



DEVELOPMENT SERVICES DEPARTMENT
ENVIRONMENTAL COORDINATOR
450 110th Ave NE., P.O. BOX 90012
BELLEVUE, WA 98009-9012

MITIGATED DETERMINATION OF NON-SIGNIFICANCE

PROPONENT: Nat Franklin, Franklin West LLC

LOCATION OF PROPOSAL: 15015 Main Street, Bellevue, WA

DESCRIPTION OF PROPOSAL: Application for a Rezone to repeal the prior concomitant zoning agreements for Kelsey Creek Center and replace them with a new concomitant zoning agreement and/or development agreement.

File Number: 09-113801-LQ

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.

- There is no comment period for this MDNS. There is a 14-day appeal period. Only persons who submitted written comments before the MDNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on _____.
- This MDNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's Office by 5 p.m. on 2/25/10.
- This MDNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on _____. This MDNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5 p.m. on _____.

This MDNS may be withdrawn at any time if the proposal is modified so that it is likely to have significant adverse environmental impacts; if there is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project); or if the MDNS was procured by misrepresentation or lack of material disclosure.

Carol V. Holland
Environmental Coordinator

2/11/10
Date

OTHERS TO RECEIVE THIS DOCUMENT:
State Department of Fish and Wildlife
State Department of Ecology, Shoreline Planner N.W. Region
Army Corps of Engineers
Attorney General
Mukleshoot Indian Tribe



**City of Bellevue
Development Services Department
Land Use Staff Report**

Proposal Name: **Kelsey Creek Center Rezone**

Proposal Address: 15015 Main Street

Proposal Description: Application for a Rezone to repeal the prior concomitant zoning agreements for Kelsey Creek Center and replace them with a new concomitant zoning agreement and/or development agreement.

File Number: **09-113801-LQ**

Applicant: Nat Franklin, Franklin West LLC

Decisions Included: Rezone (Process III)

Planner: Michael Upston, AICP 425/452-2970

State Environmental Policy Act
Threshold Determination: **Mitigated Determination of Non-Significance (MDNS)**

Carol V. Helland

Carol V. Helland, Environmental Coordinator
Development Services Department

Director's Recommendation: **Approval with Conditions**
Michael A. Brennan, Director
Development Services Department

By: *Carol V. Helland*

Carol V. Helland, Land Use Director
Development Services Department

Bulletin Publication Date:	February 11, 2010
SEPA Appeal Deadline:	February 25, 2010
Hearing Examiner HearingDate:	February 25, 2010
Hearing Examiner Recommendation:	To be determined
Hearing Examiner Appeal Deadline:	To be determined
City Council Date:	To be determined
East Bellevue Community Council Date:	To be determined

For information on how to appeal a proposal, visit the Development Services Center at City Hall or call (425) 452-6864. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. Appeal of the Decision must be received in the City Clerk's Office by 5 PM on the date noted for appeal of the decision.

CONTENTS

I. Request..... 3

II. Proposal Description..... 4

III. Review Process.....6

IV. Decision Criteria7

V. Public Notice & Comment..... 9

VI. Technical Review..... 10

VII. State Environmental Policy Act (SEPA)..... 11

VIII. Recommendation.....12

IX. Recommended Conditions of Approval.....13

ATTACHMENTS:

Attachment 1: Prior Concomitant Zoning Agreements

- Ordinance 3835 and associated 1987 Concomitant Zoning Agreement
- Ordinance 5237 amending the 1987 Concomitant Zoning Agreement
- Ordinance 5534 amending the 1987 Concomitant Zoning Agreement

Attachment 2: Recommended Kelsey Creek Center Concomitant Zoning Agreement with exhibits:

- Exhibit A: Legal Description of Property
- Exhibit B: Kelsey Creek Mitigation Plan

I. REQUEST

The applicant requests rezone approval to: 1) repeal the original concomitant zoning agreement (CZA) and subsequent amendments to it (Prior CZAs) for Kelsey Creek Center; and 2) replace the Prior CZAs with a new CZA. Figure 1 provides an aerial perspective of the Kelsey Creek Center site. Refer to Attachment 1 for copies of the Prior CZAs that are currently applicable to the site. Refer to Attachment 2 for the recommended 2010 Kelsey Creek Center Concomitant Zoning Agreement (2010 CZA) with exhibits. Key components of the 2010 CZA are summarized below.



Figure 1

- **Allowed Uses and Modifications to Allowed Uses.** Paragraphs 2 and 3 of the 2010 CZA identify uses that are: 1) allowed on the site; 2) allowed in the Community Business (CB) land use district but not allowed on the site, and 3) allowed on the site subject to review under the City's conditional use permit process. Use limitations are included as a mitigation measure to ensure neighborhood compatibility that was an important community interest when the original rezone from Neighborhood Business (NB) to CB was granted. Size limitations on some uses have also been included in the 2010 CZA to ensure neighborhood compatibility, and as mitigation for elimination of the stream reach reopening condition that provided a governor on development intensity for the site.
- **Development Standards.** Paragraph 4 of the 2010 CZA describes the development standards that will apply to the site; these include the standards applicable in the CB land use district, including but not limited to Transition Area Design District and Community Retail Design District requirements.
- **Fee in Lieu of Box Culvert Removal and Reconstruction of an Open Stream Channel.** Paragraph 5 of the 2010 CZA describes how a fee in lieu will be used to fund off-site mitigation to Kelsey Creek and Larsen Lake (see Attachment 2 - Exhibit B, Kelsey Creek Mitigation Plan). The Mitigation Plan is designed to provide the same or greater environmental functions and values that would have been achieved had the culvert been removed and replaced with an open stream channel as was required in the Prior CZAs.

Figure 2



- *Pedestrian Connections.* Paragraph 6 of the 2010 CZA requires the property owner, upon redevelopment of the site, to construct pedestrian trails and sidewalks that connect 148th Avenue SE, Main Street, and the project site to the Lake Hills Greenbelt Park and surrounding neighborhood. The pedestrian connection requirement provides mitigation for loss of social function that would have been provided by the stream reach reopening condition that is being removed as a component of this rezone action. The level of redevelopment

needed to trigger construction of the pedestrian connections is described in the recommended 2010 CZA. The contemplated pedestrian connections (including one that memorializes the location of the stream) are conceptually depicted in Figure 2.

- *Maintenance of the Box Culvert.* Paragraph 7 of the 2010 CZA requires the property owner to maintain the culvert and streambed elevation. Access to the culvert must be provided to the City for future storm and surface water utility inspections. This requirement is consistent with the condition that was imposed by the Prior CZAs and applied to the box culvert until such time as the stream reach reopening condition was triggered by redevelopment.

As described above, no changes to development standards applicable to CB land use district, Community Retail Design District, or Transition Area Design District are recommended as a component of this rezone. Development standards made applicable to similarly zoned CB properties will apply as currently drafted in the Land Use Code or as amended in the future.

II. PROPOSAL DESCRIPTION

The property owner is interested in redeveloping the existing commercial center. However, site planning for new buildings is complicated by a condition contained in the Prior CZA that requires a segment of Kelsey Creek to be reopened where it runs under the middle of the site. Therefore, the owner is proposing to replace the Prior CZAs with a new 2010 CZA that contains mitigation that meets the same objectives as the Prior CZAs while providing for increased redevelopment flexibility.

The 2010 CZA would limit the type and size of uses allowed at Kelsey Creek Center, and include conditions to ensure that neighborhood compatibility would be maintained similar to the Prior CZAs. It would also make the current development regulations for the CB land use district, the Community Retail Design District, and the Transition Area Design District applicable to the site. Last, it would replace the stream-opening condition contained in the Prior CZAs with a fee in lieu to fund off-site mitigation for Kelsey Creek and Larsen Lake that would provide the same or improved environmental functions and values as reopening the stream culvert. The recommended 2010 CZA conditions are all necessary to provide mitigation that is equivalent to the neighborhood compatibility requirements, development intensity limitations, and environmental and social functions previously provided by the stream reach reopening condition and other related conditions contained in the 1987 CZA. Conditions of approval are included in Section IX of this report requiring that the applicant execute and record a copy of the recommended 2010 CZA and the Kelsey Creek Mitigation Plan with the King County Division of Records and Elections and with the Bellevue City Clerk.

It is possible that the property owner and City may conclude that it is more desirable to capture required project conditions in a development agreement rather than a CZA. This decision would be made prior to the Council taking final action to approve the requested rezone. The decision regarding which tool best provides long term certainty to support site redevelopment would not eliminate the conditions described in the 2010 CZA; however, it would change the document form. Additional terms could be imposed through a development agreement to stipulate permit timelines and assignment of costs associated with redevelopment.

Background

Existing Site Conditions: The approximately 16 acre project site is located at the southeast corner of 148th Avenue SE and Main Street. The commercial center used to be anchored by a Kmart department store. When Kmart vacated in 2000, Costco leased the property with the idea of developing a warehouse store. To date, the building previously occupied by Kmart continues to deteriorate and remain vacant. This existing condition limits the ability of the center owner to attract and retain quality tenants, and it negatively impacts the property values of the center and the neighborhood.

Prior Concomitant Zoning Agreements: The original concomitant zoning agreement that currently controls development on the Kelsey Creek Center site was adopted by the City in 1987 and was subject to subsequent amendments. These documents are collectively referred to as the Prior CZAs throughout this rezone staff report. The Prior CZAs dictate what uses are permitted on the site and how future development might occur. They also require that if any commercial floor area is added to the existing building footprints on site, Kelsey Creek must be restored to an open channel condition and the existing culvert removed. These Prior CZA requirements were all imposed to mitigate impacts associated with allowing the Kelsey Creek Center site to be rezoned from NB to CB. Additional development flexibility was viewed as desirable only so long as impacts to the adjacent neighborhood were carefully controlled.

Current Proposal

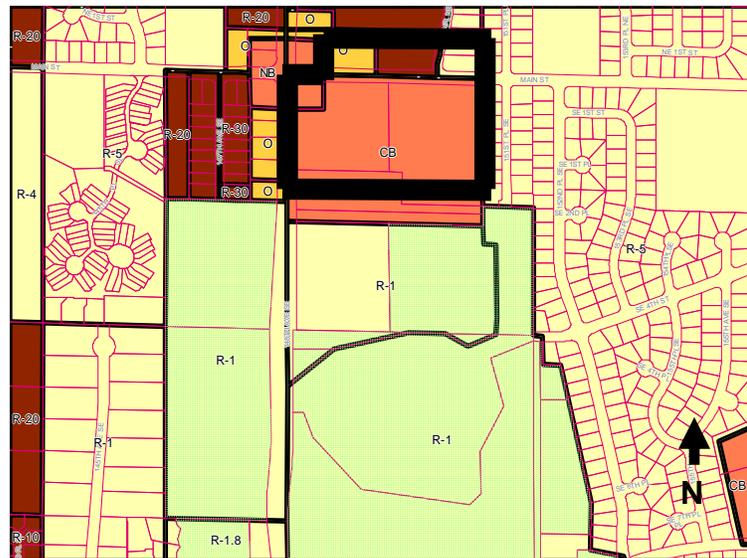
The property owner is interested in redeveloping the existing commercial center in compliance with all regulations of the CB land use district, Community Retail Design District (CRDD) and Transition Area Design District (TADD) as described in Bellevue's Land Use Code. To accommodate the property owner interest consistent with the neighborhood protection objectives that were contained in the Prior CZAs, a new 2010 CZA is recommended that:

1. Limits the allowed uses on the property (both in type and size) to ensure redevelopment is compatible with the surrounding neighborhood.
2. Applies the development standards of the CB land use district, CRDD and TADD as they exist now or as the City changes them in the future.
3. Provides for a fee in lieu mechanism to fund off-site mitigation for Kelsey Creek and Larsen Lake that provides as much or more benefit than the requirement of the Prior CZAs to open up the Kelsey Creek channel across this property.
4. Requires pedestrian connections at such time as the site is redeveloped.
5. Provides for replacement and long-term maintenance of the box culvert that currently contains Kelsey Creek under the site.

When the property was rezoned in 1987 from NB to CB (refer to Figure 3), the belief was that CB was the appropriate zone but that certain uses permitted in the CB zone would not be appropriate at Kelsey Creek Center due to its proximity to the surrounding residential neighborhoods. Ensuring that the recommended 2010 CZA reflects the City's Comprehensive Plan, Land Use Code, and neighborhood compatibility requirements of the Prior CZAs will help ensure that future redevelopment will occur consistent with the City's long range vision and up-to-date regulations.

Figure 3

The Prior CZAs opening of the segment of Kelsey Creek channel which runs under the site. As originally contemplated, the 10 foot wide stream channel would have a 50 foot wide riparian zone created on each side of the stream. This would create a 110 foot wide vegetated zone across the site that would connect Larsen Lake and its associated wetlands with other vegetated areas downstream of the subject property and create an environmental benefit. In addition, the requirement created a governor on site redevelopment intensity because the site area available for parking was reduced. However, taking roughly 15% of the area out of the center of the site has limited redevelopment over the years.



The 2010 CZA allows additional redevelopment flexibility, but includes conditions necessary to provide equivalent mitigation to the neighborhood compatibility requirements, development intensity limitations, and environmental and social functions previously provided by the stream reach reopening condition and other related conditions contained in the 1987 CZA. The attached Kelsey Creek Mitigation Plan (Attachment 2 - Exhibit B) provides additional detail to demonstrate that the same or improved Habitat and Water Quality Functions and Values are being provided under the terms of the recommended 2010 CZA as would have been achieved by re-opening Kelsey Creek across the site as was required in the Prior CZAs. The property owner will be required to pay a fee in lieu to fund the off-site environmental mitigation in addition to the on-site project mitigation that would be required by the recommended 2010 CZA in order to ensure neighborhood compatibility.

III. REVIEW PROCESS

Rezone: Replacement of the Prior CZAs with the 2010 CZA requires a Process III rezone (LUC 20.35.300), which is a quasi-judicial decision made by the City Council. The Hearing Examiner holds a public hearing, takes testimony on the proposal, and recommends an action to the City Council. Then the City Council makes a decision based on the record established by the Hearing Examiner. In addition, because the Kelsey Creek Center is located within the jurisdictional area of the East Bellevue Community Council (EBCC), the City Council's decision will be presented to the EBCC for final approval or disapproval.

SEPA: The environmental determination made under the State Environmental Policy Act (SEPA), and documented in this report, is not a development-specific review, nor is it intended to be a planned action. The environmental review is phased under WAC 197-11-060(5); more detailed environmental review will be conducted as part of the subsequent Design Review if this rezone application is approved. In addition, the environmental determination made for this rezone is appealable to the Hearing Examiner. In order to comply with SEPA requirements, as well as the State of Washington Growth Management Act for coordination of hearings, any appeal of the SEPA threshold determination herein will be considered by the Examiner at the hearing on the Rezone action. Only parties who have submitted written comments during the review period for this rezone are allowed to file an appeal of the SEPA threshold determination. The final decision on the SEPA appeal would be issued by the Hearing Examiner and included in the report at the same time as the Examiner's recommendation on the rezone is transmitted to the City Council.

If the rezone is approved, any new development proposed for this site would be subject to Design Review and a Critical Areas Land Use Permit, along with project-specific SEPA review (Process II action, refer to Land Use Code), followed by construction permit approvals.

IV. DECISION CRITERIA

A. *The City may approve, or approve with modifications, an application for a rezone of property if:*

1. The proposal is consistent with the Comprehensive Plan.

As conditioned, this proposal is consistent with the Comprehensive Plan which contains policies that address land use compatibility. The proposal site is within the Southeast Bellevue subarea identified in the City's Comprehensive Plan. The goal for retail and office areas in Southeast Bellevue is to improve the appearance of existing retail and office buildings and parking areas, as well as permit uses that serve the needs of the surrounding residential community. The Kelsey Creek Center rezone proposal is consistent with these goals so long as conditions remain in the recommended 2010 CZA to provide mitigation equivalent to the neighborhood compatibility requirements, development intensity limitations, and environmental and social functions previously provided by the stream reach reopening condition and other related conditions contained in the 1987 CZA. Following is a summary of relevant Comprehensive Plan policies.

Land Use Compatibility policies

Policy S-SE-7. Expand uses in neighborhood commercial districts to better serve the needs of surrounding neighborhoods by allowing for a variety of retail, office, and residential uses; provided that the character and level of development is of a low intensity which is compatible with the adjacent residential districts.

Policy S-SE-8. Require upgrading of buildings and landscaping of all existing retail and office development areas to meet current City standards.

Policy S-SE-9. Require designs to complement and enhance the residential character of the area, including maintenance of buildings, grounds, signs, and site development.

Policy LU-8. Ensure that commercial land uses are contained within carefully delineated areas.

Policy LU-9. Maintain compatible use and design with the surrounding built environment when considering new development or redevelopment within an already developed area.

The recommended 2010 CZA will allow additional flexibility for redevelopment of Kelsey Creek Center, but will maintain the mitigation objectives that were contained in the original 1987 CZA in order to ensure that the character and level of redevelopment is compatible with the adjacent residential community. Redevelopment would be required to meet current code standards, resulting in a substantial upgrade from the current condition. Land Use Code regulations for the Community Retail Design District and Transition Area Design District together with use, size limitations, off-site environmental mitigation, pedestrian connections, and culvert maintenance requirements will all help to ensure that redevelopment of the site will be compatible with the surrounding neighborhood.

Land Use policies

Policy LU-13. Reduce the regional consumption of undeveloped land by facilitating redevelopment of existing developed land when appropriate.

Policy LU-22. Protect residential areas from the impacts of non-residential uses of a scale not appropriate to the neighborhood.

The proposed redevelopment of Kelsey Creek Center is consistent with these policies in that it would make new use of land that has already been designated for commercial uses rather than trying to rezone land to a higher intensity. The recommended 2010 CZA increases development viability in exchange for improved environmental and economic conditions. However, development flexibility is not provided in the recommended 2010 CZA without limitation. Mitigation objectives that were contained in the original 1987 CZA that allowed the site to be rezoned from NB to CB are maintained in the 2010 CZA to ensure that the character and level of redevelopment at Kelsey Creek Center is compatible with the adjacent residential community.

2. The Rezone bears a substantial relation to the public health, safety and welfare.

The recommended 2010 CZA bears a substantial relationship to the public health, safety and welfare. As stated in the Comprehensive Plan, a major goal for the retail and office areas of the Southeast subarea is to improve the appearance of retail and office uses. The proposal will help facilitate redevelopment of a vacant building that has been a long-standing eyesore with new neighborhood-oriented uses that will serve the community and improve the economic vitality of the center. The ultimate redevelopment of the property will be consistent with the City's Comprehensive Plan and land use regulations so long as neighborhood and environmental impacts are adequately mitigated consistent with the terms of the recommended 2010 CZA. General Land Use Code regulations, and site specific regulations contained in the 2010 CZA, will ensure that impacts of redevelopment will be mitigated below the level of significance. The public would benefit from additional shopping, services, and office uses within the neighborhood since these services would be within walking distance and vehicle trip occurrences and lengths could be reduced. In sum, the recommended 2010 CZA would help facilitate neighborhood appropriate and environmentally sensitive revitalization of the Kelsey Creek Center, and would help turn an eyesore into an amenity.

3. The Rezone is warranted because the proposed zoning classification is appropriate for reasonable development of the subject property.

The underlying CB land use district, Community Retail Design District and Transition Area Design District zoning of the property would not change, nor would the requirement to mitigate impacts on the surrounding neighborhood at a level consistent with the 1987 CZA. A change to the terms of

mitigation required in the 1987 CZA is warranted for two reasons. First, the condition to open the Kelsey Creek channel has been in place since 1987, and no development has occurred in this time. Further, the Kmart building has been vacant since the early 2000's and still no development has occurred; instead, the site continues to degrade. The second reason a change in the 1987 CZA is warranted is that the 2010 CZA is providing neighborhood compatibility and environmental mitigation that is at least as valuable as conditions imposed in the Prior CZAs.

4. The Rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject property.

Currently, the site is occupied with retail and office uses. The uses listed in the recommended 2010 CZA with appropriate size limitations are consistent with the current uses on the property and compatible with the surrounding neighborhood.

Residential properties are located on lots immediately adjacent to the east and across Main Street to the northeast. The site topography and required landscape buffers will help soften any visual impact of future development on these residential areas. In addition, Main Street has a planted center median which serves as an additional visual buffer for some of the residential properties.

The City's development regulations would be applied during the site development approval and/or Development Agreement process and would address appropriate mitigation for project related traffic, lighting and other possible impacts of the development.

5. The Rezone has merit and value for the community as a whole.

The changes to the 2010 CZA that are recommended by this rezone are of value to the surrounding community because they will help to facilitate redevelopment of Kelsey Creek Center in a manner that mitigates impacts on the surrounding residential community. If enacted, the recommended 2010 CZA will facilitate installation of off-site environmental mitigation that allows Kelsey Creek to remain in a culvert, will provide habitat enhancements at Larson Lake, and will create a revitalized commercial development that serves the community.

V. PUBLIC NOTICE AND COMMENT

Application Date: May 20, 2009
Notice of Application & Public Notice Sign Installed: August 27, 2009
End of Minimum Comment Period: September 10, 2009
Public Meetings: East Bellevue Community Council October 6, 2009

The minimum required public comment period is 14 days, but written public comments are accepted by the City until the staff report has been completed. The City received two letters in reference to this application.

The first letter received June 24, 2009 is unidentified as to sender but appears supportive of potential redevelopment and makes reference to needed storm water improvements, which are included in the proposal.

The second letter received September 10, 2009 from the Muckleshoot Indian Tribe Fisheries Division suggests the City require the applicant to daylight and restore the portion of Kelsey Creek that currently runs under the parking lot. The commenter suggests relocating the stream

to accommodate future development versus leaving the stream in a pipe. The Kelsey Creek Mitigation Plan (see Attachment 2 - Exhibit B) which is part of the 2010 CZA recommended with this rezone provides for an equivalent or better environmental outcome while releasing the property owner of existing development constraints created by the prior CZAs requirement that the stream be daylighted.

No members of the public attended the October 6, 2009 East Bellevue Community Council meeting.

VI. TECHNICAL REVIEW

A. Transportation

The review of this Rezone application is not project-specific, and does not constitute or imply approval of specific design details for any transportation-related improvements. Review and approval of a specific project proposal under a subsequent Design Review application and/or development agreement, with associated construction permits and project-specific traffic impact analysis, is expected at an undetermined later time. Such review may include, but is not limited to, the items listed below:

1. Design and implementation of street channelization and operational improvements, which may include significant street widening in one or more locations, addition of new turn lanes, lengthening of existing turn lanes, installation or revision of one or more traffic signals, and installation or revision of one or more crosswalks. Such improvements may require the developer to dedicate additional street right of way or sidewalk/utility easements or to obtain new right of way or easements from other property owners.
2. Design and installation of standard street frontage improvements, including new access points, possible closing of one or more access points, sidewalk improvements, street trees, street lights, and utility undergrounding.
3. Design of the site's internal circulation pattern, driveway locations, and driveway throat design, especially as they affect traffic operations in the streets.
4. Transportation Management Plan (TMP) requirements, as well as a Parking Agreement and associated Parking Management Plan if determined necessary by the City during Design Review.
5. Installation of or reservation of funds for traffic calming facilities or methods on one or more nearby residential streets.
6. Other transportation issues that may arise in subsequent review phases.

A condition of approval regarding transportation issues is included in section IX of this report.

B. Utilities

Because the review of this rezone application has been conceptual, there are no implied approvals of the engineering components. If the rezone is approved, a detailed review will be conducted during the subsequent Design Review and construction permits. However, it has been noted that because the site was originally developed under old standards for drainage

control and control of pollutant discharge in runoff, it is certain that redevelopment would improve the current drainage conditions. Further, all public utilities are available to the site, and there are no sanitary sewer capacity or fire flow issues affecting the development envisioned by the proposal.

VII. STATE ENVIRONMENTAL POLICY ACT

The proposal to repeal the Prior CZAs and eliminate the condition that required reopening of the Kelsey Creek Culvert across the site would likely cause significant adverse environmental impacts requiring the preparation of an Environmental Impact Statement (EIS). If significant impacts are identified that would require the preparation of an EIS, WAC 197-11-350(3) allows the applicant to change the proposal or the lead agency to specify mitigating measures as a condition of approving the project. A Mitigated Determination of Non-Significance (MDNS) is appropriate when changes to the proposal or mitigating measures are sufficient to reduce adverse impacts below levels that are believed to be significant.

The recommended 2010 CZA meets the MDNS requirement because conditions have been imposed to provide mitigation that is equivalent to the neighborhood compatibility requirements, development intensity limitations, and environmental and social functions previously provided by the stream reach reopening condition and other related conditions contained in the 1987 CZA. Recommended conditions in the 2010 CZA include use and size limitations, and requirements to provide pedestrian connections and culvert replacement and maintenance. In addition, a fee in lieu has been recommended to fund off site mitigation that would provide the same or improved Habitat and Water Quality Functions and Values as would the reopening of Kelsey Creek across the site that was required in the Prior CZAs. Adverse impacts which are less than significant are subject to City Codes or Standards that are intended to mitigate those impacts. Where such impacts and related regulatory items correspond, no further documentation is necessary. For other adverse impacts that are less than significant, Bellevue City Code Section 22.02.140 provides substantive authority to mitigate impacts disclosed through the environmental review. Therefore, the issuance of a MDNS is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

The following adverse impacts will occur from the proposal. Mitigation of these impacts is also described below. Recommended conditions of approval for the project to implement the mitigation are contained in the recommended 2010 CZA (Attachment 2) and in Section IX of this staff report.

WATER, PLANTS, ANIMALS, AND LAND & SHORELINE USE

The land use impacts and associated mitigation were described in greater detail above. As noted, the 2010 CZA includes conditions recommended to provide mitigation that is equivalent to the neighborhood compatibility requirements, development intensity limitations, and environmental and social functions previously provided by the stream reach reopening condition and other related conditions contained in the 1987 CZA. The environmental impacts of leaving this portion of Kelsey Creek enclosed in a pipe underground are appropriately mitigated as described in the recommended mitigation plan. Refer to sections I and II of this staff report, as well as Attachment 2 - Exhibit B: Kelsey Creek Mitigation Plan for further information.

TRANSPORTATION

Long-Term Transportation Impacts and Mitigation

The long-term impacts of all development projected to occur in the City by 2020 have been addressed in the City's Transportation Facilities Plan EIS. The impacts of growth projected to occur by 2020 are evaluated on the roadway network assuming that all the transportation improvement projects proposed in the City's current Transportation Facilities Plan (TFP) are in place. The Transportation Facilities Plan EIS divides the City into Mobility Management Areas for analysis purposes. The rezone site lies within MMA # 9, which has a 2020 total growth projection of 36,962 square feet of new retail space and 13,431 square feet of new office space, for a combined growth total of 50,393 new square feet. It is possible that a specific Design Review and/or Development Agreement proposal exceeding the growth assumptions of the TFP EIS could be submitted following approval of this rezone. However, the TFP is updated every two years, at which time land use projections can be updated to meet current growth trends. With this considered, the long-term transportation impacts of a development proposal or agreement will be mitigated per city requirements by payment of transportation impact fees and implementation of other transportation mitigation that may be required. If the development is phased, then the implementation of transportation mitigation measures must be consistent with the ultimate development of the entire site.

Transportation impact fees are used by the city to fund street improvement projects to alleviate traffic congestion caused by the cumulative impacts of development throughout the city. Payment of the transportation impact fee, as required by BCC 22.16, contributes to the financing of transportation improvement projects in the Transportation Facilities Plan. Fee payment is required at the time of building permit issuance.

Mid-Range Impacts and Mitigation

For most development proposals, traffic impacts anticipated to occur in the next six years are evaluated through a concurrency analysis under the Traffic Standards Code (BCC 14.10). However, under BCC 14.10.020A, concurrency analysis does not apply to site-specific rezones. Hence, this proposal will not be subjected to concurrency analysis until a Design Review and/or Development Agreement application or building permit application is submitted. At that time, the concurrency testing requirements currently in effect will apply.

Short-Term Operational Impacts and Mitigation

A rezone by itself does not generate traffic nor create short-term transportation impacts. However, redevelopment of the site in compliance with the rezone will require analysis of short-term transportation impacts prior to Design Review and/or Development Agreement approval. Specific engineering details, identification of transportation mitigation, and conditions of approval for the site's redevelopment will be resolved during future discretionary review and construction permit phases. Mitigation requirements are likely to include items such as those listed above in Section VI Technical Review, Transportation Department.

VIII. RECOMMENDATION

After conducting the various administrative reviews associated with the proposal, including applicable Land Use consistency, SEPA and City Code & Standard compliance reviews, the

Director does hereby **RECOMMEND APPROVAL WITH CONDITIONS** of the subject rezone to apply the recommended 2010 CZA to the Kelsey Creek Center site.

IX. RECOMMENDED CONDITIONS OF APPROVAL:

The following conditions are recommended under the authority referenced:

1. 2010 CONCOMITANT ZONING AGREEMENT

The applicant shall execute a copy of the recommended 2010 CZA contained in Attachment 3 in order to provide mitigation that is equivalent to the neighborhood compatibility requirements, development intensity limitations, and environmental and social functions previously provided by the stream reach reopening condition and other related conditions contained in the 1987 CZA. SEPA AUTHORITY: Comprehensive Plan Policies S-SE-7, S-SE-8, S-SE-9, S-SE-10 and S-SE-13.

Reviewer: Mike Upston, Land Use

2. RECORDING

The applicant shall record a copy of the recommended 2010 CZA contained in Attachment 2 and the Kelsey Creek Mitigation Plan with the King County Division of Records and Elections and with the Bellevue City Clerk, and provide evidence that Prior CZAs have been removed and the 2010 CZA and the Mitigation Plan have been recorded with King County prior to Design Review and Critical Areas Land Use Permit approval.

AUTHORITY: LUC 20.30.A

Reviewer: Mike Upston, Land Use

3. TRANSPORTATION REQUIREMENTS

The Transportation Department recommends approval of the rezone on condition that detailed traffic analysis and evaluation of street frontage improvements and other mitigation measures will be performed for any subsequent Design Review and/or Development Agreement and related construction applications. Any required mitigation measures, which may include significant street widening and associated right of way and easement dedications, must be implemented by the developer as part of any major redevelopment of the site. If the development is phased, then the transportation mitigation measures required for each phase will be determined by the city in a manner consistent with the mitigations required for redevelopment of the entire site. Engineering plans required for subsequent construction applications must meet the requirements of the Americans with Disabilities Act, the Transportation Development Code, and the Transportation Design Manual. Access and parking for all vehicles, including delivery vehicles and large trucks, and including any parking agreements with other property owners, must be resolved during the discretionary review (Design Review and/or Development Agreement) phase. Discretionary review decisions may require the developer to set aside funds for future traffic calming on local streets.

AUTHORITY: LUC 20.30; BCC 14.60.021, 070, 090, 110, 120, 150, 160, 180, 181, 190, 200, 210, 240, 241, and 250.

Reviewer: Carl Wilson, Transportation

Attachment 1:

Prior Concomitant Zoning Agreements

- Ordinance 3835 and associated 1987 Concomitant Zoning Agreement
- Ordinance 5237 amending the 1987 Concomitant Zoning Agreement
- Ordinance 5534 amending the 1987 Concomitant Zoning Agreement

09-23-87
2226c

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3835

AN ORDINANCE reclassifying approximately 16.35 acres of property located at the southeast corner of the intersection of Main Street and 148th Avenue S.E. in the K-Mart Plaza and addressed as 15015 Main Street in the City of Bellevue, on application of Martin Selig Real Estate, Inc.

WHEREAS, the applicant, Martin Selig Real Estate, Inc. filed an application for reclassification of approximately 16.35 acres of property from Neighborhood Business (NB) to Community Business (CB) with conditions, which property is located in the K-Mart Plaza at the southeast corner of the intersection of Main Street and 148th Avenue S.E. and addressed as 15015 Main Street in the City of Bellevue; and

WHEREAS, on November 6, 1986, a public hearing was held thereon before the hearing examiner upon proper notice to all interested persons; and

WHEREAS, on January 28, 1987, the hearing examiner recommended to the City Council conditional approval of said application, and made and entered findings of fact and conclusions based thereon in support of his recommendation; and

WHEREAS, on January 30, 1987, the Hearing Examiner issued an Order Correcting Omission which added a footnote to his recommendation of January 28, 1987; and

WHEREAS, on March 9, 1987, the City Council considered the Hearing Examiner's recommendation for conditional approval of the rezone application and remanded the application for the taking of further evidence on two issues: (1) whether the rezone should be conditioned to require that all non-conforming signs on the site be brought into immediate compliance with the Bellevue Sign Code and (2) whether the proposal impacts Kelsey Creek enough to warrant requiring that Kelsey Creek be fully or partially reopened, dredged or otherwise protected; and

WHEREAS, a public hearing was held on August 13, 1987 (continued at the request of the applicant from April 23, 1987), before the Hearing Examiner to consider the issues remanded by the City Council to the Hearing Examiner; and

WHEREAS, on September 8, 1987 the Hearing Examiner entered his Supplemental Findings and Recommendation to the City Council for conditional approval of said application, and made and entered findings

09-23-87
2226c

of fact and conclusions based thereon in support of his recommendation;
and

WHEREAS, the City Council has reviewed the record before the Hearing Examiner in this matter and concurs with the Hearing Examiner's recommendation to conditionally approve the application as modified by the supplemental recommendation of the Hearing Examiner and concurs in the findings of fact and conclusions upon which said recommendation and supplemental recommendation are based; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act and the Bellevue Environmental Procedures Code; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the findings of fact and conclusions based thereon, made and entered by the Hearing Examiner in support of his recommendations to the Council in this matter, as set forth in the "Findings and Recommendation of the Hearing Examiner for the City of Bellevue In the Matter of the Application of Martin Selig Real Estate, Inc., For a Reclassification, File No. HE-A 86-09" as modified by the Hearing Examiner's "Order Correcting Omission" dated January 30, 1987 and as further modified and supplemented by the "Supplemental Findings and Recommendation of the Hearing Examiner For the City of Bellevue In the Matter of the Application of Martin Selig Real Estate, Inc., for a Reclassification, File No. HE-A 86-09".

Section 2. The following described property is hereby reclassified from NB to CB with conditions:

PARCEL A:

That portion of the north half of the northwest quarter of the southwest quarter of Section 35, Township 25 North, Range 5 East, W.M., in King County, Washington, described as follows:

Beginning at the northwest corner of said subdivision; thence south 88°38'51" east along the north line of said subdivision, said north line also being the centerline of Main Street, a distance of 200.08 feet, to an intersection with the east line, of the west 200 feet, of said subdivisions;
thence south 0°13'22" east along said east line 30.01 feet to an intersection with the south margin of said Main Street and the true point of beginning;
thence continuing south 0°13'22" east along the east line of said west 200 feet, a distance of 150.06 feet, to an intersection with

09-23-87
2226c

the south line of the north 180 feet, of the west 200 feet of said subdivision;
thence north 88°38'51" west along said south line 150.06 feet, to an intersection with the east margin of 148th Avenue Southeast;
thence south 0°13'22" east along said east margin 482.44 feet, to an intersection with the south line, of the north half of the northwest quarter of the southwest quarter of said Section 35;
thence south 88°40'01" east along said south line 1,000.37 feet to an intersection with the east line, of the west 1,050 feet of said subdivision;
thence north 0°13'22" west along said east line 632.10 feet to an intersection with the south margin of said Main Street;
thence north 88°38'51" west along said south margin 850.32 feet more or less to the true point of beginning.

PARCEL B:

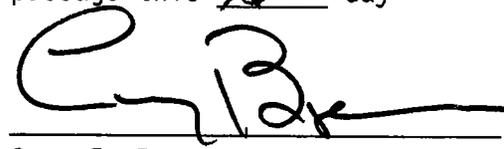
North 100 feet of the West 1,050 feet of the South half of the Northwest quarter of the Southwest quarter of Section 35, Township 25 North, Range 5 E.W.M., in King County, Washington, EXCEPT the West 50 feet conveyed to King County for roads.

This reclassification from NB to CB is conditioned on full compliance by the owner of said property and his heirs, assigns, grantees, or successors in interest, with the terms and conditions of that certain Concomitant Zoning Agreement executed by Martin Selig, an individual, which has been given Clerk's Receiving No. 12967 and which is adopted by reference into this ordinance as if it was fully set forth herein.

Section 3. This ordinance shall take effect and be in force five days after its passage and legal publication.

PASSED by the City Council this 12th day of October, 1987, and signed in authentication of its passage this 12th day of October, 1987.

(SEAL)



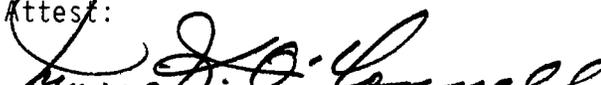
Cary E. Bozeman, Mayor

Approved as to form:

Richard L. Andrews, City Attorney


Richard L. Kirkby, Assistant City Attorney

Attest:


Marie K. O'Connell, City Clerk

Published October 16, 1987

CONCOMITANT ZONING AGREEMENT

Clerk's Receiving No. 12967, as adopted by Ordinance No. 3835,(King County recording #8711120962)
Amended in 2000, as adopted by Ordinance No. 5237.

WHEREAS, the City of Bellevue, Washington, a noncharter code city, under the laws of the State of Washington (chapter 35A.63 RCW and Article 11, Section 10 of the Washington Constitution) has authority to enact laws and enter into agreements to promote the health, safety and welfare of its citizens, and thereby control the use and development of property within its jurisdiction: and

WHEREAS, the Owner of certain properties has applied for a reclassification of such property (hereinafter referred to as the property) described below which is within the City's jurisdiction, and has agreed that certain conditions should be imposed in order to mitigate the impacts of such reclassification request: and

WHEREAS, the City of Bellevue staff recommended that the property located at 15015 Main Street, which property is hereinafter more particularly described, be rezoned from NB to CB with conditions: and

WHEREAS, the City pursuant to chapter 43.21C RCW, the State Environmental Policy Act, should mitigate any adverse impacts which might result because of the proposed rezone: and

WHEREAS, the Owner has indicated willingness to cooperate with the City of Bellevue to ensure compliance with the Bellevue Land Use Code, and all other local , state and federal laws relating to the use and development of the property: and

WHEREAS, such property was planned and developed as part of the Lake Hills annexation in March 1969 under Ordinance No. 1326: and

WHEREAS, such property was rezoned from its previous King County B-N zoning to the City of Bellevue B-N rezoning by ordinance No. 158* in 1970: and

Whereas, such property was rezoned from B-N to NB in September 1978 under Ordinance No. 26298: and

Whereas, the City, in addition to civil and criminal sanctions available by law, desires to enforce the rights and interests of the public by this concomitant zoning agreement:

Now, THEREFORE, in the event the property located at 15015 Main Street and more particularly described as:

PARCEL A:

That portion of the north half of the northwest quarter of the southwest quarter of Section 35. Township 25 North. Range 5 East W.M. in King County, Washington. Described as follows:

Beginning at the Northwest corner of said subdivision: thence south 88°38'51" east along north line of said sub division, said north line also being the centerline of Main Street, a distance of 200.08 feet to an intersection with the east line of the west 200 feet of said subdivisions: thence south 0°13'22" east along said east line 30.01 feet to an intersection with the south margin of said Main Street and the true point of beginning: thence continuing south 0°13'22" east along the east line of said west 200 feet a distance of 150.05 feet to an intersection with the south line of the north 180 feet of the west 200 feet of said subdivision: thence north 88°38'51" west along said south line 150.06 feet to an intersection with the east margin of 148th Avenue Southeast thence south 0°13'22" east along said east margin 482.44 feet to an intersection with the south line of the north half of the northwest quarter of the southwest quarter of said Section 35 thence south 88°40'01" east along said south line 1,000.37 feet to an intersection with the east line of the west 1,050 feet of said subdivision: thence north 0°13'22" west along said east line 832.10 feet to an intersection with the south margin of said Main Street:

thence north 88°38'51 west along said south margin 850.32 feet more or less to the true point of beginning.

PARCEL B:

North 100 feet of the West 1,020 feet of the South half of the Northwest quarter of the Southwest quarter of Section 35. Township 25 North. Range 5 E. W. M. in King County, Washington. Except the West 50 feet conveyed to King County for roads.

As rezoned by the City of Bellevue from NB to CB with conditions and in full consideration of that event should it occur, the Owner does hereby covenant and agree as follows:

1. SPECIAL CONDITIONS

A. Permitted Uses:

Permitted uses for the property shall include all uses that are listed in Land Use Code Section 20.10.440 as permitted in the CB zone except:

- (1) No manufacturing uses (Land Use Code Section 20.10.440. Standard Land Use Code References 2 and 3) shall be permitted, except:

329 – Handcrafted products mfg.

- (2) No transportation and utilities uses (Land Use Code Section 20.10.440. Standard Land Use Code Reference 4) shall be permitted, except:

- Accessory parking
- Highway and Street Right-of-Way

- (3) No wholesale and retail uses (Land Use Code Section 20.10.440. Standard Land Use Code Reference 5) shall be permitted, except:

522 – Heating and plumbing equipment – retail

523 – Paint, glass and wallpaper – retail

524 – Electrical supplies – retail

5251 – Hardware – retail

53 – General merchandise – retail

54 – Food – retail

- 56 – Apparel and accessories – retail
- 57 – Furniture and home furnishings – retail
- 59 – Other retail trade
- 5998 – Garden Supplies
- 5999 – Pet Shop – retail and grooming
- (4) No service uses (Land Use Code Section 20.10.440. Standard Land Use Code Ref. 6) shall be permitted, except:
 - 61 – Finance, insurance, real estate
 - 62 – Personal services: Laundry, dry cleaning, barber and beauty, photography studio, and shoe repair
 - Child care services
 - 629 – Day care center
 - 63 – Business services. Duplicating, blueprinting, steno, advertising (except outdoor) and employment
 - 641 – Auto repair and washing service
 - 649 – Repair services: watches, TV, electrical, upholstery
 - Professional services: medical clinics and other health care related services
 - Professional services: other
 - 6516 – Convalescent and nursing homes
 - 692 (A) Professional and labor organizations fraternal lodge
 - 629 (B) Charitable and social service organization
 - Office – general
- (5) No recreation uses (Land Use Code Section 20.10.440. Standard Land Use Code Reference7) shall be permitted, except:

711 – Library, museums

7113 – Art gallery

- (6) No resource uses (Land Use Code Section 20.10.440. Standard Land Use code Reference 8) shall be permitted, except:

8221 – Veterinary office

Retail hardware, food and drug store uses may not be expanded to exceed square footage allowed in NB zones unless the expansion is internal and can be achieved without significant increase in vehicular traffic, noise, lighting or other adversity to adjacent on or off-site residential or commercial areas.

B. Conditional Uses:

The following uses shall only be permitted as Conditional Uses:

- Two to four dwelling unites per acre
- Five or more dwelling unites per acre
- Group home Class1-B 3
- Group home Class1-C 3
- Group Home Class 11A 3
- Group Home Class 11B 3
- Group Home Class 11C 3
- Detoxification Center 3
- 12-group quarters: Dormitories: Retirement Homes, Fraternal Houses, excluding military and correctional institutions

- Park-and-ride

- Recycling centers

521 – Lumber and other building materials – retail

522 – Automotive and Marine Accessories (Retail)

553 – Gasoline service stations

58 – Eating and drinking establishments (without liquor or Class H license)

*671 – Governmental Services: protective functions and related activities excluding maintenance

*674 – Military

*675 – Correctional Institutions

681 – Education – nursery, primary and secondary

682 – Universities and colleges

683 – Special schools: vocational, trade, business, art, music, dance,
driving barber and beauty

691 – Religious activities

7214 – Legitimate theaters

7222 – Sports arena

7231 – Auditoriums

7232 – Exhibition halls

7411 – Golf Courses

7413 – Tennis Courts

7414 – Ice skating

7415 – Roller skating

7417 – Bowling

7422 – Playgrounds

7424 – Community clubs – recreation centers

7423 – Swimming beaches and pools

8192 – Horticulture nursery, trees, shrubs, ground cover, flowers and
related supplies.

*Permitted in the proposed CB zoning but not addressed in the
Subarea Plan Guidelines

- C. The current NB (Neighborhood Business) standards for building height, land coverage, landscaping, screening and other site development standards shall be the standards of this rezone.

Existing structure exceeding the height limit (20 feet) shall not be Enlarged vertically (21.V.13.110).

- D. The applicant shall submit a building permit application to the Design and Development Department within thirty (30) days of the effective date of this rezone, showing proposed parking area improvements. Including landscaping in compliance with Land Use Code Sections 20.20.590 and 20.20.520.F.3 or Section 20.20.520.J. and shall provide a Performance Assurance Device per Section 20.20.520.L. Installation of parking area landscaping shall be completed by the applicant and verified by the Design and Development Department within one year of the effective date of the rezone.
- E. The applicant shall submit a legal survey for the undeveloped portion of Parcel B prior to the adoption of the reclassification and designate said area as a Native Growth Protection Easement which precludes disturbance of or development over the parcel (21.D.100.C.5 and 6).
- F. Any redevelopment of the site by any building addition, regardless of size or the addition of new building(s) shall conform to the following requirements:
 - (1) Removal of the existing box culvert and reconstruction of an open stream channel in accordance with the Storm and Surface Water Utility Drainage Master Plan, City of Bellevue development standards (edition current at the time of application for permits) and all other applicable codes, policies and ordinances.
 - (2) Construction of a pedestrian trail located outside the stream corridor: or, if located within the stream corridor to replace the area lost for the trail.
 - (3) Provision of a storm water detention system per City of Bellevue development standards (edition current at the time of application for permits)
- G. The effective date of this rezone shall be contingent upon the removal of all illegal or non-conforming signs. A Performance Assurance Device for 150% of the cost of removing the signs shall be required pursuant to Section 20.40.490 of the Land Use Code and Sections 22.B.10.710 and 22.B.10.200 of the Bellevue Sign Code.
- H. The applicant shall dredge, remove, or otherwise lower the streambed elevation in the existing box culvert to a maximum elevation of 248.95 (City of Bellevue datum) at the upstream end of the culvert. A

minimum 0.5% slope in the culvert bottom shall be included in the design. This work shall be performed by September 15, 1988. Plans shall be approved by the Storm and Surface Water Utility prior to beginning any work.

- I. The applicant shall be responsible for continued maintenance of the streambed elevation and slope to ensure proper drainage. The applicant shall allow periodic inspection of the culvert and streambed elevation by the City of Bellevue Storm and Surface Water Utility. The applicant shall perform all work necessary to maintain the streambed elevation and slope as required by the City of Bellevue Storm and Surface Water Utility.
2. In the event that any term or clause of this agreement conflicts with applicable law, such conflicts shall not affect other terms of this agreement which can be given effect without the conflicting term or clause, and to this end the terms of this agreement are declared to be severable.
3. Any amendment or modification of this agreement shall be valid only if mutually agreed upon by the City of Bellevue and the Owner (including heirs, assignees and successors to the Owner) in writing and recorded with the King County Department of Records and Elections.
4. In addition to all other remedies available to the City of law, the City reserves the right to initiate proceedings to revoke the rezoning of the property should the Owner fail to comply with any of the terms and conditions of this agreement.
5. The City may at its discretion bring a lawsuit to compel specific performance of the terms and conditions of this agreement.
6. Nothing in this agreement shall be construed to restrict the authority of the City to exercise its power to rezone the property in future years.
7. This Concomitant Zoning Agreement shall remain in effect unless or until the property is rezoned.
8. The Owner agrees to indemnify and save harmless the City of Bellevue from and against all claims, suits, damages, costs, losses and expenses in any manner resulting from, arising out of, or connected with the Owner's negligent performance of or failure to perform fully any term or condition of this agreement.
9. This agreement shall be binding on the heirs, assigns, and successors of the Owner of the property.

Dated this _____ day of _____, 1987.

The person whose name is subscribed herein does hereby certify that he is the sole holder of fee simple interest in the above described property:

OWNER:

_____, an individual

Approved as to form:

Assistant City Attorney

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5237

AN ORDINANCE approving the rezone application of Franklin West, LLC (Kelsey Creek Center) to remove a requirement for conditional use approval for eating and drinking establishments, without liquor or Class H license, as required by the 1987 Concomitant Agreement, Clerk's Receiving No. 12967, adopted by Ordinance No. 3835.

WHEREAS, on October 12, 1987, the City Council adopted Ordinance No. 3835 rezoning the property located at 15015 Main Street and now known as Kelsey Creek Center from NB to CB, with certain conditions as contained in the concomitant agreement given Clerk's Receiving No. 12967; and

WHEREAS, one such condition required conditional use approval for eating and drinking establishments (without liquor or Class H license); and

WHEREAS, on April 8, 1998, an application was filed seeking a series of changes to the concomitant agreement including the removal of the conditional use permit approval required for eating and drinking establishments; and

WHEREAS, the request was considered at a public meeting of the East Bellevue Community Council on July 7, 1998, and was supported by the Community Council; and

WHEREAS, a public hearing was held before the Hearing Examiner for the City of Bellevue on June 29, 2000, pursuant to notice required by law; and

WHEREAS, on July 13, 2000, the Hearing Examiner recommended approval of the rezone application with conditions, and made and entered findings of fact and conclusions thereon in support of that recommendation; and

WHEREAS, the City Council concurs in the findings of fact and conclusions of the Hearing Examiner and has determined that the public use and interest will be served by approving the rezone application to remove the conditional use permit approval required for eating and drinking establishments without liquor or Class H license; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act and the City Environmental Procedures Code; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the findings of fact and conclusions based thereon, made and entered by the Hearing Examiner in support of his recommendation to the City Council to approve the rezone application to remove the conditional use permit approval required for eating and drinking establishments without liquor or Class H license as required by the 1987 Concomitant Zoning Agreement, filed under Clerk's Receiving No. 12967, adopted by Ordinance No. 3835, as set forth in "Findings of Fact, Conclusions of Law and Recommendation of the Hearing Examiner for the City of Bellevue, In the Matter of

the Application of Franklin West, LLC (Kelsey Creek Center) for a rezone to remove a requirement for Conditional Use Approval," File No. REZ-98-2593.

Section 2. With respect to the following described property:

PARCEL A:

That portion of the North half of the Northwest Quarter of the Southwest Quarter of Section 35, Township 25 North, Range 5 East, W.M., in King County, Washington, described as follows:

Beginning at the Northwest corner of said subdivision;
Thence South 88/38'51" East along the North line of said subdivision, said North line also being the centerline of Main Street, a distance of 200.08 feet, to an intersection with the East line of the West 200 feet of said subdivision;
Thence South 0/13'22" East along said East line 30.01 feet to an intersection with the South margin of said Main Street and the true point of beginning;
Thence continuing South 0/13'22" East along the East line of said West 200 feet, a distance of 150.06 feet, to an intersection with the South line of the North 180 feet of the West 200 feet of said subdivision;
Thence North 88/38'51" West along said South line 150.06 feet to an intersection with the East margin of 148th Avenue Southeast;
Thence South 0/13'22" East along said East margin 482.44 feet to an intersection with the south line of the North half of the Northwest Quarter of the Southwest Quarter of said Section 35;
Thence South 88/40'01" East along said South line 1,000.37 feet to an intersection with the East line of the West 1,050 feet of said subdivision;
Thence North 0/13'22" West along said East line 632.10 feet to an intersection with the South margin of said Main Street;
Thence North 88/38'51" West along said South margin 850.32 feet, more or less, to the True Point of Beginning;
Except the North 6 Feet as deeded to the City of Bellevue by Recording No. 7605100751.

PARCEL B

The North 100 feet of the West 1,050 feet of the South Half of the Northwest Quarter of the Southwest Quarter of Section 35, Township 25 North, Range 5 East, W.M., in King County, Washington;

Except the West 50 feet conveyed to King County for roads.

Both situate in the County of King, State of Washington.

Condition 1.B of that certain Concomitant Agreement given Clerk's Receiving No. 12967, as adopted by Ordinance No. 3835, is amended to remove eating and drinking establishments without liquor or class H license.

Section 3. This rezone shall be subject to the following conditions:

A. The rezone applies only to the one specified use.

B. The rezone applies only to existing structures in Kelsey Creek Center, and not to any additions or new buildings.

C. Liquor sales are permissible only under Class A or Class C licenses from the Washington State Liquor Control Board.

Section 2. This Ordinance shall take force and be in effect five days after its passage and legal publication.

Passed by the City Council this 7th day of August, 2000, and signed in authentication of its passage this 7th day of August, 2000.

(SEAL)

Chuck Mosher, Mayor

Approved as to form:
Richard L. Andrews, City Attorney
Lori M. Riordan, Assistant City Attorney

Attest:
Myrna L. Basich, City Clerk

Published August 11, 2000

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5534

AN ORDINANCE approving the rezone application of Franklin West, LLC (Kelsey Creek Center) by amendment of the 1987 Concomitant Agreement No. 12967 adopted by Ordinance No. 3835 to allow Health Club uses of less than 5,000 square feet.

WHEREAS, on November 21, 2003, an application was filed seeking a change to the Concomitant Agreement to allow Health Club uses of less than 5,000 square feet; and

WHEREAS, the request was considered at a public meeting of the East Bellevue Community Council on April 6, 2004; and

WHEREAS, a public hearing was held before the Hearing Examiner for the City of Bellevue on May 13, 2004 pursuant to notice required by law; and

WHEREAS, on May 28, 2004, the Hearing Examiner recommended approval of the rezone application with a condition, and made and entered findings of fact and conclusions thereon in support of that recommendation; and

WHEREAS, the City Council concurs in the findings of fact and conclusions of the Hearing Examiner and has determined that the public use and interest will be served by approving the rezone application to allow Health Club uses of less than 5,000 square feet; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act and the City Environmental Procedures Code now therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES
ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the findings of fact and conclusions based thereon, made and entered by the Hearing Examiner in support of his recommendation to the City Council to approve the rezone application to allow Health Club uses of less than 5,000 square feet to the 1987 Concomitant Zoning Agreement No. 12967 adopted by Ordinance No. 3835.

Section 2. This rezone shall be subject to the following condition:

This rezone applies only to the inclusion of "Health Club" as a permitted use; Health Club use may not exceed a total area of 5,000 net square feet in the Kelsey Creek Center.

ORIGINAL

Section 3. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this 6th day of July,
2004, and signed in authentication of its passage this 6th day of July,
_____, 2004.

(SEAL)

Connie Marshall
Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Lori M. Riordan
Lori M. Riordan, Deputy City Attorney

Attest:

Myrna L. Basich
Myrna L. Basich, City Clerk

Published July 9, 2004

Attachment 2:

Recommended Kelsey Creek Center Concomitant Zoning Agreement with exhibits:

- Exhibit A: Legal Description of Property
- Exhibit B: Kelsey Creek Mitigation Plan

Return Address:

Catherine Drews, Legal Planner
City of Bellevue
PO Box 90012
Bellevue, Washington 98009

Please print or type information **WASHINGTON STATE RECORDER’S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document **must** be filled in)

- 1. KELSEY CREEK CENTER CONCOMITANT ZONING AGREEMENT

Reference Number(s) of Documents assigned or released: N/A

- 1. Repeals and replaces the existing Concomitant Zoning Agreement, Recording No. 198711120962.

Grantor(s) (Last name, first name, initials)

- 1. Nat Franklin, Franklin West LLC

Grantee(s) (Last name first, then first name and initials)

- 1. City of Bellevue, a Washington municipal corporation

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

PARCEL A: LOT 1 CITY OF BELLEVUE SHORT PLAT NO FP-96-8990 REC NO 9803099020 -BEING PORTION OF NW QTR OF SW QTR STR 35-25-05.

PARCEL B: LOT 2 CITY OF BELLEVUE SHORT PLAT NO FP-96-8990 REC NO 9803099020 -BEING PORTION OF NW QTR OF SW QTR STR 35-25-05.

PARCEL C: LOT 3 CITY OF BELLEVUE SHORT PLAT NO FP-96-8990 REC NO 9803099020 -BEING PORTION OF NW QTR OF SW QTR STR 35-25-05.

PARCEL D: LOT 4 CITY OF BELLEVUE SHORT PLAT NO FP-96-8990 REC NO 9803099020 -BEING PORTION OF NW QTR OF SW QTR STR 35-25-05

Additional legal is included in Exhibit A of document.

Assessor’s Property Tax Parcel/Account Number

Affects Tax Parcel No’s. 3525059084, 3525059085, 3525059060, and 3525059086.

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

KELSEY CREEK CENTER CONCOMITANT ZONING AGREEMENT

This Kelsey Creek Center Concomitant Zoning Agreement (Agreement or 2010 CZA) is entered into this ____ day of _____ 2010, between the City of Bellevue, a Washington municipal corporation (City), and Franklin West LLC (Property Owner) relating to real property located at 15015 Main Street and more specifically described in Exhibit A attached hereto and by this reference fully incorporated herein (Property).

I. RECITALS

A. WHEREAS, the Property was originally developed as part of the 1969 Lake Hills annexation under Ordinance No. 1326; and,

B. WHEREAS, the Property was rezoned from Neighborhood Business (NB) to Community Business (CB) in 1987 (1987 Rezone) by Ordinance No. 3835; and,

C. WHEREAS, as a condition of the 1987 Rezone adopted pursuant to Ordinance No. 3835, the City and Property Owner executed a Concomitant Zoning Agreement dated October 12, 1987 (1987 CZA), recorded under King County Recording Number 198711120962; and,

D. WHEREAS, the 1987 CZA was amended in 2000 by Ordinance No. 5237; and,

E. WHEREAS, the 1987 CZA was amended in 2004 by Ordinance No. 5534; and,

F. WHEREAS, the Property Owner desires to replace the 1987 CZA with this new Kelsey Creek Center Concomitant Zoning Agreement (2010 CZA), to facilitate redevelopment of portions of the site and associated parking on the Property, which includes use and development limitations, pedestrian connections, and mitigation for replacing the existing box culvert and retaining Kelsey Creek in its closed stream channel; and,

G. WHEREAS, a Mitigation Plan (attached as Exhibit B) has been created to address functional loss occasioned by not reopening Kelsey Creek as was required by the prior 1987 CZA; and,

H. WHEREAS, the Mitigation Plan consists of off-site measures that will provide, at minimum, the amount of habitat benefit in the form of increased riparian buffers, rearing habitat, and improved water quality that would have

resulted from removal of the box culvert and reconstruction of an open stream channel for Kelsey Creek; and,

I. WHEREAS, on May 20, 2009, Applicant applied for a rezone of the Property under Project File No. 09-113801-LQ to repeal the 1987 CZA and replace it with the 2010 CZA; and,

J. WHEREAS, it is the intent of the parties that the 2010 CZA repeal and replace the 1987 CZA in its entirety; and,

K. WHEREAS, the City of Bellevue, Washington, a non-charter optional code city, under the laws of the State of Washington, has authority to enact laws and enter into agreements to promote the health, safety and welfare of its citizens, and thereby control the use and development of property within its jurisdiction; and,

L. WHEREAS, under Bellevue Land Use Code (LUC) 20.30A.155, the City may require rezone applicants enter into a concomitant zoning agreement with the City as a condition of the rezone, and may through that agreement impose development conditions designed to mitigate potential impacts of the rezone and development pursuant thereto; and,

M. WHEREAS, after holding a public meeting on October 6, 2009 pursuant to LUC 20.35.327, the Director of the Development Services Department issued a recommendation on February 11, 2010 to repeal the 1987 CZA and replace it with the 2010 CZA pursuant to LUC 20.35.330; and,

N. WHEREAS, after holding a public hearing on February 25, 2010 pursuant to LUC 20.35.337, the City of Bellevue Hearing Examiner recommended that the 1987 CZA be repealed and replaced with the 2010 CZA; and,

O. WHEREAS, pursuant to Chapter 43.21C RCW of the State Environmental Policy Act, the City seeks to mitigate all potentially significant adverse environmental impacts which may result from repeal of the 1987 CZA and replacement with this 2010 CZA through final action on the proposed Rezone (Project File No. 09-113801-LQ); now, therefore,

II. AGREEMENT

The Property legally described in Exhibit A attached hereto and by this reference incorporated herein, is rezoned in accordance with Ordinance No. **[INSERT Ordinance]**, and in full consideration of that event, the Property Owner does hereby agree to the following:

1. Subject to Section 5 below, the terms of the 1987 CZA adopted pursuant to Ordinance No. 3835 and subsequently amended by Ordinance Nos. 5237 and 5534 (the “Prior CZAs”) are hereby repealed, and replaced with the terms contained in this 2010 CZA adopted by Ordinance No. **[INSERT Ordinance]**.

2. Allowed Uses. Except as modified in Section 3 below, allowed uses on the Property shall be governed by the regulations applicable to the CB land use district, as provided for in LUC 20.10.440 as of the effective date of this 2010 CZA.

3. Modifications to Uses in LUC 20.10.440. The following modifications of the otherwise applicable provisions of LUC 20.10.440 shall apply to the Property:

a. Residential Uses. The following residential uses are modified as follows:

- 12 – Group quarters are prohibited.
- 13/15 – Hotels and Motels are allowed only through a conditional use permit.

b. Manufacturing Uses. Manufacturing uses are prohibited, except Handcrafted Products Manufacturing of 10,000 gross square feet or less is allowed.

c. Transportation and Utilities Uses. Transportation and utilities uses are prohibited, except as follows:

- Highway and street right of way are allowed.
- Satellite Dishes are allowed.
- Accessory Parking is allowed only to serve other allowed uses on the Property.
- Wireless Communication Facilities are allowed only through a conditional use permit

d. Wholesale and Retail uses. The following wholesale and retail uses are modified as described below:

- Recycling centers are prohibited.
- 521/522/523/524 – Lumber and other bulky building materials are prohibited.

- General Merchandise: Individual Dry Goods, Variety, and Department Store (Retail) uses that do not exceed a maximum size of 65,000 gross square feet are permitted.
- General Merchandise: Individual Dry Goods, Variety, and Department Store (Retail) uses that exceed 65,000 gross square feet up to a maximum size of 100,000 gross square feet are allowed only through an administrative conditional use permit (ACUP) provided that the following decision criteria have been met in addition to those applicable to the ACUP as now or hereafter amended:
 - The ACUP shall provide general merchandise retail uses for the surrounding residential community, and shall not interfere with the site's primary neighborhood-serving function; and
 - In determining consistency with the Comprehensive Plan as required by the ACUP decision criteria, such consistency determination shall include consideration of policies that pertain specifically to neighborhood businesses and neighborhood serving uses.
- General Merchandise: Individual Dry Goods, Variety, and Department Store (Retail) uses that exceed 100,000 gross square feet are prohibited.
- 5511 – Autos (retail) are prohibited.
- Trucks, Motorcycles, Recreational Vehicles (retail) are prohibited.
- Boats (retail) are prohibited.
- 552 - Automotive and Marine Accessories (Retail) are limited to 10,000 gross square feet.
- 57 - Furniture, Home Furnishing (Retail) are limited to 25,000 gross square feet.
- Adult Retail Establishments are prohibited.

e. Services Uses. Service uses are prohibited, provided that the following uses are modified as described below:

- 63 - Business Services are limited to 10,000 gross square feet on the ground floor of any building located on the Property. Business Services are allowed without size limitation in the second story area of any building located on the Property.

- Professional Services: Medical Clinics and Other Health Care Related Services are limited to 10,000 gross square feet.
- Professional Services: Other are limited to 10,000 gross square feet.
- 695 – Religious Activities are allowed only through a conditional use permit.
- Administrative Office: General is limited to second story area of any building located on the Property.

f. Recreation uses. The following recreation uses are modified as described below:

- 712 – Nature exhibitions are prohibited.
- 7212/7214/7222/7231/7232 – Public Assembly (indoor) are prohibited.
- 7212/7214/7218 – Motion picture, theaters, night clubs, dance halls, and teen clubs are prohibited.
- 7213 – Drive-in theaters are prohibited.
- Adult Theaters are prohibited.
- 7223/73 – Public assembly (outdoor) are prohibited.
- 73 – Commercial Amusements: Video Arcades, Electronic Games are prohibited.
- 7491/7515 – Camping sites and hunting clubs are prohibited.
- 7411/7413/7414/7415/7417/7422/7423/7424/7425/7441/7449 – Recreation Activities listed are allowed only through a conditional use permit.

g. Resources Uses. All resource uses except 8221 - Veterinary Clinic and Hospital are prohibited.

4. Development Standards. The applicable development standards for the CB land use district shall apply as now or hereafter amended, including but not limited to, General Development Requirements (LUC 20.20), Transition Area Design District (Chapter 20.25B LUC) requirements, and Community Retail Design District (Chapter 20.25I LUC) requirements. Furthermore, the entire Property, regardless of the current or future configurations of the interior lot lines, shall be treated as one lot for the purposes of compliance with Land Use Code regulations, including but not limited to setbacks, density, parking and access.

5. Fee in Lieu of Box Culvert Removal and Reconstruction of an Open Stream Channel. The Property Owner shall provide a fee in lieu of the box culvert removal and reconstruction of the open stream channel that was required under

the terms of the Prior CZAs in the amount of \$585,252.76 (the "Mitigation Fee"). The Mitigation Fee is intended to fund the off-site mitigation described in Exhibit B, attached hereto and incorporated herein by this reference. Any Mitigation Funds remaining following completion of the mitigation project described in Exhibit B shall be used to fund monitoring of the mitigation work for a period of up to five years. The Mitigation Fee shall be paid within 60 days of the effective date of this Agreement. If the Mitigation Fee is not timely paid, the rezone will be null and void, and the 2010 CZA will automatically terminate without need for further Council action. In such event, the zoning for the Property shall be as set forth in ordinances and the Prior CZAs shall apply as though in full force and effect.

6. Pedestrian Connections. Upon redevelopment of the Property, the Property Owner shall construct pedestrian trails and sidewalks that further connect 148th Avenue SE, Main Street and the project site to Lake Hills Greenbelt Park and the surrounding neighborhood as conceptually shown in Figure 2 of the Rezone Recommendation contained in Project File No. 09-113801-LQ. Redevelopment for the purposes of applying this paragraph shall include re-tenanting any portion of the existing vacant K-Mart building, demolition or reconstruction of any portion of the existing vacant K-Mart building, addition of any new building, or addition of any new square footage to an existing building (regardless of size). The final alignment of the pedestrian connections to be constructed under the terms of this paragraph shall be approved by the Land Use Division of the Development Services Department, or its successor organization, as a component of the underlying permits or approvals required for the redevelopment that triggers the application of this paragraph.

7. Reconstruction and Maintenance of the Box Culvert. The property owner shall be responsible for continued maintenance of the streambed elevation and slope to ensure proper drainage. The applicant shall allow periodic inspection of the culvert and streambed elevation by the City of Bellevue Storm and Surface Water Utility. The applicant shall perform all work necessary to maintain the streambed elevation and slope as required by the City of Bellevue Storm and Surface Water Utility.

8. Conflict of Law and Severability. Should any term or clause of this Agreement conflict with applicable law, such conflicts shall not affect other terms of this Agreement which can be given effect without the conflicting term or clause.

9. Amendment. Any amendment or modification to this Agreement shall be valid only if mutually agreed upon by the City of Bellevue and the Property Owner (including heirs, assignees and successors to the Owner) in writing and recorded with the King County Department of Records and Elections.

10. Specific Performance. The City may at its discretion bring a lawsuit to compel specific performance of the terms and conditions of this Agreement.

11. Reservation of Rights. Nothing in this Agreement shall be construed to restrict the authority of the City to exercise its power to rezone the Property in future years. Notwithstanding any other term of this Agreement, the City reserves the right to establish and impose new or different additional regulations to the extent required to address a serious threat to public health and safety. Nothing in this Agreement shall be deemed an approval of any particular project level development.

12. Duration. This Concomitant Zoning Agreement shall remain in effect unless or until the property is rezoned.

13. Indemnification. Property Owner shall indemnify and save harmless the City of Bellevue from and against all claims, suits, damages, costs, losses and expenses in any manner resulting from, arising out of, or connected with the Owner's negligent performance of or failure to perform fully any term or condition of this Agreement.

14. Successors and Assigns. This Agreement shall be binding on the parties and their respective heirs, executors, administrators, successors, and assigns.

15. Entire Agreement. This Agreement represents the complete agreement between the parties with respect to the subject matter hereof. Any prior written or oral representations or agreements to the contrary are of no effect.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Venue for any action arising out of this Agreement shall be in King County Superior Court.

17. Recording. The Applicant shall record this Agreement with the King County Department of Records and Elections.

I certify that I know or have satisfactory evidence that Nat Franklin is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it, as the _____ of FRANKLIN WEST, LLC to be the free and voluntary act of said company for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2010.

Print name: _____
NOTARY PUBLIC in and for the State of Washington Residing at _____.
My Commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

[attached]

**EXHIBIT A
LEGAL DESCRIPTION**

LOT 1 CITY OF BELLEVUE SHORT PLAT NO FP-96-8990 REC NO
9803099020 -BEING PORTION OF NW QTR OF SW QTR STR 35-25-05
And

LOT 2 CITY OF BELLEVUE SHORT PLAT NO FP-96-8990 REC NO
9803099020 -BEING PORTION OF NW QTR OF SW QTR STR 35-25-05
And

LOT 3 CITY OF BELLEVUE SHORT PLAT NO FP-96-8990 REC NO
9803099020 -BEING PORTION OF NW QTR OF SW QTR STR 35-25-05
And

LOT 4 CITY OF BELLEVUE SHORT PLAT NO FP-96-8990 REC NO
9803099020 -BEING PORTION OF NW QTR OF SW QTR STR 35-25-05

EXHIBIT B

KELSEY CREEK MITIGATION PLAN

[attached]

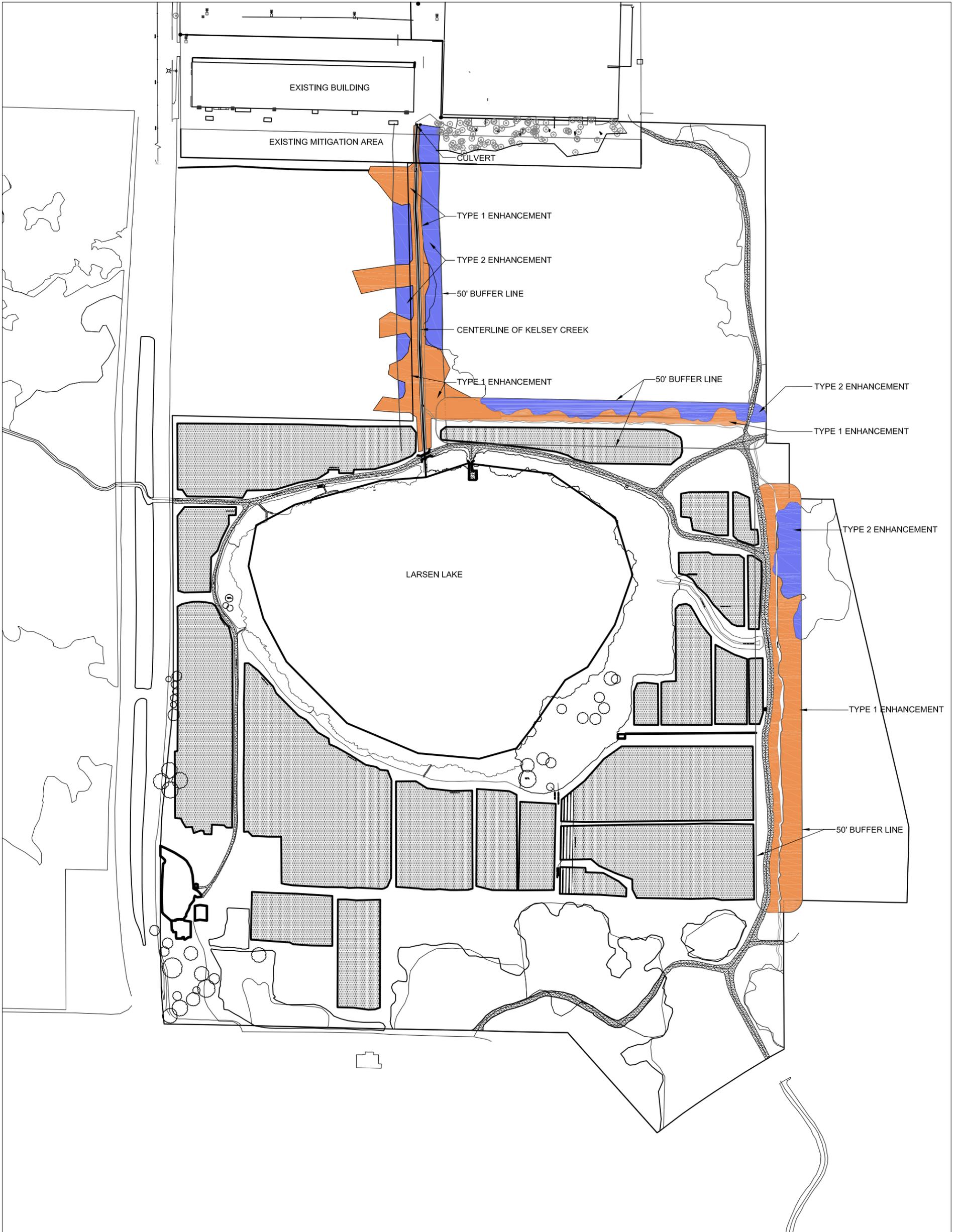


FIGURE 1
 COSTCO WHOLESale and the CITY OF BELLEVUE
**KELSEY CREEK/LARSEN LAKE
 ENHANCEMENT CONCEPT**

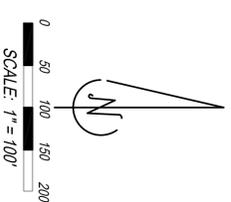
OCTOBER 12, 2009



WEISMAN DESIGN GROUP INC, PS
 LANDSCAPE ARCHITECTURE

2329 EAST MADISON STREET
 SEATTLE, WA 98112-5416
 PH 206.322.1732/FAX 206.322.1799
 INTERNET WWW.WDGINC.COM

EAST ENHANCEMENT CONCEPTUAL LAYOUT



NOTE: Base Map Provided By Weisman Design Group, Inc.
 -Large Woody Debris Installation Details on Sheet W-2



Sewall Wetland Consulting, Inc.

27641 Covington Way SE #2, Covington, WA 98042 253-859-0515 Fax 253-852-4732

COSTCO KELSEY CREEK EAST ENHANCEMENT PLAN

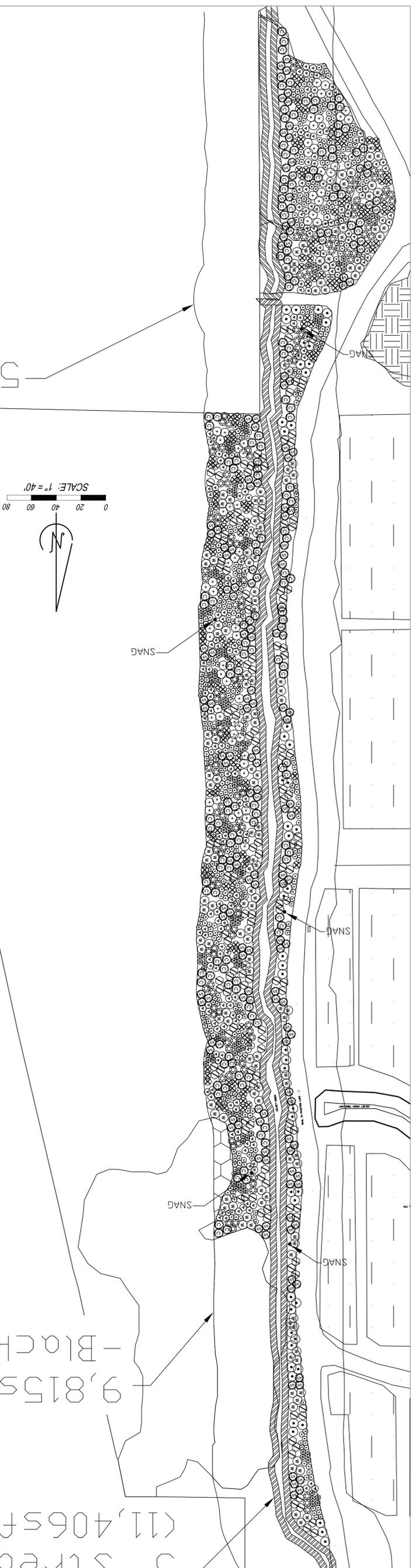
REVISIONS

▲	Revised Per City Comments 12-21-09
▲	
▲	
▲	

NOTE: ALL REVISIONS, CONSTRUCTION DRAWINGS, SPECIFICATIONS, NOTES, COST ESTIMATES AND DATA ARE THE PROPERTY OF SEWALL WETLAND CONSULTING, INC. AND ARE TO BE USED ONLY FOR THE PROJECT AND AREA INDICATED. NO REUSE, REPRODUCTION, OR ALTERATION OF ANY KIND IS PERMITTED AND SHALL ENTITLE SEWALL WETLAND CONSULTING, INC. TO RECOVER THE FULL COST OF PREPARATION THEREOF.

Job No. AG-156
 Designed by: ES
 Drawn by: AW
 Checked by: AW
 Date: 04/20/2009
 SHEET W-1
 OF W-3

PLANTING AREA A

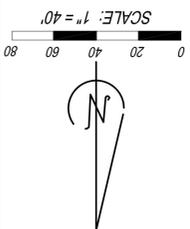


11,406 SF
9,815 SF
-BLACH

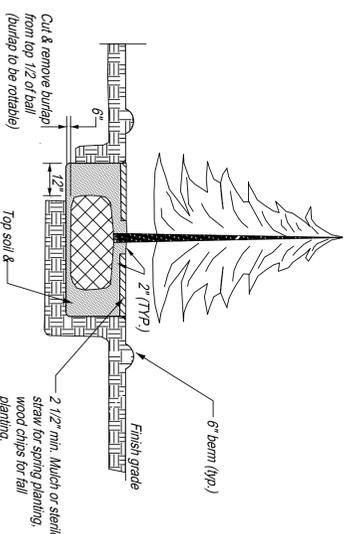
PLANTING LIST

TREES	QNTY	PLANT NAME	SIZE	SPACING
●	51	Shore Pine <i>Pinus contorta</i>	5 gal.	as shown
●	179	Sitka Spruce <i>Picea sitchensis</i>	5 gal.	as shown
⊙	170	Pacific Willow <i>Salix lasandria</i>	Stake	as shown
●	170	Western Red Cedar <i>Thuja plicata</i>	5 gal.	as shown

SHRUBS	QNTY	PLANT NAME	SIZE	SPACING
⊕	64	Western Crabapple <i>Malus fusca</i>	2 gal.	as shown
◇	199	Cascade <i>Rhamnus purshiana</i>	2 gal.	as shown
⊕	163	Pacific Ninebark <i>Physocarpus capitatus</i>	2 gal.	as shown
⊕	219	Red-osier Dogwood <i>Cornus stolonifera</i>	Stake	as shown
⊗	161	Sitka Willow <i>Salix sitchensis</i>	Stake	as shown
⊙	218	Highbush Cranberry <i>Viburnum edule</i>	2 gal.	as shown
⊙	159	Cluster Rose <i>Rosa pisocarpa</i>	2 gal.	as shown
⊕	157	Black Twinberry <i>Lonicera involucrata</i>	2 gal.	as shown
⊙	153	Black Gooseberry <i>Ribes lacustris</i>	2 gal.	as shown

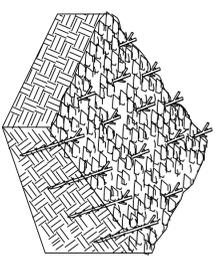


PLANTING AREA B



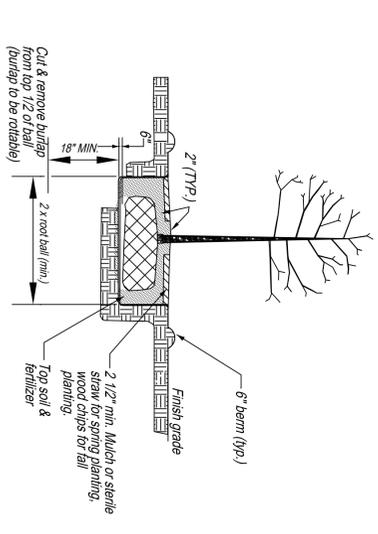
CONIFEROUS TREE PLANTING DETAIL

NOT TO SCALE



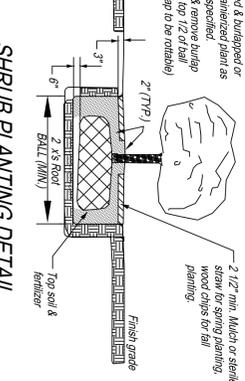
PLANTING NOTES

- Live stake cuttings are to be freshly cut 1"-2" in diameter & 3' long.
- Stake ends should be cut evenly at an angle and the tops should be cut square.
- All live stakes should be kept moist during transport to the site and should be installed the same day as harvest, with a maximum of two weeks unplanted.
- Live stakes will be installed by creating a pilot hole into native soil 1' - 2'. The pilot hole should be created at a right angle to the slope with a iron bar or other tool. The live stake is then inserted into the pilot hole and tapping place with a dead blow hammer or other similar tool. Approximately 20% of the live stakes should be exposed above the surface with two (2) lateral buds above grade.
- Live stakes should be spaced with a triangular placement pattern approximately 18" O.C.
- Live stakes should be installed during the dormant season (October 15th - March 15).



TREE PLANTING DETAIL

NOT TO SCALE



SHRUB PLANTING DETAIL

NOT TO SCALE

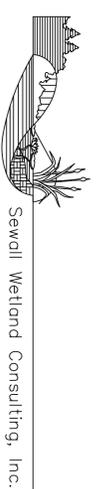
NOTE: Base Map Provided By Messman Design Group, Inc.

COSTCO KELSEY CREEK EAST ENHANCEMENT PLAN

REVISIONS	
▲	Revised Per City Comments 12-21-09
▲	
▲	
▲	

NOTE: ALL DESIGN, CONSTRUCTION DRAWINGS, SPECIFICATIONS, NOTES, COST ESTIMATES AND DATA ARE THE PROPERTY OF SEWELL WETLAND CONSULTING, INC. AND ARE TO BE USED ONLY FOR THE CONTRACTS AND AGREEMENTS IT IS PERFORMED BY SEWELL WETLAND CONSULTING. REUSE FOR ANY OTHER PURPOSE IS PROHIBITED AND SHALL OBTAIN SEWELL WETLAND CONSULTING, INC. TO RECOVER THE FULL COST OF PREPARATION THEREOF.

Habitat features to be 20' length (min.) and 12" diameter (min.) Preferred species Red Cedar w/branches intact
• See Sheet W-3 for Snag Installation Detail



Sewell Wetland Consulting, Inc.

27641 Compton Way SE #2, Compton, WA 98042 253-859-0815 Fax: 253-852-4132

Job No.	AS-156
Designed by	ES
Drawn by	AW
Checked by	DAI 2/1/2009
Date:	
SHEET	W-2
OF	W-3

1.0 ENHANCEMENT CONCEPT AND GOALS

The Kelsey Creek East buffer enhancement project includes the enhancement of a total of 52,353sf of degraded wetland and buffer bordering Kelsey Creek. A total of 42,538sf of this area is dominated by reed canary grass. This area, referred to as a Type 1 Enhancement, will have the reed canary grass mowed down, treated with an approved herbicide, and then re-planted with a mix of native tree, shrub and groundcover species. In addition, habitat features including 45 logs and 5 snags will be installed in the enhancement area.

The Type 2 enhancement will occur in 9,815sf of existing willow dominated wetland area that has substantial blackberry growth in the understory. In this area the blackberry will be hand cut, and treated to control its growth, and allow the overstory to grow unnumbered by the blackberry.

The enhanced buffer area will be monitored 5 times over a 5 year period.

1.2.0 ENHANCEMENT GOALS

1.2.1 Enhance 42,538sf of riparian buffer and wetland along Kelsey Creek through reed canary grass removal and restoration with a native tree and shrub species, focusing on species with high habitat value for food, forage, nesting, and shelter. The area will be considered to be successful with 80% survival of installed species and of least 65% aerial coverage at the end of the 5 year monitoring period.

1.2.2 Enhance 9,815sf of degraded willow dominated riparian buffer through blackberry control and removal. The area will have been considered successful if not more than 10% growth of blackberry is present in the mitigation area at the end of 5 years.

2.0 CONSTRUCTION SEQUENCE

The construction sequence of this project will be implemented as follows:

- 2.1 Pre-construction meeting
- 2.2 Reed Canary Grass and Blackberry Removal
- 2.3 LWD Plant material installation
- 2.4 Construction inspection and silt fence removal
- 2.5 Agency approval
- 2.6 Monitoring inspection and reporting
- 2.7 Project completion

2.1 Pre-construction Meeting
A pre-construction meeting will be held on-site prior to commencement of construction, to include the Owner's biologist, the contractor, the Owner and the City Biologist. The approved plans and specifications will be reviewed to ensure that all parties involved understand the intent of the construction documents, specifications, site environmental constraints, sequences, and inspection requirements.

2.2 Reed Canary Grass and Blackberry Removal

All reed canary grass will be mowed down to ground level and treated with Roundup/Rodeo herbicide to minimize regeneration. Plant material will be removed from enhancement area. All blackberry will be hand cut and also treated with an herbicide to prevent re-growth. Blackberry debris will also be removed from the enhancement area.

2.3 LWD and Plant Material Installation
All large woody debris (logs and snags) will be installed in the mitigation area prior to plant installation. If soils in the mitigation area are too soft for access with a machine, mats, or temporary fabric supported driving surfaces will be placed to access the area with a small tractor or similar machine to place LWD. All temporary access paths will be restored following placement of LWD.

All plant material will be planted by hand per detail and Construction and Planting Notes. The Enhancement Plan specifies the required size, species, quantity, and location of plant materials to be installed. The contractor will re-seed or over-seed all hydroseeded areas disturbed during the planting process. Plant substitutions or modifications to locations shall be approved in writing, by the Owner's biologist prior to installation.

2.4 Construction Inspection
Upon completion of installation, the Owner's biologist will conduct an inspection to confirm proper implementation of the Enhancement Plan. Any corrections, substitutions or missing items will be identified in a punch list. Items of particular importance will be soils in pits, pit size, plant species, plant size, and mulch around pits.

Upon completion of planting, if installation or materials vary significantly from the Enhancement Plan, the contractor will submit a reproducible "as-built" drawing to the Owner.

2.5 Agency Approval

Following acceptance of the installation by the Owner's biologist, a letter will be prepared to the City Biologist requesting approval of the installation.

2.6 Monitoring Inspection and Reporting
The monitoring program will begin in the first growing season (approximately one year) following installation approval by the City Biologist. The subsequent monitoring inspections will be conducted in accordance with the approved Monitoring Program.

2.7 Project Completion
If, after the final year of monitoring, the project has satisfied the objectives and goals of the approved Enhancement Plan, the Owner's biologist will prepare a letter to the City requesting final approval & closure of the enhancement plan.

3.1 SITE PREPARATION

3.1.1 The existing enhancement area has suitable soils for plantings, and the only preparation will be the removal of the invasive blackberry and reed canary grass as detailed in 2.2 above.

3.2 PLANT AND HABITAT MATERIALS

3.2.1 All plant materials will be as specified in the plant schedule. Only vigorous plants free of defects, diseases and infestation are acceptable for installation.

3.2.2 All plant materials will conform to the standards and size requirements of ANSI Z601 "American Standard for Nursery Stock". All plant materials will be native to the Puget Sound Region. Plant materials will be propagated from native stock, no cultivars or horticultural varieties will be allowed. All plant materials will be grown from nursery stock unless otherwise approved.

3.2.3 All nursery grown plant materials will be in containers or balled and burlapped. Bare root plantings will be subject to approval.

3.2.4 All plant materials stored on-site longer than two (2) weeks will be organized in rows and maintained by the contractor at no additional cost to the owner. Plant materials temporarily stored will be subject to inspection and approval prior to installation.

3.2.5 Substitution requests must be submitted in writing to the Owner and approved by the Owner's biologist in writing prior to delivery to site.

3.2.6 All plant materials will be dug, packed, transported and handled with care to ensure protection from injury. All plant materials to be stored on site more than 24 hours will be heeled into topsoil or sandwust. Precautionary measures shall be taken to ensure plant materials do not dry out before planting. Plants will be shaded and saturated until time of installation. Immediately after installation the enhancement planting area will be saturated to avoid capillary stress.

3.2.7 The contractor will verify all plant materials, the quantities shown on the planting plan, and the plant schedule. The quantity of plant materials shown on the plan takes precedent over the quantity on the plant list.

3.3 PLANT MATERIAL INSTALLATION

3.3.1 All plant and habitat materials must be inspected prior to installation to verify conformance of the materials with the plant schedule including size, quality and quantity. Any plant or habitat materials deemed unsatisfactory will be rejected.

3.3.2 All plant materials delivered and accepted should be planted immediately, following installation of the habitat features depicted on the plan. Plant materials not planted within 24 hours will be heeled-in per note

3.3.3 All planting pits will be circular with vertical sides, and will be sized per detail on the enhancement plan and filled with pit soils approved by the Owner's biologist. If native soils are determined to be unacceptable by the Owner's biologist, pit soils will be amended with Cedar Grove mulch or equivalent.

3.3.4 In buffer areas only, install "Agriform," or equal plant fertilizer to all planting pits as specified by manufacturer. Fertilizers are allowed only below grade in the planting pits in the buffer areas. No sewage sludge fertilizer ("SteerCo" or "Growco") is allowed in the enhancement area.

3.3.5 All containerized plant materials will be removed from their containers carefully to prevent damage to the plant and its roots. Plants removed from their containers will be planted immediately.

3.3.6 All plant materials will be placed as shown on the approved enhancement plan. If the final installation varies from the approved as-built of the installed conditions. All plant material will be flagged by the contractor.

3.4 PLANTING SCHEDULE AND WARRANTY

3.4.1 A fall-winter installation schedule (October 1st – March 15th) is preferred for lower mortality rates of new plantings. If plant installation occurs during the spring or summer (March 15th – Oct 1st) the plantings will be irrigated by hand or temporary irrigation system for 15 minutes every day until fall rains can provide adequate moisture to support plant materials.

3.4.2 The installer will warrant all plant materials to remain healthy and alive for a period of one year after final acceptance. The installer will replace all dead or unhealthy plant materials per the approved plans and specifications.

3.5 SITE CONDITIONS

3.5.1 The installer will coordinate with the Owner and the Owner's biologist for construction scheduling.

3.5.2 All plant material will be planted with suitable soils per planting details. Soils from planting holes will be spread and smoothed across the enhancement area.

4.0 MAINTENANCE PROGRAM

INTRODUCTION

This maintenance program outlines the program, procedures and goals for enhancement of buffer impacts at the enhancement site.

This maintenance program will be the responsibility of the project owner through the duration of its ownership of the enhancement area, or throughout the duration of the monitoring period, whichever is longer. The maintenance contractor will complete the work as outlined below.

4.1 MAINTENANCE WORK SCOPE

4.1.1 The primary goal of the plan are to restore buffer areas. To accomplish this goal, normal landscaping methods must be modified to include:

a. Mowing or trimming of ground cover or vegetation in the enhancement area is limited to the control of weedy species to include reed canary grass, thistle, and blackberry..

b. No placement of fertilizers in the enhancement area.

c. No placement of bark, mulch or equivalent in the enhancement area, except as noted in the planting details.

d. No placement of grass clippings, landscape debris, fill or ornamental plant materials in the enhancement area.

4.1.2 Work to be included in each site visit:

a. Remove all litter including paper, plastic, bottles, construction debris, yard debris, etc.

b. Remove all blackberry varieties and reed canary grass within the enhancement area. All debris is to be removed from site and disposed in an approved landfill.

c. Repair signage as needed.

4.1.3 Work to be completed on an annual basis includes:

a. Areas containing Hironoyon blackberry and reed canary grass should be controlled by hand cutting and treating the remaining cut stems only with a glyphosate herbicide such as Roundup or Rodeo.

b. Replace dead or failed plant materials. Replacement plantings are to be of some species, size and location as original plantings. Plantings are to be installed during the dormant period.

4.2 MAINTENANCE SCHEDULE

The Owner will conduct all items listed in the Maintenance Work Scope from May–October, once per month. Additional work may be required per the Monitoring Report and as approved by the City Biologist. Additional work may include removal of the grasses around each shrub and tree, installation of wood chips at each shrub and tree base, reseeding the enhancement area, re-staking existing trees and erosion control protection.

4.3 WATERING REQUIREMENTS

4.3.1 If plantings are installed within the dormant period throughout the year (October through March 15th), watering, although recommended, is not required.

4.3.2 If plantings are installed during the summer months (March through October 1st) a temporary irrigation system will be required. The temporary irrigation system may be removed after the first year providing the plantings are established and acclimated to on-site conditions per Construction and Planting Notes Sec. 4.0.

4.3.3 Irrigation will continue from initiation through October 1st , or between June 1st and Oct 1st for any subsequent year. Irrigation, if required, will provide head to head coverage for 15 minutes per day every day.

4.4 CLOSEOUT OF FIVE YEAR MONITORING PROGRAM

Upon completion of the monitoring program and acceptance of the enhancement by the City Biologist, the maintenance of the project will be reduced to include removal of litter and debris, removal of noxious weeds and undesirable vegetation, and repair of vandalized areas.

5.0 MONITORING PROGRAM

5.1 SAMPLING METHODOLOGY

The enhanced buffer area will be monitored five times over a five year period. Monitoring will occur one year following installation sign off. Monitoring will be conducted in the spring (May). Monitoring will be conducted using the techniques and procedures described below to quantify the survival, relative health and growth of plant material. A monitoring report submitted following each monitoring visit will describe and quantify the status of the enhancement at that time.

5.1.1 Vegetation

The vegetation monitoring consists of inspection of the planted material to determine the health and vigor of the installation. All the planted material in the buffer will be inspected during each monitoring visit to determine the level of survival of the installation.

Coverage will be measured in 10 randomly placed, permanently marked, 1/1000c circular plots. Visual estimates of aerial coverage will be made in these plots.

5.2 STANDARDS OF SUCCESS

1. Evaluation of the success of the enhancement project will be based upon an 100% survival of all planted woody vegetation at the end of year 1, and 80% survival at the end of year 5.
2. Volunteer native, non-invasive species will be included as acceptable components of the enhancement.
3. A total aerial coverage of 65% at the end of year 5
4. Not more than 10% non-native invasive species within the enhancement area.

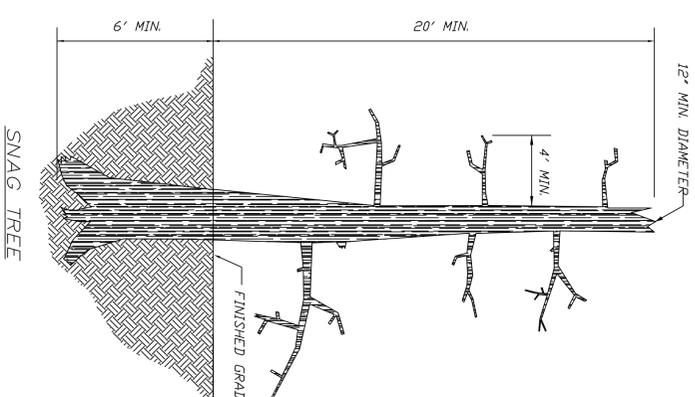
5.3 CONTINGENCY PLAN

A contingency plan can be implemented, if necessary. Contingency plans can include additional plant installation, and plant substitutions including type, size, and location.

If the monitoring results indicate that any of the performance standards are not being met, it may be necessary to implement all or part of the contingency plan. Careful attention to maintenance is essential in ensuring that problems do not arise. Should any of the site fail to meet the success criteria, a contingency plan will be developed and implemented with the City approval. Such plans are prepared on a case-by-case basis to reflect the failed enhancement characteristics.

Contingency/maintenance activities will include, but are not limited to:

- Replacing all plants lost to vandalism, drought, or disease, as necessary.
- Replacing any plant species with a 20 percent or greater mortality rate with the same species or similar species approved by the City Biologist.
- Irrigating the enhancement area only as necessary during dry weather if plants appear to be too dry, with a minimal quantity of water.
- Removing all trash or undesirable debris from buffer areas as necessary per 4.0 Maintenance Program.



REVISIONS	
▲	Revised Per City Comments 12-21-09
▲	
▲	
▲	

COSTCO KELSEY CREEK EAST ENHANCEMENT PLAN MITIGATION NOTES



Sewall Wetland Consulting, Inc.

Job No. 149-156

Designed by: ES

Drawn by: AW

Checked by: AW

Date: Oct 20 2009

SHEET W-3

OF W-3

27641 Covington Way SE #2, Covington, WA 98042 253-659-0515 Fax: 253-852-4732

NOT TO SCALE. SEE OTHER SHEETS FOR DIMENSIONS, SPECIFICATIONS, NOTES, COST ESTIMATES AND DATA. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND SHALL MAINTAIN ALL UTILITIES. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND SHALL MAINTAIN ALL UTILITIES. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND SHALL MAINTAIN ALL UTILITIES.