

September 20, 1994

Introduced By: Derdowski

nHills/dbe

Proposed No.: 94 - 599

MOTION NO. 9385

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A MOTION authorizing the county executive to enter into an interlocal agreement with the city of Newport Hills relating to municipal services.

WHEREAS, the city of Newport Hills will incorporate on September 30, 1994, and

WHEREAS, the city desires to secure certain municipal services,

NOW, THEREFORE BE IT MOVED by the Council of King County:

The county executive is authorized to execute an interlocal agreement, substantially in the form attached, with the city of Newport Hills for the county to provide building permits and land use services.

PASSED this 26th day of September, 1994.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Passed by a vote of 11-0.

Kent Pullen
Chair

ATTEST:

David Masaru
Deputy Clerk of the Council

Attachments: Interlocal Agreement/building permits and land use

INTERLOCAL AGREEMENT BETWEEN
KING COUNTY AND THE CITY OF NEWPORT HILLS
RELATING TO PROCESSING OF BUILDING PERMITS
AND LAND USE APPLICATIONS

THIS AGREEMENT is made and entered into this day by and between King County, a home rule charter County in the State of Washington (hereinafter referred to as the "County") and the City of Newport Hills, a municipal corporation in the State of Washington (hereinafter referred to as the "City").

WHEREAS the City has incorporated within an area which had previously been unincorporated King County; and

WHEREAS all local governmental authority and jurisdiction with respect to the newly incorporated area transfers from the County to the City upon the date of incorporation; and

WHEREAS the County and City agree that having the County continue to process certain incorporation area building permit applications and land use applications on behalf of the City for a transitional period will assist in an orderly transfer of authority and jurisdiction; and

WHEREAS it is the parties intent by virtue of this agreement that King County processing of applications be administrative and ministerial only and that any and all discretionary decisions shall be made by the City; and

WHEREAS this agreement is authorized by the Interlocal Agreement Act, RCW 39.34;

NOW, THEREFORE, in consideration of the terms and provisions herein, it is agreed by and between the City and County as follows:

1. Enactment. In order to enable the County to process the permits and land use applications in accordance with the terms of this Agreement, the City shall enact an ordinance adopting those County zoning, land use, development and application fee regulations in existence at the time of incorporation, for all permits and land use applications identified in this agreement.

2. Building Related Applications Review.

2.1. Except as provided in section 2.2 below, the County shall continue to review and approve or deny all vested permit applications filed with the County before the effective date of incorporation which involve property within the incorporation area. For purposes of this agreement, the determination of whether a particular application has vested shall be made by the City. Review shall occur in accordance with County regulations adopted by the City as set forth in section 1, and in a manner consistent with sections 4 and 5 of this agreement. Said review shall include follow-up inspections and enforcement of conditions of approval, issuance of extensions for completion of inspections, and issuance of ancillary permits, such as fire & mechanical permits, which are essential for completion of each original project permit. The types of building related permits within this grant of authority include but are not limited to:

- building permits;
- occupancy permits;
- mechanical permits;
- fire systems/fire sprinkler permits;
- hazardous material permits;

- grading and clearing permits.

2.2 The County will prepare and send to the City a list of all building related permits and applications pending within the incorporation area. The City or County may exclude from this agreement any permits or applications on the list. Such exclusion shall be exercised initially by written notice to the County or City within thirty (30) days following receipt of the applicable list. The City may thereafter notify the County and the County may notify the City of such other permits or applications each wishes to exclude.

3. Land Use Related Applications Review

3.1 Except as provided in section 3.5 below, the County shall continue to process those vested land use related applications filed with the County before the effective date of incorporation which involve property within the incorporation area. The determination of whether a particular application has vested shall be made by the City. Processing shall occur in accordance with those County regulations adopted by the City as set forth in Section 1 above, and in a manner consistent with sections 4 and 5 of this agreement. The types of land use related applications contemplated by this section include but are not necessarily limited to:

- unclassified use permits
- conditional use permits
- zoning variances
- right of way use permits

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- lot line adjustments
- planned unit developments
- sensitive areas ordinance variances, reasonable use exceptions and utility exemptions
- shoreline permits and exemptions;
- subdivisions;
- short subdivisions;
- land use related grading and clearing permits;

The fact that a particular type of land use application is listed within this section in no respect indicates that either the County or City considers such an application to be capable of vesting.

3.2 With regards to those land use permits which do not require a public hearing prior to issuance, the County will continue to process such applications and shall make a report and recommendation to the City's designated decisionmaker. Any final action on these applications shall be taken by the City.

3.3. For those applications which require quasi-judicial or legislative approval or which involve administrative appeals, the County shall likewise prepare a report and recommendation to the City for use by its designated decisionmaker. The City shall be responsible for scheduling, providing notice of, and conducting any public hearings required in conjunction with the application. County staff will, at the request of the City, attend the public hearing. County staff hearing participation will be limited to explanation of any applicable County codes and policies, and of County staff findings of fact, analysis or recommendations.

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County staff will not comment on or defend other findings, analysis or recommendations presented by City staff.

3.4. With regard to those subdivisions, short subdivisions, and planned unit developments that have been granted preliminary approval prior to incorporation, the County shall continue to review the development up to the point of making a recommendation to the City on whichever pending phase of review the development is in on the date of incorporation. For purposes of this agreement, post-preliminary approval review phases include engineering plan approval, final plat/PUD approval, construction inspection approval, and maintenance/defect approval. After making its recommendation, the County shall turn the application over to the City for all further decisions and processing. The City may request, and the County may agree, in certain cases, to complete subsequent post-preliminary approval review phases. All financial guarantees required of the applicant at completion of a current review phase to secure compliance with the requirements of subsequent phases, shall be filed with or turned over to the City, which shall have sole discretion on the assessment of required performance and the release of said guarantees.

3.5. The County will prepare and send to the City a list of all land use related permits and applications pending within the incorporation area. The City or County may exclude from this agreement any permits or applications on the list. Such exclusion shall be by written notice to the County within thirty (30) days following receipt of the applicable list. The City may

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thereafter notify the County, and the County may notify the City, of such other permits or applications each wishes to exclude.

4. SEPA Compliance.

4.1 In order to satisfy the procedural requirements of the State Environmental Policy Act ("SEPA"), the City shall serve as lead agency for all applications identified in Sections 2 and 3 of this agreement. The City shall designate and identify a SEPA responsible official to perform environmental review, including the issuance of threshold determinations and preparation of the environmental impact statements for projects within the incorporated area. The responsible official shall not be an employee, officer, or agent of the County. Any and all pending or future appeals from SEPA threshold determinations and other SEPA matters relating to projects within the incorporation area shall be heard by the City. The County will notify the City's responsible official when a SEPA determination or decision is required and will not further process the application until the responsible official has acted. The County agrees to provide technical SEPA assistance to the City's responsible official if requested. Such technical assistance shall be limited to:

- * review of an applicant's environmental checklist and collection of relevant comments and facts;
- * preparation of a proposed SEPA threshold determination for approval by the City's responsible official;
- * publication of an approved SEPA threshold determination and provision of notice to parties of record;
- * preparation and submittal of a written review and comment on any appeal received on a SEPA threshold determination recommended by County staff to the

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City's designated appeal hearings officer;

- * preparation of any required draft, final, addendum or supplemental EIS for approval of the City's responsible official;
- * publication, circulation and collection of comments on any EIS's approved by the City's responsible official;
- * coordination of adopted or required SEPA measures of mitigation with project staff.

4.2 County staff will provide only such assistance as is requested by the City and will collect fees from the applicant for such services consistent with the County fee schedule adopted by the City pursuant to section 1 of this agreement.

5. Administrative And Ministerial Processing.

5.1 County review specified in this agreement is intended to be of an administrative and ministerial nature only. Any and all legislative or quasi-judicial decisions or decisions of a discretionary nature shall be made by the City and/or its designated decisionmaker.

5.2 For purposes of this agreement, decisions to condition or deny any permit approval on SEPA grounds are discretionary determinations which will be made by the City.

6. Referral of New Requests. The County agrees to advise permit applicants that any new building or land use applications or permit requests within the boundaries of the incorporation area must be submitted to the City. The County agrees to accept requests for permit renewals or extensions only when construction has already begun and such renewal or extension is necessary to complete the project under the terms of this agreement. The

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County agrees to accept requests for ancillary permits only for mechanical or fire systems for buildings under construction and when such ancillary permits are necessary to complete construction of the same project under terms of this agreement. The County will not accept permit applications which seek to extend the use or dimensions of the project under construction, or which seek approval for free standing signs, tenant improvements or accessory structures.

7. Enforcement. The County is authorized, on behalf of the City, to enforce conditions of approval for those applications which the County has retained review authority over pursuant to this agreement. The City shall be responsible for all other enforcement actions normally taken by the County's Code Enforcement Section pursuant to KCC Title 23, including those relating to applications reviewed by King County pursuant to this agreement.

8. Processing Priority. The County agrees to process incorporation area applications in accordance with the County's administrative procedures, at the same level of service as provided to County applications.

9. Filing Fees. In order to cover the costs of performing services pursuant to this agreement, the County is authorized to collect and retain such application and other fees authorized by the County fee ordinances adopted by the City pursuant to Section 1 above or as may be modified at some future date by the County and the City.

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10. Termination. This is an interim agreement which is intended to coordinate the provision of permit services to the incorporation areas. Either party may terminate this agreement upon providing at least thirty (30) days written notice to the other party.

11. Termination Procedures. Upon termination of this agreement, the County shall cease further processing, enforcement, and related review functions with respect to applications identified in Sections 2 and 3 of this agreement. The County shall thereupon transfer to the City those application files and records, posted bonds, and unexpended portions of filing fees for pending land use and building related applications within the incorporation areas. Transfer documents shall specify the work performed to date on the applications and shall be signed by the appropriate County official. Upon transfer, the City shall notify affected applicants that it has assumed all further processing responsibility.

12. Duration. This agreement shall become effective upon signature of both parties and adoption by the City of necessary regulations required by Section 1 above, whichever date occurs later. This agreement will terminate as provided in Section 10.

13. Application Process. The County and the City will each prepare and have available for applicants and other interested parties a document describing the handling of applications based on this agreement.

14. Legal Representation. Except as set forth in Section
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15 below, and except for such routine advice as may be provided to the County in furtherance of its services as described in this agreement, the services to be provided by the County pursuant to this agreement do not include legal services, which shall be provided by the City at its own expense.

15. Indemnification.

15.1. The County shall indemnify and hold harmless the City and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense; provided, that the City retains the right to participate in said suit if any principal of governmental or public law is involved; and if final judgement be rendered against the City and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

15.2 The City shall indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of Interlocal.gen

any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the County, the City shall defend the same at its sole cost and expense; provided, that the County retains the right to participate in said suit if any principal of governmental or public law is involved; and if final judgement be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the City shall satisfy the same.

15.3 The City further agrees its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by or on behalf of any employees or agents. For this purpose, the City, by mutual negotiation, hereby waives as respects the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of RCW Title 51.

15.4 The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this Section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.

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16. Administration. This agreement shall be administered by the Director of Development and Environmental Services or his/her designee, and the City Manager, or his/her designee.

17. Amendments. This agreement is the complete expression of the terms hereto and any oral representation or understandings not incorporated herein are excluded. Any modifications to this agreement shall be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed.

King County

Gary Locke
King County Executive

Dated

Approved as to Form

NORM MALENG
King County Prosecuting Attorney

By: _____
Michael J. Sinsky
Sr. Deputy Prosecuting Attorney

Dated

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