

Resolution 201-2006

Amending the Development Agreement for
Open Space, Parks, and Recreation

WHEREAS, Kitsap County and GEM 1 entered into a *Development Agreement for Open Space, Parks, and Recreation* that was executed by Kitsap County on April 25, 2005 pursuant to RCW 36.70B.170 *et. seq.*;

WHEREAS, through the *Development Agreement for Open Space, Parks, and Recreation*, Kitsap County approved and adopted the *McCormick Urban Village Open Space, Parks and Recreation Plan* ("Plan"), dated April 25, 2005;

WHEREAS, the Plan identified the McCormick Village Park ("Park") as proposed Community Project #4 to be located on the north side of Old Clifton Road, just east of the proposed "Campus Boulevard" (Plan, pgs. 6-7). The Park is intended to be a central gathering place for community residents;

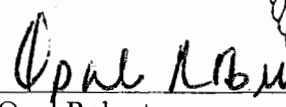
WHEREAS, Kitsap County and GEM 1 believe it to be in the best interests of the community to have the Park constructed sooner than the phasing established by the Plan and by the approved *McCormick North Master Plan Phase 2*, and wish to amend the *Development Agreement for Open Space, Parks, and Recreation* to address the necessary changes associated with the County assuming construction responsibility of the Park, including an accelerated schedule and potential increased costs associated therewith;

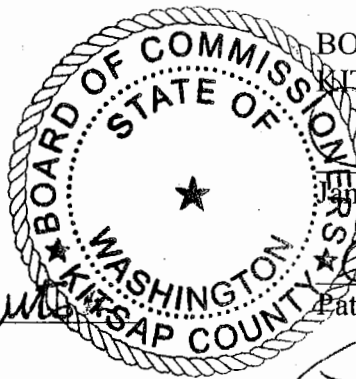
WHEREAS, RCW 36.70B.200 requires approval of development agreement by an ordinance or resolution

NOW, THEREFORE, BE IT RESOLVED that the Kitsap County Board of Commissioners hereby approves the amendment to the *Development Agreement for Open Space, Parks, and Recreation* attached hereto.

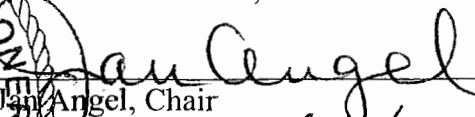
Adopted this 27th of November, 2006.

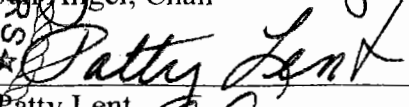
ATTEST


Opal Robertson
Clerk of the Board



BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON


Dan Angel, Chair


Patty Lent


Chris Endresen

McCORMICK URBAN VILLAGE

DEVELOPMENT AGREEMENT FOR OPEN SPACE, PARKS, and RECREATION AMENDMENT #1

Addressing Construction of McCormick Village Park

THIS AMENDMENT ("Amendment") is entered into between Kitsap County, a Washington municipal corporation ("County"), and GEM 1 LLC, a Washington corporation ("GEM 1").

RECITALS

WHEREAS, Kitsap County and GEM 1 entered into a *Development Agreement for Open Space, Parks, and Recreation* that was executed by Kitsap County on April 25, 2005 pursuant to RCW 36.70B.170 *et. seq.*;

WHEREAS, through the *Development Agreement for Open Space, Parks, and Recreation*, Kitsap County approved and adopted the *McCormick Urban Village Open Space, Parks and Recreation Plan* ("Plan"), dated April 25, 2005;

WHEREAS, the Plan identified the McCormick Village Park ("Park") as proposed Community Project #4 to be located on the north side of Old Clifton Road, just east of the proposed "Campus Boulevard" (Plan, pgs. 6-7). The Park is intended to be a central gathering place for community residents;

WHEREAS, in June 2004 GEM 1, through The Berger Partnership, prepared the preliminary concept plan for the Park attached hereto as Exhibit 1;

WHEREAS, based on the preliminary concept plan and upon the assumed construction by GEM 1, the Plan estimated costs of construction to be \$585,220 (Plan, pg 13) and established a phasing schedule such that (1) GEM 1 would complete a final plan in the first year with the development of the first housing on McCormick North, (2) phase 1 of the Park would be constructed prior to final occupancy of 300 units anywhere within McCormick North, and (2) phase 2 of the Park would be constructed prior to final occupancy of 500 units anywhere within McCormick North (Plan, pgs. 7, 16);

WHEREAS, Condition #44 of the approved *McCormick North Master Plan Phase 2* mirrored the phasing established in the Plan;

WHEREAS, Kitsap County and GEM 1 believe it to be in the best interests of the community to have the Park constructed sooner than the phasing established by the Plan and by the approved *McCormick North Master Plan Phase 2*, and wish to amend the *Development Agreement for Open Space, Parks, and Recreation* to address the necessary changes associated with the County assuming construction responsibility of the Park, including an accelerated schedule and potential increased costs associated therewith;

AGREEMENT

NOW, THEREFORE, the County and GEM 1 agree as follows:

1. All provisions of the *Development Agreement for Open Space, Parks, and Recreation* and the *McCormick Urban Village Open Space, Parks and Recreation Plan* shall continue in full force and effect unless modified herein.
2. Upon the transfer or dedication of the property to be used for the McCormick Village Park as provided below, and the transfer of funds as provided below, Kitsap County shall assume from GEM 1 complete responsibility for the design, construction, and maintenance of the Park, including the costs and scheduling thereof. Kitsap County may use the preliminary concept plan established by The Berger Partnership, but will not be bound by it.
3. At the time of recording the Final Plat of what is commonly known as Division Three of the McCormick North Phase 1 Preliminary Plat, GEM 1 shall also dedicate the area shown on Exhibit 2 of approximately 65 acres for the Park to Kitsap County. At the time of Final Plat recording, the legal description of the Park shall be determined. The parties agree to execute any necessary agreements or other documents required to complete the dedication of that area to Kitsap County.
4. At the time of recording the Final Plat of what is commonly known as Division Three of the McCormick North Phase 1 Preliminary Plat, GEM 1 shall make a payment to Kitsap County in the amount of Six Hundred Forty Three Thousand, Seven Hundred Forty Two dollars (\$643,742.00), which is the full amount of the estimated costs of construction (\$585,220), plus ten percent (\$58,522) for design and engineering.
5. Upon the transfer or dedication of the property and the transfer of the funds outlined in the provisions above, Kitsap County shall accept these actions as the fulfillment of all obligations of McCormick Land Company/GEM 1 LLC for design and construction of the Park, as identified in the *McCormick Urban Village Open Space, Parks, and Recreation Plan*, and in Condition #44 of the *McCormick North Master Plan Phase 2*
6. The *McCormick North Master Plan* will hereafter be amended consistent with this Amendment and pursuant to Kitsap County Code 17.428.120.
7. At such time as the subject property is annexed by a municipality, a pre-annexation interlocal agreement shall be executed which makes provision for park development and maintenance responsibilities associated with the Park created pursuant to this Agreement.

EXECUTED by the parties on the dates hereinafter indicated.

DATED: 11/27/06

KITSAP COUNTY BOARD OF COMMISSIONERS



Jan Angel
JAN ANGEL, Chair

ATTEST:

Patty Lent
PATTY LENT, Commissioner

Opal Robertson
Opal Robertson
Clerk of the Board

Chris Endresen
CHRIS ENDRESEN, Commissioner

APPROVED AS TO FORM:

By: David Nickel
Deputy Prosecuting Attorney

GEM 1, LLC

By: Scott D. Wolcott
Its: _____
Date: 11-9-06
Scott D. Wolcott
Managing Member



STATE OF ~~WASHINGTON~~)
 California) ss.
COUNTY OF ~~KITSAP~~)
 sacramento

I certify that I know of have satisfactory evidence that Scott D. Wolcott is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledge it as the managing member of GEM 1, LLC to be the fee and voluntary act of such party for the purposes mentioned in the instrument.

SUBSCRIBED AND SWORN to before me this 10 day of November 2006.

Desiree Holberg
NOTARY PUBLIC in and for the State of
California ~~Washington~~, residing at 8950 Cal Center Dr.
My appointment expires: June 27, 2010

APPROVED AS TO FORM:

By: Robert [Signature]
Attorney for GEM 1, LLC