious surface area; provided, that relocatable facilities for schools shall be exempt from this restriction;
- ~~(d) does not result~~ Result in an insufficient amount of parking and/or loading;
- ~~(e) does not locate~~ Locate buildings outside an approved building envelope; provided, that relocatable facilities for schools shall be exempt from this restriction;
- ~~(f) does not change~~ Change the number of ingress and egress points to the site;
- ~~(g) does not significantly~~ Significantly increase the traffic impacts of peak hour trips to and from the site;
- ~~(h) does not significantly~~ Significantly increase the quantity of imported or exported materials or increase the area of site disturbance.

(2) The Director has sole discretion to approve, deny or modify any request. Modifications, which exceed the conditions of approval as stated in this section and require a new review as determined by the Director shall only be accomplished by applying for a new commercial site development permit for the entire site. The new application shall be reviewed according to the laws and rules in effect at the time of application.

(3) Commercial site development permits associated with an approved and valid development agreement shall be subject to the development agreement procedures in Chapter 18.114 CMC

After recording return to:

Scott M. Missall
Short Cressman & Burgess PLLC
999 Third Avenue, Suite 3000
Seattle, Washington 98104-4088

Document Title(s)	City of Mill Creek Development Agreement for Town Center, Phase III
Reference Number(s) of related documents	BS 04-55 and ZTA 04-16
Grantor(s)	Mill Creek Commercial, LLC
Grantees(s)	City of Mill Creek
Legal Description	NW Section 6, Township 27N, Range 5E, for complete legal description see Exhibit A.
Assessor's Property Tax Parcel/Account Number	2705 060020 2700; 2705 060020 0800; 2705 060020 0900; 2705 060020 1000; 2705 0600300 0100

CONTRACT 2005-____
CITY OF MILL CREEK
DEVELOPMENT AGREEMENT
FOR
TOWN CENTER
(PHASE III)

TABLE OF CONTENTS/OUTLINE

	<u>Page</u>
1.0 Parties	1
2.0 Recitals	1
3.0 Property Descriptions	3
3.1 Property.....	3
3.2 Zone Designation.....	3
4.0 Binding Site Plan.....	3
4.1 Description.....	3
5.0 Master Development Plan	3
5.1 Master Development Plan Required.....	3
5.2 Binding Nature; Conflict.	3
5.3 Future Environmental Review.	3
5.4 Future Lot Development Process.....	4
5.5 Major and Minor Modifications.	4
5.6 Recordation.....	4
6.0 State Environmental Policy Act ("SEPA") Conditions.....	4
6.1 Authority.....	4
6.2 Conditions and Requirements.....	4
7.0 Conditions Arising from Non-City Agencies with Jurisdiction.....	11
7.1 Authority.....	11
7.2 Snohomish County.....	11
7.3 Transit.....	11
7.4 Silver Lake Sewer and Water District.....	11
7.5 Washington State Department of Fish and Wildlife.....	12
7.6 Fire District No. 7.....	12

8.0	Town Center Design Guidelines	12
8.1	Description.....	12
8.2	Application to Project.....	12
8.3	Conditions and Requirements.....	12
8.3.1	Ground Floor Retail Use Requirement.....	12
8.3.2	Project Lighting.....	13
8.3.3	Project Landscaping.....	13
8.3.4	Landscape Performance and Maintenance Bonds.....	13
8.3.5	Project Identification.....	13
8.3.6	Sidewalks.....	13
9.0	Non-SEPA Transportation Improvements and Mitigation	13
9.1	Public Works Department Conditions.....	13
9.1.1	SR 527 Improvements.....	14
9.1.2	Trail.....	14
9.1.3	Traffic Mitigation.....	15
10.0	Parking	15
10.1	Unified Parking Plan.....	15
10.1.1	On Street Parking.....	15
10.1.2	Employee Parking.....	16
10.1.3	Minimum Required Parking.....	16
10.1.4	Shared Parking Zones.....	16
10.1.5	Shared Parking Agreements.....	16
10.2	Transportation Demand Management.....	16
11.0	Use of Open Space; Operational Agreement	16
11.1	Open Space.....	17
11.2	City Authority Over Open Spaces.....	17
11.3	Pedestrian Access Easements.....	17
11.4	Operational Agreement.....	17
12.0	Construction	17
12.1	General.....	17
12.2	City Inspection.....	17
12.3	Clearing and Grading.....	17
12.4	Tree Protection.....	18
12.4.1	SR 527 Roadway Buffer.....	18
12.4.2	Tree Replacement.....	18
12.5	Construction Noise.....	18
13.0	Environmentally Critical Areas	18

13.1 Buffer Enhancement Plan18

13.2 Maintenance and Performance Bonds18

13.3 Protection of Wetlands.....18

13.4 ESA Biological Assessment.18

14.0 Binding Site Plan.....19

14.1 Preparation.....19

14.2 Notice of Conditions.....19

14.3 Updating of Binding Site Plan.....19

15.0 Phasing of Project19

15.1 Phasing.....19

15.1.1 Infrastructure Phase.....19

15.1.2 Building Phase I.....19

15.2 Subsequent Phases.....20

16.0 Bonding; Security20

16.1 Bond Required; Approval.....20

16.2 Public Improvements and Wetlands Bonds.....20

16.3 Waiver and Release.....20

17.0 Transfer of Property by Developer20

17.1 Authority to Transfer.....20

17.2 Obligations of Successors.....20

18.0 Binding Nature; Modification; Vested Rights.....20

18.1 Binding Nature.....20

18.2 Modification of Agreement.....20

18.3 Vested Rights.....21

19.0 Enforcement Authority21

19.1 Description.....21

20.0 Dispute Resolution21

20.1 Description.....21

21.0 Authority to Approve Agreement21

21.1 By Developer.....21

21.2 By City.....21

22.0 General Terms.....21

22.1 Integration.....21

22.2 Venue.....21

22.3 No Waiver of Police Power or Condemnation Authority.....22
22.4 Covenant Running with Land.22
22.5 Developer's Responsibility.22
22.6 Attorneys Fees.22
22.7 Severability.22

CONTRACT 2005-_____

**CITY OF MILL CREEK
DEVELOPMENT AGREEMENT
FOR
TOWN CENTER
(PHASE III)**

1.0 Parties

1.1 This Development Agreement ("Agreement") is made this ____ day of January 2005 by and between the City of Mill Creek, a Washington municipal corporation (the "City") and Mill Creek Commercial, LLC, a Washington limited liability company ("Developer").

2.0 Recitals

2.1 The Developer is the owner of a tract of land located in the City of Mill Creek, Washington, containing approximately 6.6 acres, the legal description of which is attached and incorporated in full as **Exhibit A** (the "Property").

2.2 The Property is located within a portion of the City that is planned for development as a new commercial and retail center for the City (the "Town Center"), and comprises approximately one quarter of the Town Center planning area.

2.3 The Developer wishes to develop the Property in accordance with the City's Town Center Conceptual Plan and Design Guidelines, adopted January 28, 1997, and as subsequently amended (collectively "Town Center Plan" or "Town Center Design Guidelines"), and thus intends to utilize the Property for development of a mixed-use commercial and retail community consisting of shops, businesses, residential uses, open space, plazas, recreational facilities, utilities, community facilities, road systems and other related components and amenities (the "Project," "Project Site," "Development Site" or "Planned Development.").

2.4 As part of the proposed development, the Developer has filed a Binding Site Plan Application, filed under City File No. BS 04-55. Through this application, the Developer seeks approval of a Binding Site Plan that will fix and establish the development of the Property in a form that is consistent with the requirements of the City. The Binding Site Plan shall be referred to herein as the "BSP," "Binding Site Plan," or "BS 04-55."

2.5 The Developer also seeks a Zone Text amendment to increase the maximum allowed height of residential buildings within the Town Center from four (4) stories and 50 feet to five (5) stories and 60 feet for mixed-use, residential structures. The Zone Text Amendment shall be referred to herein as the "ZTA," "Zone Text Amendment," or "ZTA 04-16."

2.6 The City and the Developer wish to ensure that the Property will be developed in accordance with the provisions of the Town Center Master Plan, Town Center Design Guidelines, and BS 04-55, in compliance with all applicable City codes, plans, and development regulations, and in a manner acceptable to the City. These include, but are not limited to, the current edition of the Mill Creek Comprehensive Plan (December 2004) and the Mill Creek Municipal Code ("MCMC"), specifically including, but not limited to, Development Code Administration (Title 14), Building and Construction (Title 15), Plats and Subdivisions (Title 16), Zoning Regulations (Title 17), and Environmental Policies (Title 18).

2.7 Following consideration of BS 04-55 pursuant to the City's development review process, the City Council determined that BS 04-55 was in the public interest, was in furtherance of the public health, welfare and safety of the citizenry of Mill Creek, and was consistent with the requirements of law applicable to the proposed site plan, all provided that certain conditions were met by the Developer. Accordingly, the City Council approved Ordinance No. 2005-____, granting the Developer's application for BS 04-55 subject to certain conditions.

2.8 The City and the Developer agree that the purpose of this Development Agreement is to comply with the Mill Creek Municipal Code, and the Conditions of Approval for BS 04-55 as approved by Ordinance 2005-____, by setting forth in detail the conditions and requirements applicable to the Project as part of the Town Center. The City and the Developer further agree that this Development Agreement establishes certain rights of the Developer to develop the Property for the time period and in accordance with the conditions specified herein and the approvals granted by the City with respect to the Project. The City and the Developer further agree that this Development Agreement is consistent with RCW Chapter 36.70B, the Mill Creek Municipal Code, and the Mill Creek Comprehensive Plan, and also with applicable elements of the Town Center Draft Environmental Impact Statement (July 1996), the Town Center Final Environmental Impact Statement (September 1996), the Mitigated Determination of Non-Significance issued for BS 04-55 (July 23, 2004), and the Addendum to the Mitigated Determination of Non-Significance (hereinafter referred to as "Addendum") issued on December 1, 2004.

2.9 The City and the Developer agree that each has entered into this Development Agreement knowingly and voluntarily and agree to be bound by the terms and conditions of this Development Agreement.

2.10 The City and the Developer agree that the foregoing terms and recitals are material to this Development Agreement, and that each party has relied on the material nature of such terms and recitals in entering into this Development Agreement.

THEREFORE, in consideration of the mutual benefits of this Development Agreement and the actions and promises set forth herein, including without limitation the approval

of the Binding Site Plan, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

3.0 Property Descriptions

3.1 Property. The Property, which is the subject of this Development Agreement, is fully described in **Exhibit A**, attached and incorporated by this reference as though fully set forth herein.

3.2 Zone Designation. The zoning designation of the Property as Planned Community Business shall be unchanged for the duration of this Development Agreement.

4.0 Binding Site Plan

4.1 Description. BS 04-55 was approved by the City as set forth in Ordinance 2005-____. BS 04-55, through its various components and conditions, establishes the required layout of tracts and lots, rights-of-way for roads, streets, lanes and sidewalks, public utilities, public utility and pedestrian easements, and critical and wetland areas and attendant buffers. BS 04-55, through its various components and conditions, also establishes the general layout of building footprints and parking areas. In accordance with RCW 58.17.035, the Binding Site Plan shall be recorded in the Snohomish County Auditors Office prior to the sale of any lots, tracts or parcels created by the Binding Site Plan.

5.0 Master Development Plan

5.1 Master Development Plan Required. Development of the Property shall be consistent with the Master Development Plan approved pursuant to MCMC Section 17.21.020. Said Master Development Plan shall consist of and include BS 04-55, the illustrative Master Site Plan, this Development Agreement, and the Town Center Design Guidelines.

5.2 Binding Nature; Conflict. The Developer and all subsequent applicants for individual building permits and all other permits related to land or actions within the Property shall be bound by and shall comply with the terms and conditions of the Master Development Plan. All the terms and conditions of the Master Development Plan as described in the attached Master Development Plan staff report, as amended by Planning Commission Resolution 2004-121 and as approved by the City Council, shall apply to the Project, provided that, should an irreconcilable conflict arise when two or more of the terms and conditions of the Master Development Plan are applied, the more restrictive of said terms as determined by the City shall be applied to the Project.

5.3 Future Environmental Review. In approving the Master Development Plan, the City acknowledges that it has undertaken and completed all currently required environmental review for the Project. Further environmental review shall not be required for individual permits falling within the scope of the Project (e.g., building permits for Town Center buildings depicted on the illustrative

master plan required by MCMC Section 17.21.030 {A}), provided that every such permit shall be conditioned in accordance with the terms and conditions of the Master Development Plan.

5.4 Future Lot Development Process. Upon approval of the Master Development Plan and in accordance with the City's development regulations, applicants seeking to develop individual lots within the Project shall submit appropriate applications for building or other permits, and shall be subject to review and approval of the City and/or the Design Review Board as appropriate.

5.5 Major and Minor Modifications. Any change or amendment to the approved Master Development Plan shall comply with the provisions of MCMC Section 17.21.090. In determining the degree of modification, the Director shall place emphasis on the consistency of the proposed modification with the Town Center Design Guidelines and with the Master Development Plan, except that changes of use determined by the City to be consistent with MCMC Title 17 and changes of building footprints of fifteen percent (15%) or less shall be deemed minor modifications.

5.6 Recordation. This Development Agreement shall be recorded with the Snohomish County Auditor at the Developer's expense following the final execution of this Agreement, in accordance with RCW 36.70B.190 and Ordinance 2005-_____. The Binding Site Plan and the ordinance approving this Agreement shall be recorded prior to the issuance of building permits at the Developer's expense as provided by City regulations.

6.0 State Environmental Policy Act ("SEPA") Conditions

6.1 Authority. The conditions in this Section have been imposed on the Project in accordance with the State Environmental Policy Act, RCW Chapter 43.21C and MCMC Chapter 18.06, and are also set forth in the Mitigated Determination of Non-Significance ("MDNS") issued on July 23, 2004 and the Addendum issued on December 1, 2004.

6.2 Conditions and Requirements. The following environmental conditions shall apply to the Project:

ELEMENTS OF THE ENVIRONMENT IMPACTED BY THIS ACTION AND MITIGATION MEASURES

The environmental impacts of this proposal are documented in the Environmental checklists, dated July 19, 2004 and November 29, 2004, and other information on file with the City of Mill Creek, including the Draft and Final Environmental Impact Statements for the Town Center Master Development Plan. The listed mitigation measures are imposed in response to the City's review of this information.

1. EARTH

Erosion could occur during the clearing and grading of the site, as well as for building foundations, rockeries, roadways, driveways, and utilities. If not properly mitigated, uncontrolled erosion could result in detrimental impacts to Wetland A and North Creek.

To mitigate the potential impacts of the site clearing and grading work, the following mitigation measures shall be implemented:

- A. A Construction Stormwater Pollution Prevention Plan (SWPPP) shall be prepared in accordance with the requirements in the 2001 Department of Ecology Stormwater Management Manual for Western Washington. The SWPPP shall be submitted to the Director of Public Works for review prior to civil plan approval.
- B. The appropriate Best Management Practices (BMP) for temporary erosion and sedimentation control shall be installed in accordance with approved SWPPP prior to any grading or extensive land clearing. These facilities must be satisfactorily maintained until construction and landscaping is completed and the potential for on-site erosion has passed.
- C. Public streets, most notably Main Street and 153rd Street SE, shall be cleaned once per day or as directed by the City. Flushing of streets with water will not be allowed.
- D. From October 1 through April 30, no soils shall remain exposed and unworked for more than two days. From May 1 through September 30, no soils shall remain exposed and unworked for more than seven days. Any unworked soil shall be stabilized with a City approved BMP.
- E. Disturbed soil shall be hydroseeded if not worked within 30 days.

2. AIR

Construction activities may generate dust. Dust shall be controlled by watering areas of soil disturbance during construction, and cleaning public streets once a day.

3. WATER

Stormwater: Development will generate stormwater runoff that may contain oil, heavy metals, fertilizers, and other potential pollutants. Increased impervious surfaces result in larger volumes of stormwater runoff and high peak discharges that, if unmitigated, could cause downstream erosion, destruction of fish habitat, and adverse impacts to the off-site and the on-site wetlands.

A preliminary storm drainage plan and report were submitted with the Binding Site Plan application. Stormwater facilities have already been designed and constructed for Phase I and Phase II of the Town Center. Phase I, located north of 153rd Street SE is grand fathered under the requirements of

the 1992 Department of Ecology Stormwater Manual. Phase II, located east of Main Street and south of 153rd Street SE, was designed and constructed in accordance with the 2001 Department of Ecology Stormwater Management Manual for Western Washington.

The north half of Phase III was originally Lot 8 of Phase 1, and the stormwater facilities for that portion of the site have already been constructed. Runoff from that area is directed into an existing wetpond, which outfalls to the wetland buffer via a level spreader.

The south half of Phase III is subject to the requirements of the 2001 Department of Ecology Stormwater Management Manual for Western Washington. An underground vault will be constructed in the parking lot in front of building M to provide detention and water quality treatment for the development area west of Main Street. In addition, since this is a commercial development, a secondary treatment filter will be installed to remove pollutants from the vault discharge. The outlet of the vault will discharge into the adjacent wetland buffer through a new level spreader that will be field located to minimize construction impacts.

Groundwater: The subject property has a relatively shallow groundwater table. No groundwater withdrawals are proposed; however, development of the site may decrease the quantity of the shallow seasonal groundwater feeding the adjacent wetlands, as well as disrupt current shallow groundwater flow patterns. Development may also alter the existing wetland hydrology and hydro-period of the portion of the North Creek wetland (also referred to herein as Wetland A) adjacent to the development site.

The following minimum measures are required to mitigate the impacts of the proposal on stormwater and groundwater:

- A. The applicant shall include all required public and private drainage improvements in the engineering design plans and stormwater report for the Director of Public Works approval. The approved stormwater system shall include the following elements and conditions:
- 1) Detention and water quality treatment facilities with a conveyance system that meet the requirements of the City of Mill Creek and the 2001 Department of Ecology Stormwater Management Manual for Western Washington.
 - 2) Provisions on the Final Binding Site Plan for maintenance of the stormwater system, including, but not limited to adequate access to maintenance locations, provisions and easements that allow the City to inspect, maintain, and/or operate the detention and treatment system at its discretion.
 - 3) Requirements that the property owners are obligated to own, maintain and operate the stormwater system outside the public right-of-way to the satisfaction of the City Engineer. Specific maintenance measures shall be indicated on the approved engineering plans and in the final drainage report.

- 4) A final stormwater drainage report signed and stamped by a licensed professional engineer shall be submitted to the Director of Public Works for review and approval.
- B. Site engineering, including the storm drainage system, shall be designed to minimize impacts on the hydro-period in the central wetland and forest. A monitoring plan, acceptable to the City, and based upon the health and survival rate of wetland plant communities, shall be developed by the project proponent and submitted to the City prior to approval of the clearing and grading plan. The monitoring plan shall remain in effect for five years and identify baseline data and specific standards for assessing the hydro-period. Appropriate locations for vegetation plots or other acceptable means of monitoring shall be subject to approval by the City. A contingency plan shall also be developed for implementation in the event that post-construction monitoring reveals that deleterious hydro-period impacts caused by this action have occurred or will continue.
 - C. A Hydraulic Project Approval (HPA) permit shall be obtained from the Washington State Department of Fish and Wildlife, if applicable, prior to clearing and grading of the site. Other state and federal permits shall also be obtained, if applicable. The applicant shall provide documentation that applicable permits have been obtained.

Wetlands: A portion of the North Creek wetland system (referred to as Wetland A) is located on the subject property. This wetland has been classified as a palustrine forested wetland, and has high to moderately high value for several important wetland functions. In accordance with Chapter 18.06, MCMC, Wetland A has been identified as a Type II wetland. Buffer width is determined by the intensity of the adjacent land use. For high impact land uses, a minimum 100-foot buffer is required, and for low impact land uses, a minimum 50-foot buffer is required.

The proponent is proposing an averaged 50-foot wetland buffer from Wetland A and buffer enhancement plantings. The applicant is required to demonstrate that the proposed buffer and enhancement plan is consistent with the Chapter 18.06, MCMC to reduce potential impacts to Wetland A.

The following minimum measures are required to mitigate the potential impacts of the proposal on Wetland A:

- A. Buffers adjacent to Wetland A shall be provided in accordance with Chapter 18.06.090, MCMC. A Sensitive Areas Report and Wetland Mitigation Plan shall be reviewed and approved prior to approval of the Master Development Plan and Binding Site Plan.
- B. The following measures shall be incorporated into the Wetland Mitigation Plan to minimize potential impacts to Wetland A:

- 1) Avoid human intrusion into Wetland A and its associated buffer by implementing the following measures:
 - a. Locate the North Creek Trail in the outer portion of the wetland buffer to minimize impacts to the Wetland A. Install post and dowel fencing consistent with the North Creek Trail standards on the western edge of the trail.
 - b. Enhance the wetland buffer with native trees and shrubs that will provide a “full and bushy” screen in appropriate locations. Trees shall be installed at a variety of sizes, ranging from 8 to 12 feet in height for conifers, and 1-1/2 to 3-1/2 inches in diameter for deciduous trees.
 - 2) Shield roadway, parking lot and building light fixtures to avoid spillover of light into the wetlands and associated buffers.
 - 3) Installation of vegetation in appropriate locations along the western edge of the parking areas to prevent light intrusion into the wetlands and associated buffers.
- C. Construction activity shall be restricted so as not to cause disturbance of or intrusion into the buffer of Wetland A, except in limited instances for the installation of stormwater discharge facilities such as lateral spreaders providing wetland recharge, buffer enhancement planting, trail construction, or other work as approved by the City.
- D. All trees to be cut shall be removed in a manner that the fall direction is away from the wetland and wetland buffer unless approved by the City as part of a mitigation or habitat improvement effort. No trees shall be removed from the wetland buffer without City approval and unless they are determined, by a qualified plant biologist or certified arborist, to be hazardous.
- E. Construction stockpiles and debris shall be placed outside the wetland buffer at locations approved by the City. Any wetland buffer destroyed or disturbed during construction shall be replaced and restored as each phase of construction is complete.

4. PLANTS

The vegetated portion of the site proposed for development is comprised primarily of a mixed coniferous-deciduous canopy, with the upland portions dominated by coniferous species and the wetland portions dominated by deciduous tree species. Development of the site will result in the removal of most of the upland coniferous forest. Vegetation removal has already occurred in conjunction with previous residential development (now demolished), the development of Lots 1 and 8, and the construction of a north/south sanitary sewer line constructed by the Silver Lake Water District in 1999 (the sewer line follows the proposed alignment of Main Street). Removal of the remaining upland forest will result in the loss of wildlife habitat, as well as subject the remaining

forest stand to stresses such as increased temperature, light, wind-throw and altered hydrology. Negative edge effects could reach into the remaining forest for a distance of 200 – 300 feet. (DEIS, Section 3.4.2, page 48; Technical Appendix VII, pages 18-19).

The following minimum measures are required to mitigate the impacts of the proposal on plants:

- A. Trees and landscaping along streets, around the perimeter of the site, adjacent to buildings, and within parking areas and public plazas, shall be installed in accordance with the Town Center Design Guidelines and Chapter 17.34, MCMC.

5. ANIMALS

Terrestrial Habitat: Removal of the existing upland coniferous forest will result in the loss of habitat for wildlife, including a reduction in the diversity of species and reduced populations of remaining species. Post-construction light, noise and glare may make the wetland forest habitat less suitable after the upland forest is cleared and if the wetland buffer exhibits degraded conditions.

Aquatic Habitat: Stormwater from the subject property will be released into wetlands associated with North Creek. North Creek provides habitat for the Puget Sound Chinook Salmon, which has been listed as a threatened species under the Endangered Species Act. Increased surface water runoff and high peak discharges, if unmitigated, may cause increased erosion, downstream flooding, reduced water quality, and destruction of fish habitat. To minimize impacts to downstream fish habitat, the project's stormwater system shall be designed per the requirements in Section 3 of this Determination.

The following minimum measures are required to mitigate the impacts of the proposal on animals:

- A. Remaining habitat (wetlands and their associated buffers) shall be enhanced using a variety of enhancement measures such as the use of native plants. A buffer enhancement plan will be reviewed and approved by the City prior to approval of the Master Development Plan and Binding Site Plan. The enhanced habitat shall be monitored for a period of five years from the date the City accepts the installation of the enhancement measures.
- B. Install interpretive signs in appropriate locations, along the western edge of the parking areas adjacent to the wetland buffer to provide educational information regarding the protection of the natural habitat. The design content and location of the signs shall be reviewed and approved by the City prior to their installation.

6. AESTHETICS

The proposed development is located in the Planned Community Business (PCB) zone district. As stated in Chapter 17.21, MCMC, the purpose of this zone district is to promote “pedestrian oriented mixed-use commercial, office, residential and public uses that conform to the design and layout of the approved Master Plan contained within the adopted Town Center Design Guidelines. To ensure that the proposed development meets the intent of the PCB zone district, the project shall be designed in accordance with the Town Center Design Guidelines, and shall be subject to review and approval by the City of Mill Creek Design Review Board.

7. TRANSPORTATION

The Town Center Phase III development is under the same traffic mitigation requirements as Phase I and Phase II, which were identified and approved in the final traffic study prepared by Transportation Planning and Engineering, Inc., dated January 20, 2000.

City of Mill Creek Traffic Mitigation: Payment of traffic mitigation fees to both the City and Snohomish County are required for this development. A traffic study shall be submitted to the City and County to verify the final land use and store composition of the development. The applicant shall pay the total amount of the traffic mitigation fees identified by the Public Works Director prior to issuance of any building permits.

Snohomish County: The Reciprocal Impact Mitigation Agreement between the City of Mill Creek and Snohomish County, dated December 18, 1991 (RIM Agreement), established policies and procedures for the review of development impacts on inter-jurisdictional transportation systems and the requirement to mitigate appropriate impacts in accordance with adopted road improvement programs. In accordance with the RIM Agreement, the applicant shall comply with specific measures identified by Snohomish County that are reasonably necessary to mitigate the project’s impacts on directly affected County roads in the surrounding area.

The application for a mixed retail/commercial development constitutes a development subject to SCC Title 26B. The development is located in Transportation Service Area D. SCC Title 26B requires review of a development’s impacts to road system capacity. Snohomish County has determined, based on adopted formulas, that commercial development mitigation fees for future road system capacity are \$148.00 per ADT.

Pedestrian Circulation: The City’s Comprehensive Plan and Town Center Design Guidelines identify the North Creek Trail as a major non-motorized transportation facility within the SR 527 Corridor. In addition to the sidewalk system, this trail provides an important link to various Town Center uses and adjacent neighborhoods.

To mitigate the projects impact on the circulation network, the project proponent is required to construct a pedestrian/bike trail in accordance with the North Creek Trail Standards and Town Center Design Guidelines. The trail shall be constructed on the west side of Main Street from its current terminus at the south end of Lot 8 of Phase I to the existing northern terminus located on lot 7 of Mill Creek Plaza.

8. PUBLIC SERVICE – FIRE SERVICE

The City of Mill Creek and Snohomish County Fire District No. 7 have executed an Interlocal Agreement for mitigation of development impacts on fire facilities/services. Mitigation fees are determined by the anticipated impact a development will have on Fire District facilities. Based on the provisions of this Interlocal Agreement, the mitigation required is \$365.00 per equivalent development unit (EDU), which is 2,400 square feet of structure. Payment of the mitigation fee to the Fire District is required prior to the issuance of each building permit.

9. PUBLIC SERVICE - EVERETT SCHOOL DISTRICT:

The City of Mill Creek and the Everett School District have executed an Interlocal Agreement for mitigation of development impacts on district facilities. Approval of the project will have an impact on the Everett School District facilities. The Everett School District has determined that a contribution of \$7,133.68 is required to mitigate impacts to District facilities. This mitigation amount is based upon total number of multi-family units multiplied by the Student Generation Rate, as calculated below: The total amount shall be paid prior to the issuance of the permit for Building R.

30 units (1 bedroom multi-family) x .006 students x \$3,179 =	\$572.22
16 units (2 bedroom multi-family) x .129 students x \$3,179 =	<u>\$6,561.46</u>
TOTAL	\$7,133.68

7.0 Conditions Arising from Non-City Agencies with Jurisdiction

7.1 Authority. The City utilizes its Technical Review Committee pursuant to MCMC Section 14.05.050 to evaluate land use development applications and incorporate responses from other agencies with jurisdiction. Agency comments that are relevant to SEPA impacts and attendant mitigation measures are included in Section 6.0 above. Comments and conditions arising from non-City agencies with jurisdiction are set forth below.

7.2 Snohomish County. To mitigate impacts of the project on the Snohomish County transportation system, the Developer shall contribute \$148.00 per ADT, based on the Supplemental Traffic Study submitted with each building permit, in the approximate amount of \$151,271. Proportional payment of this traffic mitigation to Snohomish County shall be made prior to the issuance of each building permit needed for the Project.

7.3 Transit. Bus stops will be provided on Main Street in the general location of Buildings P and M, in both directions, consistent with Community Transit design standards for transit access and as stated in the January 14, 2004 correspondence from Brent Russell, System Planner for Community Transit to Bill Trimm, City of Mill Creek Community Development Director.

7.4 Silver Lake Sewer and Water District. Sewer and water connections shall be made in accordance with plans approved by the Silver Lake Sewer and Water District.

7.5 Washington State Department of Fish and Wildlife. If required by state statute or regulation, the Developer shall obtain a Hydraulic Project Approval ("HPA") prior to any site work requiring such approval.

7.6 Fire District No. 7. Fire hydrant design, location and spacing shall be reviewed and approved by Fire District No. 7 and the Silver Lake Sewer and Water District prior to issuance of building permits. All building addresses shall be clearly visible on building frontages to fire and emergency vehicles.

8.0 Town Center Design Guidelines

8.1 Description. The Town Center Design Guidelines shall control the design of building sites, streets, sidewalks, plazas, public areas, landscaping, architectural character of buildings, exterior building walls, roofs, building materials, general colors, service areas, lighting, signage, parking and other urban design features.

8.2 Application to Project. The Town Center Design Guidelines will be administered by City staff and used by the City's Design Review Board to evaluate various building and site development features proposed for the Project, including development of individual lots. The Town Center Design Guidelines shall be applied to the Project as development regulations within the meaning of RCW 36.70A.030 and the uses described in MCMC Section 17.21.040.

8.3 Conditions and Requirements. The Town Center Design Guidelines shall be used to evaluate the development features of the Binding Site Plan and to condition BS 04-55 and subsequent building (and other) permits and related site plans proposed for each lot. In addition, the parties agree that certain site features require special treatment beyond those listed in the Town Center Design Guidelines. These site features are listed below, together with the special conditions that apply to them.

8.3.1 Ground Floor Retail Use Requirement. All proposed buildings that front on Main Street shall devote a minimum of 75 percent of its retail frontage to ground-floor, pedestrian-oriented uses, as defined in the Town Center Design Guidelines.

8.3.2 Because of the length of Buildings K, M, N, P and R being equal to or greater than 100 feet in length, the Building Articulation section of the Design Guidelines shall be

expressly used in the design, review and approval process of the architectural character of the buildings.

8.3.3 The southern end of the two story portion of Building M shall be rotated to the west to align with Main Street in order to provide a minimum of 16 feet between the southeast corner of the building and the curb on Main Street.

8.3.4 Project Lighting. A lighting plan and photometric plan for Phase III of the Project shall be submitted for review and approval by the City. The photometric plan shall include minimum and maximum illumination levels and uniformity ratios. Lighting shall be designed to eliminate glare and minimize any spillover of light into adjoining wetlands and buffers, as well into adjoining developments. The light pole height and luminaire color shall conform to the Town Center Design Guidelines. Metal halide lights shall be used for building exteriors, parking areas, pedestrian courts, and Main Street. The luminaires in the existing Main Street lights shall be replaced with metal halide fixtures. Decorative light pole bases (Cyclone Model BD 55) shall be installed on existing light poles on Main Street.

8.3.5 Project Landscaping. The Developer shall submit, for City approval, a landscape plan consistent with the Town Center Design Guidelines and MCMC Chapter 17.34. Such plan shall include the entire Project Site including parking areas, primary and secondary streets, and the North Creek buffer and trail. The landscape plan shall be prepared by a licensed landscape architect and shall be reviewed and approved by the Design Review Board prior to issuance of individual building permits. The landscape plan shall be implemented commensurate with Project construction. Street trees shall include root barriers and tree wells/grates that have a minimum dimension of 4 feet x 4 feet. Irrigation shall be provided in all landscape areas.

8.3.6 Landscape Performance and Maintenance Bonds. Performance and maintenance bonds shall be required for all landscaping as provided by City code, except as modified below. The amount of the performance bond for landscaping shall be one hundred twenty-five percent (125%) of the cost of installation, including plant materials, irrigation, and labor for Phase III of the Project. Upon acceptance of the landscaping and irrigation system for each phase of the Project by the City, and posting of the maintenance bond, the performance bond shall be released. A two-year maintenance bond, equaling twenty percent (20%) of the amount of the performance bond, shall be posted prior to or at the time of the City's acceptance of the landscaping and irrigation system.

8.3.7 Project Identification. A monument site entry marker, consistent with the Town Center Design Guidelines, shall be provided in the proximity of the southern Main Street entrance to the Property. The sign shall require review and approval by the Design Review Board. The monument sign at the south Main Street entry shall be designed to ensure that the entrance to the Town Center is visible to northbound trips off of Mill Creek Boulevard onto Main Street.

8.3.8 Sidewalks. The Developer shall coordinate with the City to provide a transition of sidewalk widths between Town Center and the City's Main Street Connection Project.

9.0 Non-SEPA Transportation Improvements and Mitigation

9.1 Public Works Department Conditions. Prior to issuance of any building permit for the Project, unless other timing is indicated, the Developer shall complete the following, or shall provide a secured agreement satisfactory to the City Attorney and City Engineer for the following:

9.1.1 Right-of-Way Improvements. Complete the following prior to issuance of any Certificate of Occupancy for the Project:

a) Sidewalks, Pedestrian Plazas and Lighting. Concrete sidewalks and pedestrian plazas shall be installed along and adjacent to the Project frontage on Main Street, 153rd Street and as illustrated on the approved Master Site Plan. Pedestrian crossings shall be clearly indicated through use of varied pavement textures, raised crossings, or other construction techniques as approved by the Director of Public Works. Adequate street and pedestrian lighting shall be installed along Main Street and all pedestrian areas as required by the City and PUD. The street and pedestrian lights (pole and luminaire head) shall be consistent with the type used within Phase 1 of the Town Center. Lighting calculations and plans shall be submitted for review by the City Engineer prior to construction. The applicant shall be responsible for the first year of operational costs for the street lights, and shall pay these costs to the City prior to energizing the street lights.

b) Interior Streets

1) The applicant shall construct or reconstruct the full-width of Main Street and 153rd Street SE as necessary for the planned development. This work shall consist of all items within the ultimate Main Street and 153rd Street SE right-of-ways, including, but not limited to the following elements and conditions:

i) Paving, signage, storm drainage facilities, vertical curb and gutter, on-street parking facilities, concrete crosswalks, sidewalks, lighting and landscaping.

ii) All facilities constructed along the Project frontage shall be in compliance with the adopted and amended Mill Creek Town Center Design Guidelines.

iii) The interior drive aisles shall be designed for emergency vehicle access, to ensure good traffic circulation and to maximize driver safety. The configuration of the interior drive aisles and associated channelization

shall be approved by the Directors of Public Works and Community Development and Fire District 7.

9.1.2 Trail. The Developer shall design and construct a trail system adjacent to the North Creek wetlands as indicated on the approved Master and/or Binding Site Plan and Town Center Design Guidelines. The trail system shall be constructed from its current terminus at the south end of Lot 8 of Phase I to the existing northern terminus located on lot 7 of Mill Creek Plaza and shall be field located by the City. Construction of the North Creek Trail shall be consistent with the North Creek Trail Design Standards except where modified by the Director of Community Development pursuant to the MDNS or the Town Center Design Guidelines. The North Creek Trail Design Standards shall apply to pedestrian furnishings, buffer fencing, signs and lighting. A public access easement shall be granted for public use of the trail system to the satisfaction of the City Attorney. The trail shall be completed prior to the issuance of the first Certificate of Occupancy for any building in the Project. Where the trail enters the Town Center site on the north side of Building P, it shall be a minimum width of 10 feet exclusive of vehicle overhang areas and shall incorporate pedestrian-oriented features.

9.1.3 Traffic Mitigation. A supplemental traffic study shall be submitted to the City to verify the final land use and store or tenant composition of the Project. The applicant shall pay the total amount of the traffic mitigation fees identified by the Public Works Director prior to issuance of each individual building permit.

- a) The applicant shall contribute to the City's transportation mitigation program based on the preliminary traffic distribution outlined in Exhibit C.
- b) Traffic mitigation fees shall be paid proportionately with each individual building permit. A supplemental traffic study shall be submitted with each building permit to verify the trip generation rate for the final building occupants and land use.
- c) In accordance with the RIM Agreement, the applicant shall comply with specific measures identified by Snohomish County that are reasonably necessary to mitigate the Project's impacts on directly affected County roads in the surrounding area. Traffic mitigation fees shall be paid to Snohomish County prior to issuance of any building permits.

10.0 Parking

10.1 Unified Parking Plan. The mixed-use nature of the Town Center is designed to encourage pedestrian activity and discourage internal vehicle trips. Through the application of shared parking among tenants, the Unified Parking Plan is intended to ensure that adequate parking is provided for customers and employees of the Town Center while decreasing large expanses of surface parking area.

10.1.1 On-Street Parking. On-street parking stalls shall be for customer parking only. On-street stalls may be allocated to the adjacent building/use for purposes of meeting the required parking ratio set by this Section 10.1.

10.1.2 Employee Parking. Employee parking shall be limited to the peripheral stalls of parking lots behind buildings, leaving the most convenient stalls for customer parking.

10.1.3 Minimum Required Parking. Each Town Center lot shall be developed with sufficient parking to meet the following minimum parking ratios for each use developed on the lot, unless a shared parking zone is established pursuant to Section 10.1.4 below:

<u>Use</u>	<u>Stalls Per Bldg. Sq. Ft. or Unit</u>
Retail	4.0 / 1,000 sq. ft.
Office	3.5 / 1,000 sq. ft.
Restaurant	9.0 / 1,000 sq. ft.
Residential	1.5/ unit

10.1.4 Shared Parking Zones. Shared parking zones may be created to maximize parking availability among uses whose peak parking periods offset each other and to establish the minimum number of stalls for each parking zone ("Shared Parking Zone"). Parking ratios within Shared Parking Zones shall be based on the Urban Land Institute Shared Parking Guidelines. As development proceeds, shared parking zones will be created pursuant to Section 10.1.5 below.

10.1.5 Shared Parking Agreements. If the owner of a Town Center lot desires to provide fewer parking stalls for that lot than are required by Section 10.1.3, or if an owner desires to obtain the right to use parking stalls on other Town Center lots to meet that owner's parking requirements, the first lot owner shall enter into a Shared Parking Agreement with the owner of one or more other Town Center lots to provide such parking stalls; provided that all lots benefited and burdened by a Shared Parking Agreement shall collectively contain sufficient parking stalls to meet the minimum parking ratio requirement established by Section 10.1.3; and provided further that all such Shared Parking Agreements shall be approved by the Director and the City Attorney in advance of their effective date, and shall be recorded by the first lot owner.

10.2 Transportation Demand Management (TDM). The Developer shall coordinate with Community Transit and provide a centrally located in-lane transit stop on Main Street as TDM measure in the Project. Additional TDM measures include, but are not limited to, preferential parking for car pools and van pools, bicycle racks, informational kiosks and an on-site transportation coordinator to promote a ride-match program. These additional measures shall be addressed and implemented through the Town Center Business Association Operational Agreement.

11.0 Use of Open Space; Operational Agreement; Conditions, Covenants and Restrictions

11.1 Open Space. A central feature of the Town Center Plan is providing open spaces and public spaces for use by the public and the City, both on a daily basis and on a special event or special occasion basis. The parties acknowledge that there are three types of open space within the Project: (1) *public open spaces* (consisting of dedicated street rights-of-way and portions of sidewalks), (2) *private open spaces* (consisting of plazas, trails, buffers, the wetlands, and portions of sidewalks), and (3) *protected open spaces* (consisting of designated wetlands and the wetland buffers, but excluding the North Creek Trail itself). Both the public and private open spaces are intended for general use by the public-at-large. The protected open spaces (excluding the North Trail itself) are not intended for general public access and may be used only in conformance with City regulations and other applicable restrictions. In addition, however, the parties recognize that the Town Center merchants may desire to conduct certain sales and promotional events on or in the private open spaces, and that the City desires to conduct periodic community-wide events using all or portions of the dedicated public spaces and open spaces. By way of example only, such community events could include holidays, parades, public activities, presentations, or any other reason deemed desirable or necessary by the City.

11.2 City Authority Over Open Spaces. Nothing in this Development Agreement or the Operational Agreement shall limit, in any respect, the City's authority to control, regulate or take any other action in, on or upon the public open spaces. In addition, the City shall have the authority at the City's sole discretion, but not the obligation, to regulate access to, conduct, behavior and other actions occurring within any open space areas designated on the Binding Site Plan.

11.3 Pedestrian Access Easements. Except for designated wetlands and buffers, a public pedestrian access easement allowing public access shall be granted over all private open spaces, including without limitation, sidewalks, pedestrian paths, trails and plazas, sidewalks along Main Street, and the North Creek Trail. All such public access easements shall be described and shown on the face of the Binding Site Plan.

11.4 Operational Agreement. The Developer shall adopt and become a party to the Operational Agreement applicable to Town Center Phases I and II to coordinate the use, activities, events and maintenance of the public and private open spaces within the Town Center. The Operational Agreement is attached and incorporated into this Development Agreement as Exhibit B.

11.5 Conditions, Covenants and Restrictions. The Developer shall adopt CC&Rs for Phases II and III that are substantially equivalent to the CC&R's adopted for Phase I under recording number 200211060454.

12.0 Construction

12.1 General. Upon the City's approval of specific site development plans based on the Master Development Plan, the Developer shall timely proceed with site construction and improvements.

12.2 City Inspection. The Developer shall pay fees to the City for plan review and construction inspection in accordance with MCMC Chapter 3.42.

12.3 Clearing and Grading. Clearing and grading for the Project shall be restricted solely to those areas identified on the final approved clearing and grading plans. The approved limits of clearing shall be included on the approved construction drawings. No other clearing of any nature shall be allowed without the express prior written approval of the City. Site grading at the south end of the Project shall minimize impacts to the adjoining property.

12.4 Tree Protection. The three large Douglas Fir trees located south of Building R shall be retained as site amenities and protected during construction through installation of barrier fencing at the drip lines of the trees. Because of the significance size and age of these trees, the penalty specified in the following subsection shall be assessed in the amount of \$7,500.00 per tree.

12.4.1 Tree Replacement. Trees designated for preservation that are injured, damaged or removed during construction shall be replaced at a ratio of 3:1. The replacement trees shall be a coniferous (preferably native) species and have a minimum height at planting of 12 feet. In addition, a penalty of \$5,000.00 per tree may be assessed for any trees that are damaged, removed or destroyed by the Developer without the express prior written approval of the City. The City may, at its discretion, issue a stop work order for the Project until the penalty is paid.

12.5 Construction Noise. Construction hours and noise limitations shall be in compliance with City regulations unless otherwise approved in writing by the City Engineer.

13.0 Environmentally Critical Areas

13.1 Buffer Enhancement Plan. The Developer shall enhance the buffer for Wetland A, to mitigate impacts resulting from the construction of the Project. Enhancement shall be performed in accordance with the approved Buffer Enhancement Plan for Wetland A, dated October 2, 2003 and revised November 29, 2004. Plant materials shall be field located and amended as necessary to

accommodate on-site conditions and to satisfy the mitigation measures outlined in the MDNS at Sections 4 and 5 above.

13.2 Maintenance and Performance Bonds. The Developer shall enter into an agreement for implementation of the plans identified in this Section 13. Said agreement shall be secured by a performance bond for a period of five years in the amount of one hundred twenty-five percent (125%) of the cost of all labor and materials needed to implement the plans. Upon acceptance of the wetland mitigation and buffer enhancement work by the City, the performance bond shall be released. A five-year maintenance bond, equaling twenty percent (20%) of the amount of the performance bond, shall be posted prior to or at the time of the City's acceptance of the wetland mitigation and buffer enhancement work. In addition, the Developer shall provide an agreement satisfactory to the City Attorney that will ensure compliance with the monitoring and maintenance schedule contained within the final wetland mitigation and buffer enhancement plans.

13.3 Protection of Wetlands. The Developer shall place North Creek and its associated wetlands located on the Property in a separate tract and preserve such area through a permanent protective mechanism approved by the City Attorney. The location and use limitations associated with the wetlands and buffers shall be shown on the face of the Binding Site Plan, and the permanent protective mechanism shall be recorded with the Snohomish County Auditor's Office at the Developer's expense.

13.4 ESA Biological Assessment. The Developer is encouraged to prepare a Biological Assessment under the Endangered Species Act ("ESA") and submit a copy of that report to the City. The City acknowledges that the Developer has, up to the execution date of this Development Agreement, complied with all of the City's existing and applicable environmental regulations, notwithstanding that all conditions required under the MDNS are not yet completed. The Developer acknowledges that future compliance with the ESA, if required, is not addressed by this Development Agreement, but compliance shall not be inconsistent with the rights afforded by RCW 36.70B.180 et seq.

14.0 Binding Site Plan

14.1 Preparation. The Binding Site Plan shall be prepared by the Developer in conformance with MCMC Chapter 16.12.

14.2 Notice of Conditions. All utility, stormwater, drainage, maintenance, and landscaping buffers/easements, together with all attendant restrictions and conditions required by the City, shall be portrayed on the face of the Binding Site Plan or recorded on a separate page along with the Binding Site Plan.

14.3 Updating of Binding Site Plan. The recorded Binding Site Plan shall be updated as each lot is developed to reflect the conditions of such new development. The updated Binding Site Plan shall be prepared by the Developer of each lot and submitted to the City for review and

approval at the time of the City's acceptance of as-built drawings for each developed lot. Upon approval by the City, the updated Binding Site Plan shall be recorded with the Snohomish County Auditor's Office at the Developer's expense.

15.0 Phasing of Project

15.1 Phasing. The Project shall be developed in phases to expedite site preparation and ensure a strong pedestrian presence with the completion of initial buildings and uses. To meet this goal, two phasing standards are required for initial construction of the Project:

15.1.1 Infrastructure Phase. The infrastructure phase of construction shall include the following: clearing and grading; installation of utilities; sidewalks; stormwater detention facilities; buffer enhancement; North Creek Trail construction, rough grades for all building pads; and pole bases and metal halide luminaire heads for the streetlights along Main Street.

15.1.2 Building Phase I. The first phase of building construction shall include construction of a combination of structures, uses and tenants sufficient to stimulate pedestrian activity. Such combination shall implement the required tenant mix specified in the purchase and sale agreement between Wakefield Pacific Inc. dated December 17, 2003. The Developer shall use its best efforts to construct the following buildings depicted on the Master Site Plan in the first phase of development.

Retail Buildings:	Buildings J, K, and L
Residential:	Building R
Parking Garage:	Building Q

15.2 Subsequent Phases. Subsequent phases of construction shall be as agreed upon by the City and Developer.

16.0 Bonding; Security

16.1 Bond Required; Approval. Performance bonds, payment bonds, and maintenance bonds shall be required, managed, and released as set forth in the MCMC unless otherwise specified in this Development Agreement. All bonding documents shall be approved by the City Attorney.

16.2 Public Improvements and Wetlands Bonds. Public improvements and wetlands performance bonds shall be submitted to the City prior to beginning construction.

16.3 Waiver and Release. No bond shall be released without the prior written consent of the City and completion of the work for which the bond was submitted. No performance or payment bond shall be released before any required maintenance bond has been submitted.

17.0 Transfer of Property by Developer

17.1 Authority to Transfer. The Developer's right to sell, transfer, mortgage, hypothecate, convey or take any other similar action regarding the title to or financing for the Property shall not be infringed by this Agreement, provided however that any such transfer, sale, etc. shall be expressly subject to the terms and conditions, rights and obligations of this Development Agreement, BS 03-54, and the Master Development Plan. In any proposed transfer, the Developer (and any subsequent transferor) shall give actual notice to the transferee of all such documents.

17.2 Obligations of Successors. The Master Development Plan, Development Agreement, and BS 04-55 shall be binding on all subsequent purchasers, lessees or lessors, and transferors of every nature.

18.0 Binding Nature; Modification; Vested Rights

18.1 Binding Nature. Once executed by the parties, this Development Agreement shall be binding on the Developer, its successors and assigns, and on the City, its successors and assigns, through December 31, 2017.

18.2 Modification of Agreement. Until January 1, 2018, this Development Agreement may be modified only with the mutual agreement of the Mill Creek City Council and the Developer; provided that this shall not restrict the City's exercise of its police power under the Washington Constitution except as may be limited by RCW 36.70B.180 et seq. and provided further that mutual agreement shall be required to change the Operational Agreement. Thereafter, this Development Agreement shall be subject to the City's then applicable development regulations.

18.3 Vested Rights. Until January 1, 2018, the Developer shall have the right to develop the Property in accordance with the Master Development Plan and the City's ordinances and regulations in effect on the date of this Development Agreement, and the Developer shall be considered to be vested as to such Master Development Plan, ordinances and regulations under the current property rights vesting laws of the state of Washington, including but not limited to RCW 36.70B.180 et seq.

19.0 Enforcement Authority

19.1 This Development Agreement may be enforced against the Developer, its successors and assigns. Nothing in this Development Agreement shall alter or change the City's enforcement authority under the City code or state law.

20.0 Dispute Resolution

20.1 In the event of a dispute between the parties about the application or interpretation of this Development Agreement, the Developer may appeal to the department head with jurisdiction, whose decision shall be accorded substantial weight and deference. The Developer may thereafter appeal to the City Manager, whose decision shall be the City's final decision unless the parties agree to submit the dispute to mediation within ten days of the City Manager's decision. Appeals of the City's decision shall otherwise be taken to the Superior Court for Snohomish County.

21.0 Authority to Approve Agreement

21.1 By Developer. By executing this Development Agreement, the Developer represents and warrants that it has taken all necessary steps under its corporate authorities to authorize such act, and that its execution of this Development Agreement is valid and binding for all purposes.

21.2 By City. By executing this Development Agreement, the City represents and warrants that it has taken all necessary steps under its corporate authorities to authorize such act, and that its execution of this Development Agreement is valid and binding for all purposes, subject only to subsequent appeals filed in accordance with RCW 36.70B.200.

22.0 General Terms

22.1 Integration. The Master Development Plan and its component parts constitute the entire agreement between the parties, and no prior oral or written agreement shall be valid.

22.2 Venue. Venue for all disputes arising under or connected with the Master Development Plan and its component parts shall be in the Superior Court for Snohomish County. This Development Agreement shall be governed and interpreted in accordance with Washington law.

22.3 No Waiver of Police Power or Condemnation Authority. The City does not waive its police power or condemnation authority by entering into this Development Agreement, except as may be limited by RCW 36.70B.180 et seq.

22.4 Covenant Running with Land. This Development Agreement and its component parts shall be covenants running with the land and/or equitable servitudes, and shall be binding on the parties and their successors and assigns, and on all subsequent purchasers, lessees or lessors, and transferors of every nature as set forth herein.

22.5 Developer's Responsibility. Any act or omission required of or permitted by the Developer hereunder may be taken by the Developer or by its agents, contractors or employees; provided that the Developer shall not thereby be relieved of its responsibility or liability to the City under this Development Agreement.

22.6 Attorneys Fees. In any action arising under or related to this Development Agreement, the prevailing party shall be entitled to be paid its reasonable attorneys fees, expenses and costs by the nonprevailing party, whether in mediation or arbitration, at trial or on appeal, or in any bankruptcy proceeding.

22.7 Severability. If any section, sentence, clause or portion of this Development Agreement is declared unlawful or unconstitutional for any reason, the remainder of this Development Agreement shall continue in full force and effect.

City of Mill Creek:

Mill Creek Commercial, LLC, a limited liability company:

Robert S. Stowe, City Manager

By: _____
Its: _____

ATTEST:

Kelly M. Hennesey, City Clerk

APPROVED AS TO FORM:
Short Cressman & Burgess PLLC

APPROVED AS TO FORM:

Scott M. Missall, City Attorney

Attorney for Mill Creek Commercial, LLC

Exhibits to Agreement:

- Exhibit A: Legal Description of the Property
- Exhibit B: Operational Agreement
- Exhibit C: Master Development Plan Staff Report

