

March 15, 1999
L94P0020 KCO

Introduced By: Jane Hague

Proposed No.: 98-580

ORDINANCE NO. **13457**

AN ORDINANCE granting in part and denying in part the appeal by Fred Leenstra of the report and recommendation of the Hearing Examiner; approving, subject to conditions (modified), the preliminary plat of MEADOW GLEN, designated Land Use Services Division File No. L94P0020; and approving in part and denying in part the variance application designated Land Use Services Division File No. L97VA018.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

This ordinance does hereby adopt and incorporate herein the findings and conclusions attached hereto as "exhibit a", dated March 15, 1999, to approve, subject to the conditions attached hereto as "exhibit b", dated March 15, 1999, the preliminary plat of Meadow Glen, designated land use services division file no. L94P0020; and approves in part and denies in part the variance

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application designated land use services division file no. L97VA018, as follows:

Allow the crossing of a portion of the tract c wetland and wetland buffer by South 380th Street, subject to mitigation; and

Deny the use of wetlands nos. 2 & 3 or their buffers for plat surface water detention and control facilities.

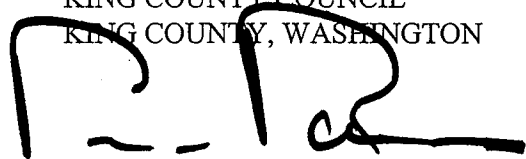
(Note: Buffer averaging, consistent with code requirements, is permitted)

INTRODUCED AND READ for the first time this 14th day of

September, 1998.


PASSED by a vote of 8 to 0 this 12th day of March, 1999

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



VICE Chair

ATTEST:


Clerk of the Council

- Attachments: A. findings and conclusions
B. conditions of plat approval

FINDINGS AND CONCLUSIONS

March 15, 1999

FINDINGS:

1. General Information:

Owner: Fred Leenstra, 38016 Military Road South, Auburn, WA 98001

Developer: N. W. Sunrise Development, 2708 SW 305th Street
Federal Way, WA 98023

Engineer: Baima & Holmberg, Inc., 100 Front St. S, Issaquah, WA 98023

Location: Lying approx. between Military Rd S and 39th Ave S (if extended),
and between S 378th St. and S 383rd St. (if extended)

STR: 34-21-04
Zoning: SR 9600
Acreage: 33.59 acres
Number of Lots: 118 lots
Typical Lot Size: Ranges from approx. 5,000 sq. ft. to 9,500 sq. ft.
Proposed Use: Detached single family residences
Sewage Disposal: Federal Way Water and Sewer District
Water Supply: Federal Way Water and Sewer District
Fire District: King County Fire District #39
School District: Fife School District
Complete
Application Date: December 24, 1994

2. The principal issues with respect to this proposed development are its impacts on traffic circulation and the road east of the plat (south 380th Street); use of on-site wetlands for surface water detention facilities; suitability of soil conditions for infiltration of surface water from the eastern portion of the plat; and responsibility of the applicant for payment of school impact mitigation fees.
3. Except as modified below, the facts set forth in the King County Land Use Services Division's Preliminary Report to the King County Hearing Examiner for the October 8, 1998, public hearing are found to be correct and are incorporated herein by this reference. The said report is Exhibit 3 in the record of this hearing.
4. The applicant's current proposal is reflected in the preliminary plat map revised on September 9, 1998, and received by King County Land Use Services on September 16, 1998.

South 380th Street

5. The principal access to the site is proposed to be provided by constructing a neighborhood collector road (South 380th Street) to intersect with Military Road South on the west property boundary. Additional access will be available from 37th and 38th Avenues South to the north.

South 380th Street is presently paved from 37th Avenue South to 38th Avenue South. From 38th Avenue South to 42nd Avenue South, a distance of approximately 800 feet, it is an unmaintained gravel roadway within a 30-foot-wide right-of-way. The applicant proposes to construct a new section of South 380th Street from Military Road to 37th Avenue South, and to improve the existing paved section along the plat frontage, from 37th Avenue South to approximately 38th Avenue South. This new and improved roadway will provide an urban neighborhood collector street, within a 54 foot wide right-of-way, from Military Road to 38th Avenue South. However, east of 38th Avenue South, the applicant proposes to leave South 380th Street in its present unmaintained condition. The proposed subdivision does not need access via South 380th Street to 42nd Avenue South.

If no improvements are made to the existing gravel roadway, and South 380th Street remains open to the east, the proposed development would impact that section of South 380th Street by increasing the number of average weekday vehicle trips from the current count of 80 to an estimated 210. An increase from 80 to 210 daily trips on the existing unmaintained gravel road would create an unsafe condition for vehicles and pedestrians using the roadway. This impact can be eliminated by barricading the unimproved section of South 380th Street to preclude its use by motor vehicles. Southeast 380th Street will be barricaded prior to final plat approval.

Wetlands

6. There are three mapped wetlands on the Meadow Glen site. In addition, the required buffer for a wetland lying south of the subject property may extend onto the site. The area labeled Wetland 1 is a small, isolated, excavated pond north of the existing house in the southwest corner of the property, and it is not within previously hydric soils. The area labeled Wetland 1 is not a regulated wetland.

Wetlands 2 and 3, the larger of the on-site wetlands, include four constructed ponds within hydric soils in a swale running from north to south across the property. Wetlands 2 and 3 are Class "2" wetlands.

Class 2 wetlands require a fifty-foot buffer; class one wetlands require a 25 foot buffer. The Sensitive Areas Code requires that these wetlands and their buffers be preserved in sensitive area tracts.

7. This application for preliminary plat approval was accepted by King County as a complete application on December 27, 1994. The applicant elected to have the proposal reviewed pursuant to the King County Zoning Code and other land use regulations in effect on that date. On August 5, 1997, the applicant submitted a request for a variance from Chapter 21.54 of the Zoning Code, to permit construction of South 380th Street through the southern portion of the Tract "C" wetland and buffer, and to allow for the use of the three on-site wetlands as surface water detention and control facilities.

On December 27, 1994, King County Code Chapter 21.54 governed sensitive areas. The applicant argues that Wetland 1 is not a regulated wetland because it was artificially constructed and is not located in previously hydric soils. With regard to Wetlands 2 and 3, the only avenue open to this applicant to avoid the specific prohibition of wetland and buffer alteration contained in KCC 20.54.260 is to seek a variance from the sensitive areas chapter, as was then authorized by King County Code Chapter 21.58.

8. The process for acting on a variance requested pursuant to Chapter 21.58 called for a decision by the manager of DDES or his designee, or by the King County Zoning Adjustor, appealable to the Hearing Examiner. However, Ordinance 12196, which became effective on April 1, 1996, applies to complete applications filed on or after that date. Among the purposes of Ordinance 12196 is the establishment of standard procedures for land use permit applications, hearings and appeals in King County, to eliminate redundancy, minimize delay and expense, and implement policies of the Comprehensive Plan. The new procedures are also intended to provide for an integrated and consolidated land use permit and environmental review process.

Because this application for variance was filed after April 1, 1996, the responsibility for acting on this variance application is transferred to the hearing examiner, as part of the review process of the application for preliminary plat approval. KCC 20.20.020.B. However, under the rule of Noble Manor, the hearing examiner's action must be based upon the substantive provisions of the King County Code in effect on the date that the application for preliminary plat approval became vested.

9. The 1994 King County Comprehensive Plan was enacted November 28, 1994, with the provision that it would take effect "upon adoption of the 1995 CIP (Capital Improvement Program) or December 30, 1994, whichever occurs first". Ordinance 11575, Section 6. The 1995 CIP was adopted by the King County Council on November 21, 1994. The policies of the 1994 Comprehensive Plan, which are to be used to guide land development decisions, are applicable to the present applications. KCC 20.12.010. (See DDES Preliminary Report Section L.)
10. Construction of South 380th Street (road A) in the currently proposed location is requested by the applicant in order to serve the eastern portion of the proposed development with a direct connection to Military Road. To provide this direct connection to the principal arterial, it is necessary for South 380th Street to cross the Class 2 wetland and wetland buffer contained within Tract C.

Although development of the eastern portion of the site could occur without providing direct access to Military Road, to do so would have several adverse consequences. Residents on that portion of the property would be denied the most convenient and direct route to the arterial, forcing travel to the north, then south, in a circuitous pattern to reach neighborhood shopping and the nearby north-south arterial (SR 161). Additional traffic to and from Meadow Glen would use the half street section of South 380th Street, to and from 42nd Avenue South, as a preferred route to SR 161. Residents of the neighborhoods to the north and east of Meadow Glen also would be denied the opportunity to have more direct access to Military Road and to SR 161. A full neighborhood traffic circulation system for the area would be foreclosed for the foreseeable future. These effects constitute a special circumstance of the location and surroundings of the subject property, which would cause the strict application of the zoning code to deprive this

property of rights and privileges enjoyed by other properties in the vicinity under identical zone classification.

The granting of a variance to allow the crossing of wetland and wetland buffer will not be materially detrimental to the public welfare, injurious to other property or improvements in the vicinity and zone in which the subject property is situated, or contrary to the goals and purposes of the Sensitive Areas Code as set out in KCC Chapter 21.54, provided that mitigation of the wetland and buffer loss and disturbance is provided so that there will be no net loss of wetland functions or values on the site. The wetland and buffer disturbance proposed for the construction of South 380th Street is the minimum necessary to accommodate this use, and mitigation can be provided which would assure no net loss of wetland functions or values.

11. The applicant presented evidence that use of Wetlands 2 and 3 for surface water control and detention could result in enhancement of the wetland areas and buffers, and provision of an improved open area for the benefit of the plat's residents. These wetland enhancements and buffer improvements also can be provided, if the applicant elects to do so, as part of the mitigation for the approved road crossing of the wetland and buffer.

The subject property can be developed pursuant to the SR 9600 zone classification, utilizing surface water detention facilities located within areas of the plat which are not within Wetlands 2 and 3 and their required buffers. Although a reduction in the number of developed lots will occur, or additional cost may be incurred, this does not deny the applicant the reasonable use of his property, and leaves him in the same position as all other landowners in King County who have developed land since enactment of the Sensitive Areas Ordinance (Ord 9614) in 1990.

Surface Water Infiltration

12. The preponderance of the evidence indicates that the southeastern portion of the subject property can probably be developed with infiltration of surface water runoff, as proposed by the applicant. However, final definitive studies of a proposed infiltration system are necessary before a final determination of suitability of the area for infiltration can be made. Those studies can be required as part of the process of design and approval of engineering plans. If DDES does not approve infiltration, the portion of the site for which infiltration is proposed can be established as a non-building tract, or could be redesigned consistent with the conditions for final plat approval contained in this report and recommendation.

School Impact Fee

13. King County Ordinance No. 10162 was enacted December 2, 1991, to address impacts of new development on schools. The ordinance describes a process for review of the availability of school facilities to serve proposed new development. It also provided for facilities plans and fee schedules to be developed by school districts, presented to King County for review, and adopted by the King County Council. When adopted, those fee schedules are to be applied by the county to all residential development which is subject to the county's concurrency standard.

Section 12 of Ordinance 10162 defines "district" as, "a school district for which the county has adopted an impact fee ordinance and fee schedule, and has incorporated the capital facilities plan of the district into the capital facilities element of the King County Comprehensive Plan". Section

13 provides, "Impact fees will be assessed on every new dwelling unit in the district for which a fee schedule has been established".

For a plat applied for on or after the effective of the ordinance adopting the fee for the district in question,

"50% (of the adopted fee)... shall be assessed and collected from the applicant at the time of final approval, using the impact fee schedule in effect when the plat or PUD was approved." Ordinance 10162, Section 16.B.

The provision specifically applicable to the plat of Meadow Glen is,

"...(If on the effective date of a district's ordinance, an applicant has applied for preliminary plat or PUD approval, but has not yet received such approval, the applicant shall follow the procedures set forth in subsection B above.)" Ordinance 10162, Section 16.C.

Ordinance 10162 provided a process and standards for review of the adequacy of school facilities to serve a proposed development, and served to alert the applicant that school impact fees may be required to be paid as a condition of final plat approval. The review of this proposal by DDES determined that school facilities are adequate to serve this development. The amount of a school impact fee, if any, which might be charged, was undeterminable at the time of submission of this application. Had the application been acted upon (granted preliminary approval) prior to the effective date of the Council's adoption of the capital facilities plan and a fee schedule for the Fife School District (January 1, 1997), there would have been no fee required at the time of final plat approval.

The effect of subsections B and C, insofar as pertinent to this issue, is that an applicant for subdivision approval is treated no differently if the application was made before or after adoption of a county ordinance approving a school district facilities plan and establishing a fee schedule for development within the district. In either case, the applicant is required to pay one-half of the adopted fee at the time of final plat approval. The balance is collected when building permits are issued.

Lot Dimensions

14. The preliminary plat proposed by the applicant does not meet the requirements of the SR 9600 zone classification with respect to the minimum dimensions of a significant number of lots (see DDES preliminary report, Section H.1). Lot line changes to the affected lots can be accomplished as a minor revision, subject to administrative review and approval by the Department of Development and Environmental Services.

CONCLUSIONS:

1. Final approval of the proposed plat of Meadow Glen, as currently proposed by the applicant, is dependent upon approval by the King County Road Engineer of a variance from King County road standards, to allow construction of the intersection of South 380th Street and Military Road

- South within one thousand feet of existing or previously approved intersections. Final plat approval should be conditioned upon issuance of such a variance.
2. The proposed development would cause substantial additional travel on South 380th Street east of the subject property unless that street is barricaded to preclude motor vehicle travel between the extension of South 380th Street within the plat and a location east of 38th Ave South . That additional traffic would create an unsafe condition for vehicles and pedestrians on the 800 foot length of unmaintained gravel right-of-way. South 380th St. should be barricaded at a location determined by the King County Dept. of Transportation to preclude direct vehicle travel between this plat and 42nd Ave. South.
 3. A variance from the King County sensitive areas code to allow for a road crossing of the wetland and wetland buffer within tract C is justified by the special circumstances described in Finding No. 10. The variance to allow this road crossing to occur should be granted.
 4. In its appeal, the applicant argues that the area labeled Wetland 1 is not a regulated wetland because it was artificially constructed and is not located in previously hydric soils. Unlike current code, which contains an exception explicitly excluding artificially created wetlands from the definition of wetland, the version of the code which applies to this application did not contain such an exception. This former version of the code is silent as to whether the definition of regulated wetlands includes those which were artificially created. The version of the code applicable here is construed not to include artificially created wetlands within the regulatory definition of wetland. Accordingly, applicant's appeal is granted with regard to the area identified as Wetland 1.
 5. A variance from the provisions of the sensitive areas code (Chapter 20.54) to permit utilization of the two class 2 wetland areas on this site (Wetlands 2 and 3) for the construction of plat surface water control facilities has not been justified by the applicant's evidence. No special circumstances exist which justify this request for a variance. A variance for this purpose would constitute a grant of special privilege to this applicant. The subject property can be developed for the proposed use, consistent with the provisions of the SR 9600 zone classification, without issuance of this variance.
 6. Approval of building lots within the eastern portion of this development, as proposed by the applicant, is dependent upon disposal of surface water runoff by infiltration. Final approval of the proposed subdivision should be conditioned upon DDES's approval of additional geotechnical studies demonstrating suitable soils and conditions for infiltration, including emergency overflow and the protection of downstream properties. If the viability of infiltration is not demonstrated to the reasonable satisfaction of DDES, the lots which would be served by the infiltration system should be deleted.
 7. The current law of Washington is that upon submission of a complete application for a subdivision or short subdivision, the applicant has the right to have that application, including both the request to subdivide and the request to develop the land, considered under the zoning and land use laws in effect on the date of the application.

An applicant, however, does not vest as to fees and other charges which may be associated with the development of land. Neither RCW 58.17.033 nor Noble Manor preclude King County from applying school impact fees uniformly to all building lots within a school district, by type of unit, in accordance with capital facilities plans and fee ordinances in effect at the time that application is made for a building permit. Accordingly, the applicant's challenge to the examiner's decision regarding school impact fees is rejected.

8. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Federal Way Community Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
9. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
10. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
11. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

JNOC:daz

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CONDITIONS OF PLAT APPROVAL
March 15 1999

1. Road Variance application L98V0111 shall be approved by the King County Traffic Engineer to allow construction of the intersection of South 380th Street with Military Road South, substantially as proposed.
2. Compliance with all platting provisions of Title 19 of the King County Code.
3. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
4. The plat shall be redesigned to provide storm water detention and control facilities (including water quality facilities) outside of wetlands and wetland buffers. The redesigned plat shall comply with the lot area requirements of the SR 9600 zone classification. All lots shall also meet the minimum dimensional requirements of the SR 9600 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. Documentation shall be submitted to show that the lot width requirements of the SR 9600 zone have been met (KCC 21.20.070).
5. The applicant must obtain final approval from the King County Health Department.
6. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards, established and adopted by Ordinance No. 11187, subject to any variances approved by the King County Road Engineer.
7. The applicant must obtain the approval of the King County Fire Protection Engineer, regarding the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
8. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final plat review.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

EXHIBIT B

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

d. Core Requirement No. 3 – Runoff Control

e. Special Requirement No. 5 – Special Water Quality Controls

During review of the final drainage plans, the applicant shall demonstrate compliance with the thresholds and design requirements for water quality facilities.

f. Special Requirement No. 9 – 100-year Floodplain

Several wetlands are located on the property; therefore, a floodplain analysis shall be performed. The 100-year floodplain boundaries shall be shown on the final engineering plans and recorded plat.

9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council, prior to final plat recording.
10. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
11. Building permits for lots within this subdivision will be subject to 100% of impact fees in effect at the time of permit application to fund school system improvements needed to serve new development. This shall be noted on the final plat.
12. There shall be no direct vehicular access to or from those lots in the subject plat which abut Military Rd., Road A, and S. 380th St. A note to this effect shall appear on the final plat and engineering plans.
13. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. During preliminary review, the applicant submitted a road variance application (File No. L98V0111) regarding intersection spacing on Military Road. The final road improvements shall comply with any required conditions of approval of the road variance.
 - b. Military Road shall be improved along the frontage of the property as an urban principal arterial. This improvement shall include the provision for a bicycle lane along the east

side of the roadway, and a northbound right turn lane at Road A. Twenty feet of additional right-of-way shall be dedicated to King County, to provide 50 feet of right-of-way from centerline.

- c. Road A/S. 380th St. shall be improved as an urban neighborhood collector street from Military Rd. to 38th Ave. S., and as an urban half street between 38th Ave. S. and 42nd Ave. S.
 - d. 37th Avenue South shall be improved along the frontage of the property as an urban subcollector.
 - e. Roads B, C, D, E, and I shall be improved as urban subaccess streets. A temporary turnaround shall be provided at the terminus of Road D, and the northern terminus of Road B. All other cul-de-sac streets, which serve less than 16 lots, shall be improved as urban minor access streets.
 - f. Tract G shall be improved as a private, joint-use driveway serving Lots 7 and 8. These lots shall have undivided ownership of the tract and be responsible for its maintenance. As specified in KCRS 3.01C, improvements shall include an 18-foot-wide paved surface and a minimum tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side.
 - g. Tracts H, K and L shall be designed as a private access tracts. The lots being served by each of the tracts shall have undivided ownership of the relevant tract, and be responsible for its maintenance. Improvements shall conform to KCRS 2.03 for urban minor access roads, which include 22 feet of paving. The minimum tract width shall be 26 feet, with a maximum length of 150 feet.
 - h. Street trees shall be included in the design of all road improvements, per KCRS 5.03.
 - i. Since Military Rd. is designated an arterial, street illumination shall be provided at the Road A/Military Rd. intersection, in accordance with KCRS 5.03.
 - j. Bus zones and turn outs may also be required along the subject property's frontage on Military Road, because this road is an arterial. As specified in KCRS 2.16, the designer preparing the engineering plans for the subject plat shall contact Metro and the local school district to determine specific requirements.
 - k. Modifications to the above road conditions may be considered by King County, pursuant to the variance procedures in KCRS 1.08.
 - l. South 380th St. shall be barricaded east of 38th Ave. S., so as to preclude its use by motor vehicles from travel from 38th Ave. S. to 42nd Ave. S., at a location and in a manner approved by the King County Department of Transportation.
14. The planter islands (if any) within the turnaround bulbs shall be maintained by the abutting lot owners or the homeowners' association. This shall be stated on the face of the final plat.
15. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS SETBACK AREAS

Dedication of a sensitive area tract/sensitive area setback area conveys to the public a beneficial interest in the land within the tract/sensitive area setback area. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area setback area imposes upon all present and future owners and occupiers of the land subject to the tract/setback area the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/setback area. The vegetation within the tract/setback area may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/setback area and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area setback area. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

16. The proposed subdivision shall comply with the sensitive area requirements as outlined in KCC 21.54, except as modified by Condition 17e below. Permanent survey marking, and signs as specified in KCC 21.54.120 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
17. Preliminary plat review has identified the following sensitive area requirements, which apply to this project.
 - a. The wetlands within Tracts A and C are Class 2 wetlands. A 50 foot buffer shall be provided around these wetlands.
 - b. A wetland study shall be provided prior to or concurrently with the engineering plan submittal, which evaluates the off-site wetland lying south of Tract D. This study shall be prepared by a qualified biologist. LUSD shall determine the appropriate classification for this wetland, and a wetland buffer shall be provided within the subject plat, consistent with KCC 21.54.270, to the extent such buffer falls within the subject property.
 - c. Buffer averaging is permitted within the subject plat, subject to the provisions of KCC 21.54.270A3 and the approval of LUSD.
 - d. Wetlands 2 and 3 and their buffers shall be placed in sensitive area tracts on the final plat and engineering plans.

- e. The southern end of the wetland and associated buffer in Tract C may be modified, as necessary, to construct Road A. Encroachment into the wetland and buffer shall be minimized to the extent that is practical, as determined by LUSD. The road crossing shall be constructed, and mitigation provided, consistent with the provisions of KCC 21A.24.330N. LUSD may require a hydrologic study to establish an appropriate invert elevation for the re-constructed outfall for the wetland.
18. A fee-in-lieu of on-site recreation space shall be paid by the applicant to King County. The amount of the fee shall be determined by the King County Parks Division, consistent with the provisions of KCC 19.38.080.
 19. A homeowners' association or other workable organization shall be established to the satisfaction of LUSD which provides for the ownership and continued maintenance of the open space areas.
 20. Street trees shall be provided along the subject property's frontage on Military Rd. and Road A/S. 380th St., as follows:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation (KCDOT) determines that trees should not be located in the street right-of-way.
 - c. If KCDOT determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners or the homeowners' association or other workable organization, unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by LUSD and KCDOT if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by LUSD prior to engineering plan approval. KCDOT shall also review the street tree plan if the street trees will be located within the right-of-way.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if Military Rd. is on a bus route. If Military Rd. is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after LUSD has completed a second inspection and determined that the trees have been kept healthy and thriving.

A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

21. This condition has been established under SEPA authority as necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.

Due to downstream drainage problems, storm water runoff control shall be provided in this subdivision which conforms with the design standards contained in the Hylebos Creek Basin Plan. Specifically, BW-3 from the Basin Plan shall be met, which requires a post development storm water release rate for storms up through the 100-year event at 70 percent of the pre-development 2-year rate.

Analysis shall be based on the SBUH method, using 24-hour events, as described in the King County Surface Water Design Manual (1995 update). As an alternative to the BW-3 standard, King County LUSD may allow a reduced standard for the stormwater release rate, if deemed appropriate based on continued analysis of the basin area.

22. This development proposal is vested under KCC 21.49, Road Adequacy Standards and will have a direct impact on the intersection of SR 161/Military Road, as defined under these standards. To mitigate this impact, one of the following shall occur:
- A. The developer shall pay a pro rata share toward the Washington State Department of Transportation (WSDOT) SR 161 widening project. The pro rata share calculation shall be limited to the costs associated with improvements to the intersection of SR 161/Military Road that will improve the intersection to LOS "E". The pro rata share amount shall be approved by King County Department of Transportation in consultation with WSDOT; or
 - B. The developer shall provide improvements to the intersection of SR 161/Military Road that will improve the level of service to "E" or better. Intersection improvement plans shall be approved by WSDOT prior to engineering plan approval; or
 - C. Final plat approval shall be deferred until WSDOT has awarded a contract for the SR 161 road improvement project which is projected to provide LOS "E" or better.