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Exhibit 22

memorandum

date October 16, 2019

to Sherrie Ringstad, City of Mill Creek

from Jessica Redman, Wetland Ecologist

subject Crestview Village II Final Critical Areas Report and Buffer Averaging Plan Review

At the request of the City of Mill Creek (City), ESA reviewed the *Wetland and Fish and Wildlife Habitat Assessment Report and Buffer Averaging Plan* (Report) prepared by Soundview Consultants (revised October 2, 2019) for the properties located at 2318 and 2316 132nd Street SE in Mill Creek, Washington. The property is a 3.23-acre assemblage of Snohomish County Tax Parcels 2805320020-0800, 2805320020-1000, and 285320020-2300. The applicant is proposing the Crestview Village II (Project), which will consist of the development of 25 residential lots, an internal access road, stormwater infrastructure, open space, and frontage improvements along 132nd Street SE. The proposed project occurs over the majority of the property. ESA has previously reviewed the proposed development several times. ESA reviewed an earlier version of the Report dated February 2019 and conducted a site visit on March 25, 2019. Results were presented to the City in the technical memorandum titled *Crestview Village II Development Review* (dated April 1, 2019). A second site visit was conducted with the applicant's biologist on May 14, 2019 to review the delineated boundary of the onsite wetland and discuss site hydrology. The applicant also presented the City with responses to the comments and recommendations included in the April 1, 2019 memorandum, as well as supplemental wetland data forms, as requested by ESA. These documents were also included in the second round of review, results of which were presented to the City in the technical memorandum titled *Crestview Village II Development – Second Review* (dated June 27, 2019). In July 2019, Soundview Consultants revised the Report again based on the recommendations included in the June 27, 2019 memo. Results of that review were presented to the City in the technical memorandum titled *Crestview Village II Critical Areas Report and Buffer Averaging Plan Review* (dated September 4, 2019).

Report Summary

According to the Report, one wetland (Wetland A) was identified in the northeastern portion of the property which extends offsite to the east, and was rated as a Category IV wetland by Soundview Consultants. Per Mill Creek Municipal Code (MCMC) 18.06.930 a Category IV wetland in an area of high impact land use requires a 50-foot buffer. To accommodate the residential development objectives and proposed stormwater infrastructure, the applicant is proposing to average the 50-foot buffer by removing 641 square feet (SF) from the southern portion of the buffer and adding it to the western and southwestern portion of the existing buffer. No direct impacts to the wetland are proposed. According to the Report, the proposed buffer averaging meets all the required criteria per MCMC 18.06.930.C, no net loss of buffer area or function will occur from the buffer averaging. In addition to buffer averaging, the applicant is proposing to enhance 9,800 SF of the buffer to provide a net gain in ecological function. Proposed buffer enhancements include the removal of non-native, invasive plants and subsequent planting of native shrubs and trees. The Report also includes a five-year monitoring plan to ensure the success of the mitigation actions.

The report also states that in 1997, a 3,850 SF Native Growth Protection Area (NGPA) was established in the northeast portion of the site and near Wetland A. The establishment of the NGPA was to mitigate for a grading violation performed by a previous owner. Based on Figures 1 of 5 and 3 of 5 in the Report, the location of the NGPA is generally in the same location of Wetland A. The proposed buffer averaging plan would not result in impacts to the NGPA.

In addition to the wetland and NGPA, a ditch extends north-south in the north/central portion of the property that enters a concrete catch basin structure on site. According to the Report, this is an artificially excavated stormwater trench that was excavated from uplands for the purpose of conveying stormwater from the onsite residences to a roadside ditch along 132nd Street SE. Six data plots were established in the area surrounding the ditch; none of which met the three required wetland parameters (i.e., hydrophytic vegetation, hydric soils, and wetland hydrology). The Report further states that the ditch also does not meet stream criteria and therefore, is not regulated as a critical area under MCMC 18.06.

Review Findings

Based on the document review and previous site visits, we have the following comments and recommendations:

- As stated in our June 27, 2019 technical memorandum, based on conditions during the two site visits and documentation provided by the applicant, we agree that the ditch does not meet wetland or stream criteria and therefore would not be regulated as a critical area by MCMC 18.06.
- We agree that the NGPA will be left undisturbed post-construction, and no clearing, grading, filling, building construction or placement, or road construction would occur in this area as required by the Snohomish County Critical Area Site Plan (CASP).
- We agree that the buffer enhancement plan included in the Report meets the requirements provided in MCMC 18.06.610 – *General Mitigation Requirements*; MCMC 18.06.620 – *General Mitigation Plan Requirements*; and MCMC 18.06.630 – *Mitigation Monitoring*.
- In conclusion, we have determined that the Crestview Village II project is consistent with MCMC 18.06 – *Environmentally Critical Areas*.



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memorandum

date September 4, 2019
to Sherrie Ringstad, City of Mill Creek
from Jessica Redman, Wetland Ecologist
subject Crestview Village II Critical Areas Report and Buffer Averaging Plan Review

At the request of the City of Mill Creek (City), ESA reviewed the *Wetland and Fish and Wildlife Habitat Assessment Report and Buffer Averaging Plan* (Report) prepared by Soundview Consultants (revised July 2019) for the properties located at 2318 and 2316 132nd Street SE in Mill Creek, Washington. The property is a 3.23-acre assemblage of Snohomish County Tax Parcels 2805320020-0800, 2805320020-1000, and 285320020-2300. The applicant is proposing the Crestview Village II (Project), which will consist of the development of 25 residential lots, an internal access road, stormwater infrastructure, open space, and frontage improvements along 132nd Street SE. The proposed project occurs over the majority of the property. ESA has previously reviewed the proposed development twice before. ESA reviewed an earlier version of the Report dated July 2019 and conducted a site visit on March 25, 2019. Results were presented to the City in the technical memorandum titled *Crestview Village II Development Review* (dated April 1, 2019). A second site visit was conducted with the applicant's biologist on May 14, 2019 to review the delineated boundary of the onsite wetland and discuss the hydrology of the site. The applicant also presented the City with responses to the comments and recommendations included in the April 1, 2019 memorandum, as well as supplemental wetland data forms, as requested by ESA. These documents were also included in the second round of review, for which results were presented to the City in the technical memorandum titled *Crestview Village II Development – Second Review* (dated June 27, 2019).

Report Summary

According to the Report, one wetland (Wetland A) was identified in the northeastern portion of the property which extends offsite to the east, and was rated as a Category IV wetland by Soundview Consultants. Per Mill Creek Municipal Code (MCMC) 18.06.930 a Category IV wetland in an area of high impact land use requires a 50-foot buffer. To accommodate the residential development objectives and proposed stormwater infrastructure, the applicant is proposing to average the 50-foot buffer by removing 641 square feet (SF) from the southern portion of the buffer and adding it to the western and southwestern portion of the existing buffer. No direct impacts to the wetland are proposed. According to the Report, the proposed buffer averaging meets all the required criteria per MCMC 18.06.930.C, no net loss of buffer area or function will occur from the buffer averaging. No mitigation is currently proposed.

The report also states that in 1997, a 3,850 SF Native Growth Protection Area (NGPA) was established in the northeast portion of the site and near Wetland A. The establishment of the NGPA was to mitigate for a grading violation performed by a previous owner.

In addition to the wetland and NGPA, a ditch extends north-south in the north/central portion of the property that enters a concrete catch basin structure onsite. According to the Report, this is an artificially excavated stormwater trench that was excavated from uplands for the purpose of conveying stormwater from the onsite residences to a roadside ditch along 132nd Street SE. Six data plots were established in the area surrounding the ditch; none of which met the three required wetland parameters (i.e. hydrophytic vegetation, hydric soils, and wetland hydrology). The Report further states that the ditch also does not meet stream criteria and therefore, is not regulated as a critical area under MCMC 18.06.

Review Findings

Based on the document review and previous site visits, we have the following comments and recommendations:

- As stated in our June 27, 2019 technical memorandum, based on conditions during the two site visits and documentation provided by the applicant, we agree that the ditch does not meet wetland or stream criteria and therefore would not be regulated as a critical area by MCMC 18.06.
- According to Section 4.7 of the Report, the location of the NGPA has been included on the Existing Conditions figure in Appendix D. However, it does not appear that the NGPA has been added to either Sheet 1 of 3 – *Crestview II Existing Conditions* or Sheet 2 of 3 – *Crestview II Existing Conditions with Aerial Photo*. We recommend that the NGPA be added to all figures in the Report, including Sheet 3 of 3 – *Crestview II Proposed Project and Buffer Averaging Plan* to determine the location of the NGPA in relation to the proposed buffer averaging. According the Snohomish County Critical Area Site Plan (CASP) included in the Appendix I of the Report, the NGPA is to be “left undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur in this area.” If it is determined that the buffer averaging plan would result in impacts to the NGPA, the location of the proposed buffer averaging should be reconfigured to avoid the NGPA.
- According to MCMC 18.06.610, “compensatory mitigation shall be provided for all unavoidable alterations of a critical area or buffer in accordance with an approved critical area report and mitigation plan.” To the best of our knowledge, a mitigation plan was not submitted with the Project proposal. According to the Report and as documented during the site visits, the buffer of Wetland A is degraded due to the presence of non-native species including Himalayan blackberry and reed canarygrass. Buffer enhancement in the form of invasive species removal and the subsequent planting of native vegetation is recommended to ensure that post-construction, the buffer will be adequate to protect the functions and values of the adjacent critical areas, as required per MCMC 18.06.930. We recommend that a buffer enhancement plan be developed for the buffer addition area that meets the requirements provided in MCMC 18.06.620 – *General Mitigation Plan Requirements*.