

City Response to [Muckleshoot Indian Tribe Fisheries Division dated 5-9-19](#)

The City's responses are in bold at the bottom of each comment

1. Development Site Wetland A buffer reduction comments

As noted in the Critical Areas Report and the mitigation plan, the wetland buffer along the western side of the proposed development will be reduced permanently from its regulated 200 feet to a variable width buffer that varies from 108 to as narrow 5 feet. The need for this reduction is based on the statements on page 10 of the Mitigation Plan:

"To that end, it was determined that an economically viable development must occupy a minimum footprint, below which the project would not be successful. Unfortunately, this minimum development footprint necessitates the reduction of the buffer for Wetland A below prescriptive widths. Therefore, avoiding impacts to critical areas (of which buffers are one) will not be possible."

The applicant (and City) should provide supporting information for these statements.

The project has gone through rigorous environmental review. ESA has worked with the applicant's design team and biologists, throughout the development of the project, to ensure that the buffer reduction will not result in a net loss of ecological function at the site.

2. Mitigation site comments

a. The mitigation plan accounts for the trail merely by its square footage impacts. There is no assessment regarding the actual location of the trail and its potential to disrupt habitat and hydraulic connectivity between wetlands sections; between wetlands and their buffers; and between wetlands and Penny Creek. The existing road, which will be reduced to become the trail, is shown going around the large open water area on the mitigation site (See Sheet W1.4 in Mitigation Plan). The locations of trails matter as they can reduce connectivity between streams/wetlands/floodplains and associated buffers as will be this case. The trail will also require protection from flooding and hazard trees as such there is high likelihood that the mitigation site will be impacted because of the location of the trail. We understand that it may make sense to turn the existing road into a trail at these locations, but since this is a compensatory mitigation site for permanent impacts a longer view of impacts to functions should be evaluated.

Trail options were evaluated during project design. The trail takes advantage of existing interior roads to minimize placement of new fill and reduce impacts to Penny Creek and the adjacent wetlands. The project will maintain current hydrologic connections through the construction of boardwalks and fill will be removed from areas where hydrologic connections are currently blocked. Additionally, excess gravel from outside the 10-foot wide trail will be removed from the roadbed and used on-site, as necessary.

b. There is also no detailed consideration or discussion as to how beavers will be managed at either the development or the mitigation site. The City of Mill Creek has taken actions to reduce the ecological benefits of beavers by installing levelers (which can become fish passage barriers (i.e. HPA 2017-4-260+01).

Comment noted. This project does not currently include any plans or intention to manage beaver activity.

c. There is no discussion about the existing conditions at the mitigation site for Penny Creek and the associated wetland areas. There appear to be existing culverts onsite but no evaluation of these culverts for adult and juvenile fish passage. If these culverts are fish passage barriers, there is no plan to replace these culverts at the mitigation site. If this mitigation site were truly providing regional benefits as

purported in the Mitigation Plan, then the mitigation plan would include fish passage, stream enhancement and riparian enhancement of Penny Creek as a part of the mitigation plan. Now is the time to replace existing barrier culverts as the mitigation site transitions from a road network to a trail system.

The existing conditions of Penny Creek and the wetlands at the mitigation site are discussed in Section 4.2.2 of the Existing Conditions Report. An analysis of culverts at the site was not performed. However, no fish passage barriers are mapped as occurring at the site by WDFW's SalmonScape mapping tool (WDFW, 2019). As mentioned above, the project will maintain current hydrologic connections through the construction of boardwalks and fill will be removed from areas where hydrologic connections are currently blocked. Excess gravel from outside the 10-foot wide trail will be removed from the roadbed and used on-site, as necessary. Additionally, the applicant proposed to enhance the entire length of the trail, including the portion along Penny Creek, through the removal of invasive species and the subsequent planting of native trees and shrubs.

d. More details are needed regarding the Pacific Topsoils site briefly mentioned on page 24 of the mitigation plan. Is this area separate from the 61 acres mitigation site or part of it? Where is this site?

The 58-acre mitigation site has been purchased by the developer. Pacific Topsoils continues to own 4 acres adjacent to the mitigation site. The development has no impacts on the property owned by Pacific Topsoils.

e. We request copies of the "as-built" drawings and all mitigation monitoring reports generated for this project when they are sent to the City.

Comment noted

3. Drainage Report comments

Under Requirement #9, the Drainage Report states: "*There are no basin/watershed plans applicable to the basins within which the site exists.*" We disagree. First, there is the WRIA 8 Salmon Recovery Plan from 2005 that was ratified by the City of Mill Creek (Resolution #2005-372) and others which includes the entire North Creek subbasin and should be considered a watershed plan of sorts. Second, Snohomish County did a drainage needs report for North Creek (2002) which identified flooding problems and undersized culverts for Penny Creek, including the project and mitigation sites (see Table 8-1a from 2002 report: <https://snohomishcountywa.gov/1079/Urban-Drainage>)

Comment noted. The drainage report is focused in the site of the proposed Farm at Mill Creek, not the off-site mitigation site. The flooding problems are blocked culverts noted in the drainage needs report are at the mitigation site. Flooding at the mitigation site was taken into account during project design. Please be aware the City recently completed the 35th Avenue SE improvements, which included removal of two 54-inch culverts to restore fish passage to the area, which will also improve the health of the waterway.

Christi Schmidt

From: Christi Schmidt
Sent: Thursday, May 9, 2019 4:01 PM
To: Karen Walter
Cc: Gresham, Doug (ECY); Stewart Reinbold; Jessica Redman; Tom Rogers; Margaret Clancy
Subject: RE: The Farm at Mill Creek, PL2018-0004, Mitigated Determination of Nonsignificance
Attachments: Exhibit 36 - City Response to Muckleshoot Tribe Comments.pdf

Hi Karen,

The City has coordinated with our biologist the following responses and information to your comments and questions. Please see attached.

Best regards,



Christi Schmidt, AICP (formerly Amrine)

Senior Planner

City of Mill Creek

christis@cityofmillcreek.com

P: 425-921-5738

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From: Karen Walter <KWalter@muckleshoot.nsn.us>
Sent: Friday, May 3, 2019 5:07 PM
To: Christi Schmidt <christis@cityofmillcreek.com>
Cc: Gresham, Doug (ECY) <DGRE461@ECY.WA.GOV>; Stewart Reinbold <'Stewart.Reinbold@dfw.wa.gov'>
Subject: RE: The Farm at Mill Creek, PL2018-0004, Mitigated Determination of Nonsignificance

Yes.. that does clarify the response. Thank you!

Karen Walter
Watersheds and Land Use Team Leader

*Muckleshoot Indian Tribe Fisheries Division
Habitat Program
39015-A 172nd Ave SE
Auburn, WA 98092
253-876-3116*

From: Christi Schmidt [<mailto:christis@cityofmillcreek.com>]
Sent: Friday, May 03, 2019 5:03 PM
To: Karen Walter
Cc: Gresham, Doug (ECY); Stewart Reinbold
Subject: RE: The Farm at Mill Creek, PL2018-0004, Mitigated Determination of Nonsignificance

Hi Karen,

Yes, to the last statement. To be clear-The land that was owned by Pacific Topsoils was sold to Natural 9 Landholdings several years ago. Pacific Topsoils retained the garden center (still active) and this is not part of the off-site mitigation site. See attached map. I hope this helps clarify.

Have a good weekend~



Christi Schmidt, AICP (formerly Amrine)

Senior Planner

City of Mill Creek

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From: Karen Walter <KWalter@muckleshoot.nsn.us>

Sent: Friday, May 3, 2019 4:55 PM

To: Christi Schmidt <christis@cityofmillcreek.com>

Cc: Gresham, Doug (ECY) <DGRE461@ECY.WA.GOV>; Stewart Reinbold <'Stewart.Reinbold@dfw.wa.gov'>

Subject: RE: The Farm at Mill Creek, PL2018-0004, Mitigated Determination of Nonsignificance

Christi,

Thanks for the prompt response. Just to be clear is the Pacific Topsoils site shown in the mitigation plan to the west (adjacent to 35th Ave NE) included or not? Or did they mean a site that used to belong to Pacific Topsoils but is now owned by the applicant (and maybe eventually the City)?

Karen Walter

Watersheds and Land Use Team Leader

Muckleshoot Indian Tribe Fisheries Division

Habitat Program

39015-A 172nd Ave SE

Auburn, WA 98092

253-876-3116

From: Christi Schmidt [<mailto:christis@cityofmillcreek.com>]

Sent: Friday, May 03, 2019 4:53 PM

To: Karen Walter

Cc: Gresham, Doug (ECY); Stewart Reinbold

Subject: RE: The Farm at Mill Creek, PL2018-0004, Mitigated Determination of Nonsignificance

Good afternoon Karen,

Thank you for your review and comments. I will be coordinating with our biologist and the applicant and provide a response back to you next week to address your comments and questions. Until then, I did want to let you know that, yes, the off-site mitigation site (approx.. 58 acres) is the old Pacific Topsoils site that the City is interested in restoring, protecting and preserving in accordance with the City's environmental regulations.

Best regards,



Christi Schmidt, AICP (formerly Amrine)

Senior Planner

City of Mill Creek

christis@cityofmillcreek.com

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From: Karen Walter <KWalter@muckleshoot.nsn.us>

Sent: Friday, May 3, 2019 10:05 AM

To: Christi Schmidt <christis@cityofmillcreek.com>

Cc: Gresham, Doug (ECY) <DGRE461@ECY.WA.GOV>; Stewart Reinbold <'Stewart.Reinbold@dfw.wa.gov'>

Subject: The Farm at Mill Creek, PL2018-0004, Mitigated Determination of Nonsignificance

Christi,

We have reviewed the SEPA documents and other available information for “The Farm at Mill Creek” project referenced above. We offer the following comments in the interest of protecting and restoring the Tribe's treaty-protected fisheries resources:

1. Development Site Wetland A buffer reduction comments

As noted in the Critical Areas Report and the mitigation plan, the wetland buffer along the western side of the proposed development will be reduced permanently from its regulated 200 feet to a variable width buffer that varies from 108 to as narrow 5 feet. The need for this reduction is based on the statements on page 10 of the Mitigation Plan:

“To that end, it was determined that an economically viable development must occupy a minimum footprint, below which the project would not be successful. Unfortunately, this minimum development footprint necessitates the reduction of the buffer for Wetland A below prescriptive widths. Therefore, avoiding impacts to critical areas (of which buffers are one) will not be possible.”

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c. There is no discussion about the existing conditions at the mitigation site for Penny Creek and the associated wetland areas. There appear to be existing culverts onsite but no evaluation of these culverts for adult and juvenile fish passage. If these culverts are fish passage barriers, there is no plan to replace these culverts at the mitigation site. If this mitigation site were truly providing regional benefits as purported in the Mitigation Plan, then the mitigation plan would include fish passage, stream enhancement and riparian enhancement of Penny Creek as a part of the mitigation plan. Now is the time to replace existing barrier culverts as the mitigation site transitions from a road network to a trail system.

d. More details are needed regarding the Pacific Topsoils site briefly mentioned on page 24 of the mitigation plan. Is this area separate from the 61 acres mitigation site or part of it? Where is this site?

e. We request copies of the “as-built” drawings and all mitigation monitoring reports generated for this project when they are sent to the City.

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We appreciate the opportunity to review this proposal and look forward to the City of Mill Creek/applicants' responses. If you have any questions, please let me know.

Thank you,
Karen Walter
Watersheds and Land Use Team Leader

*Muckleshoot Indian Tribe Fisheries Division
Habitat Program
39015-A 172nd Ave SE
Auburn, WA 98092
253-876-3116*

From: Christi Schmidt [<mailto:christis@cityofmillcreek.com>]
Sent: Friday, April 19, 2019 3:31 PM
Subject: SEPA Determination Issued for The Farm at Mill Creek

On April 19, 2019, the City of Mill Creek issued a SEPA Determination, MDNS (attached) for the following project:

The applicant has submitted a Binding Site Plan application, PL2018-0004, The Farm at Mill Creek, to develop property located within the East Gateway Urban Village (EGUV) zone district. The proposed Binding Site Plan is to subdivide approximately 17 acres for a mixed-use development comprised of fourteen (14) buildings. Six of the buildings are one story and are for commercial use. Three of the buildings have commercial use on the ground floor with four stories of residential use above. In addition to the primary structures, four single story garage buildings are proposed adjacent to the existing single-family homes along the southern property boundary and one five-story parking garage is proposed to be used for residential parking. There is approximately 100,000 square feet of commercial use and 354 residential apartment units within the development.

The development includes a total of 1,197 parking stalls (435 surface spaces and 762 spaces in parking garages), along with stormwater facilities, public plazas and open spaces with landscaping and walking paths that connect to the existing trails on adjacent properties. A wetland buffer reduction is proposed. The reduction is offset with mitigation that results in a regional benefit.

Access to the proposed development will be from 132nd Street SE via 39th Avenue SE, 41st Avenue SE, and a private drive aisle. A new public "spine road" is proposed connecting 39th Avenue SE at 132nd Street SE to 133rd Street SE, which was constructed as part of The Vintage at Mill Creek development. In addition, internal private roads and parking areas are proposed for traffic circulation and fire access.

PROPONENT: The Farm by Vintage, LP
369 San Miguel Drive #135
Newport Beach, CA 92660

SITE LOCATION: The site is located at 4008 132nd Street SE on the south side of the 132nd Street SE at 39th Avenue SE intersection, in the City of Mill Creek, Washington.

LEAD AGENCY: City of Mill Creek

CONTACT PERSON: Christi Schmidt (formerly Amrine), Senior Planner
(425) 921-5738 or christis@cityofmillcreek.com

This decision was made after review of a completed environmental checklist and other information on file, which is available on the City's website:

<https://www.cityofmillcreek.com/cms/One.aspx?portalId=9100937&pageId=12720235>

This Mitigated Determination of Non-Significance is issued under WAC 197-11-340(2); the threshold determination will be deemed final 14 days from issuance. Comments on this MDNS must be submitted by **5:00 p.m., May 3, 2019**.

Best regards,



Christi Schmidt, AICP (formerly Amrine)

Senior Planner

City of Mill Creek

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