



CITY OF DES MOINES, WASHINGTON

Planning, Building, and Public Works Department
21650 11th Avenue South, Suite D
Des Moines, WA 98198
Phone: (206) 870-7576 Fax: (206) 870-6544



ENVIRONMENTAL MITIGATION AGREEMENT

Project File No: LUA06-014

Project Name: Landmarque Townhouse Development

Project Address: Pacific Highway and South 263rd Street

Owners: Mitchell Family LLC.
Attn: Larry King
PO Box 26116
Federal Way, WA 98093
(253) 927-6116

Vahan & Anoush Chamlian
Attn: Larry King
PO Box 26116
Federal Way, WA 98093
(253) 927-6116

Contact/Applicant: Landmark Homes
Attn: David Litowitz
PO Box 26116
Federal Way, WA 98093
(253) 927-6116

Staff Contact: Jason Sullivan; Land Use Planner II

Date of Decision: March 26, 2007

THIS AGREEMENT is entered into by and between the City of Des Moines, a municipal corporation hereinafter referred to as the "City" and Landmark Homes LLC hereinafter referred to as the "Developer".

WHEREAS, this agreement is executed pursuant to Chapter 43.21 RCW, the State Environmental Policy Act (SEPA), and Title 16 Des Moines Municipal Code, to provide for mitigation of existing and known environmental impacts associated with the development hereinafter described. This agreement is not, and shall not be construed as a voluntary agreement pursuant to RCW 82.02.020, and the provisions of RCW 82.02.020 shall not be applied hereto. This agreement does not preclude any evaluation and determination by the City of Des Moines upon later actions or proposals undertaken by the Developer that may require a determination of significance and environmental review under SEPA;

WHEREAS, the property located in the City is further legally described as:

TAX PARCEL # 2822049067

THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., LYING WESTERLY OF STATE ROAD NO. 1, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER;

THENCE SOUTH 88°03'31" EAST ALONG THE NORTH UNE OF SAID SOUTH HALF A DISTANCE OF 490.0 FEET;

THENCE SOUTH 03°05'51" WEST A DISTANCE OF 160.03 FEET;

THENCE SOUTH 88°10'16" EAST A DISTANCE OF 196.56 FEET TO A POINT ON THE WESTERLY MARGIN OF PACIFIC HIGHWAY SOUTH (STATE ROAD NO. 1);

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THENCE ALONG SAID WESTERLY MARGIN SOUTH 20'43'16" WEST A DISTANCE OF 134.70 FEET TO THE NORTH LINE OF THE SOUTH 375.00 FEET, AS MEASURED ALONG THE WEST UNE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 28;

THENCE NORTH 8810'16" WEST ALONG THE NORTH LINE OF SAID SOUTH 375.00 FEET A DISTANCE OF 636.78 FEET TO THE WEST UNE OF SAID SOUTH HALF;

THENCE NORTH ALONG SAID WEST UNE 288.42 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. AU_ SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

TAX PARCEL # 2822049209

THE SOUTH 375 FEET; AS MEASURED ALONG THE WEST LINE OF THAT PORTION OF THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; LYING WESTERLY OF PACIFIC HIGHWAY SOUTH (SR-99), AND TRACT 8, SECOMA HI-WAY TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 37 OF PLATS, PAGE 42, IN KING COUNTY,

WASHINGTON;

EXCEPT THE FOLLOWING DESCRIBED PARCEL OF LAND:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 8;

THENCE NORTH 8810'17" WEST ALONG THE SOUTH LINE THEREOF A DISTANCE OF 331.14 FEET; THENCE NORTH 01'08'58" EAST PARALLEL WITH THE WEST UNE OF SAID TRACT 8 A DISTANCE OF 200.01 FEET;

THENCE SOUTH 8810'17" EAST PARALLEL WITH THE SOUTH UNE OF SAID TRACT 8 A DISTANCE OF 401.96 FEET TO THE WESTERLY MARGIN OF SAID PACIFIC HIGHWAY SOUTH;

THENCE SOUTH 20'43'24" WEST ALONG SAID MARGIN A DISTANCE OF 211.39 FEET TO THE POINT OF BEGINNING.

(ALSO KNOWN AS LOT B OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NUMBER 9711249013.)

TAX PARCEL # 2822049233

THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; EXCEPT THE NORTH 390 FEET THEREOF;

AND EXCEPT THE WEST 115 FEET OF THE SOUTH 100 FEET OF THE NORTH 490 FEET OF SAID WEST HALF.

WHEREAS, the Developer has submitted a Modified Subdivision application in order to subdivide 10.06 acres into 66 attached single family lots (townhouses), 2 detached single family lots, and 1 commercial lot;

WHEREAS, the residential lots created by the subdivision will have an average size of approximately 2982 square feet;

WHEREAS, the overall lot area as calculated per DMMC 18.10.040 is 3,600 square feet;

WHEREAS, based upon the Population Local Review Worksheet for the City of Des Moines provided by the Office of Financial Management approximately 183 people (68 lots * 2.7 individuals) will reside within the project site;

WHEREAS, the proposed townhouse subdivision is served by the Federal Way School District;

WHEREAS, based upon the "Housing Generation Factor" established by the Federal Way School District approximately 50 elementary students, 20 junior high students, and 18 high school students will reside within the project site;

WHEREAS, the Federal Way School district has adopted an impact fee program to ensure that adequate public school facilities and improvements are available to serve the new development;

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WHEREAS, the Federal Way School district has adopted an impact fee program to establish standards whereby new development pays a proportionate share of the cost for public facilities needed to serve the new development;

WHEREAS, the Federal Way School district has adopted an impact fee program to ensure that the school impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact;

WHEREAS, the Federal Way School district has adopted an impact fee program to provide needed funding for growth-related school improvements;

WHEREAS, the Federal Way School district has adopted an impact fee program which established a multifamily unit impact fee of \$856.00 per unit;

WHEREAS, the Federal Way School district has adopted an impact fee program which established a single family unit impact fee of \$3018.00 per unit;

WHEREAS, the Federal Way School district has adopted an impact fee program which defines multifamily as all townhouses and apartments;

WHEREAS, the Federal Way School district has adopted an impact fee program which defines single family as all detached dwelling units;

WHEREAS, the Federal Way School district has adopted an impact fee program which requires that separate fees will be calculated for single family and multifamily units;

WHEREAS, the City has reviewed a study entitled, "Landmarque Wetland Analysis Report and Concept Mitigation" (dated December 9, 2005) and a revised study entitled "Landmarque Wetland Analysis Report and Concept Mitigation" (dated November 7, 2006) prepared by Sewell Wetland Consulting (formally B-12 Wetland Consulting Inc.) which delineated and established mitigation measures for the wetlands located on the project site;

WHEREAS, the applicant has proposed to fill a 9,113 square foot wetland labeled as Wetland "B" on the proposed development plans;

WHEREAS, wetland fills under the jurisdiction of the Army Corps of Engineers require compliance with section 404 of the Clean Water Act;

WHEREAS, wetland fills under the jurisdiction of the Army Corps of Engineers larger than 4,356 square feet are not covered by the Army Corps of Engineers Nationwide Permit 18;

WHEREAS, the Department of Ecology has placed Regional Conditions on Nationwide Permits;

WHEREAS, the City has reviewed a study entitled, "Landmarque Traffic Impact Analysis" (dated June 30, 2006) and a mitigation confirmation letter (dated June 23, 2006) prepared by Traffic Engineers and Transportation Planners which evaluated the traffic impacts associated with the project;

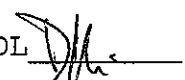
WHEREAS, the City has reviewed a memo entitled "Storm Vault Lateral Pressure and Foundation Design Criteria, Landmarque Plat, Pacific Highway South, Des Moines, WA " (dated March 30, 2006) prepared by GeoResources, LLC., which evaluated surface and subsurface conditions at the project site in order to develop geotechnical recommendations and design criteria;

WHEREAS, the Developer is required to obtain a Clearing, Grading and Filling Permit from the City Planning, Building and Public Works Department for construction of the required infrastructure and the residential structures which emphasizes land development practices that result in a minimal disturbance to the City's vegetation and soils by providing protection to reduce degradation of streams or other water bodies located in and adjacent to the project site via scouring, siltation, and water pollution;

WHEREAS, Native American and other historically and culturally significant artifacts have been uncovered within the City of Des Moines;

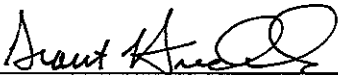
WHEREAS, the City of Des Moines Planning, Building, and Public Works Department has determined that the proposed development on the subject property will not result in probable significant adverse environmental impacts and that those environmental impacts identified in the SEPA application will be addressed by entering into an agreement to mitigate such impacts;

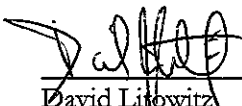
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NOW, THEREFORE, the City and Developer agree that the following mitigation measures shall be employed by the Developer to ensure that probable adverse environmental impacts created by the proposed project are minimized or eliminated.


1. The Developer is required to comply with all Federal and State regulations regarding the fill of the wetland labeled "Wetland B" on the development plans. If there are Federal or State permits required to fill the wetland, the applicant must obtain those permits prior to the City's approval of the civil engineering plans
2. The Developer shall send a "Notice of Intent to Commence Work" a minimum of 30 days prior to commencing the grading operations needed to install the required infrastructure improvements together with a project work schedule including the phasing of the construction activity, and a reduced scale map identifying the project to all property owners within 300 feet of the project site and the City.
3. The Developer shall properly dispose of the anticipated unusable excavated soils to the satisfaction of the City of Des Moines. The developer shall submit a grading plan that accurately reflects the amounts and locations of cuts and fills. The plan will also identify the amount of any export soils and a proper disposal method and/or disposal site prior to issuance of the City Grading Permit.
4. The Developer will pay \$62,532.00 in school impact fees calculated in the following manner:
 - a) \$56,496.00 for the townhouses (66 * \$856.00)
 - b) \$6036.00 for the detached dwelling units (2 * \$3018.00)
5. Should the Developer or its contractor uncover any landmarks or evidence of archeological, scientific or cultural importance, the Developer shall cease all work and contact the City of Des Moines and the Washington State Department of Historic Preservation.
6. Should a term, provision, condition or other portion of the Agreement be held to be inoperative, invalid, or void, the same shall not affect any other term, provision, condition or other portion of this Agreement; and the remainder of this Agreement shall be effective as if such term, provision, condition or portion had not been contained herein.


CITY: 
 Grant Fredricks, P.E.
 Planning, Building, and Public Works Director
 City of Des Moines

DEVELOPER: 
 David Litowitz
 Landmark Homes, Inc.

STATE OF WASHINGTON)
) ss.
 COUNTY OF King)

I, the undersigned, a notary public in and for the State of Washington, hereby certify that on this 21st day of March, 2007, David Litowitz personally appeared before me, to me known as the individual(s) empowered to execute the foregoing instrument, and acknowledged that they signed and appeared the same as their free and voluntary act and deed for the uses and purposes therein mentioned.


 Notary Public in and for the State of Washington,
 Residing at King County
 My commission expires 4/29/2008

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