

# City of Lee's Summit

## Development Services Department

November 11, 2016

TO: Planning Commission  
FROM: Robert G. McKay, AICP, Director  
RE: **Appl. #PL2015-184 – FINAL PLAT – Mill Creek of Summit Mill, 6<sup>th</sup> Plat, Lots 173-177; Engineering Solutions, LLC, applicant**

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### Commentary

This application is for 5 additional lots in the *Mill Creek of Summit Mill* subdivision. The final plat is consistent with the approved preliminary plat, which showed the area that comprises this plat as Phase 5. The proposed density is lower than the maximum for the R-1 (Single-family Residential) district.

The subdivision is subject to the terms of the Development Agreement between Summit Mill, LLC, and the City of Lee's Summit; the Amendment to Development Agreement, Settlement Agreement and Release of Claims by and between Lake Ridge, LLC, and the City of Lee's Summit; and the Second Amendment to Development Agreement and the Amendment to Settlement Agreement & Limited Release between MDCDC Partners, LLC and the City of Lee's Summit.

The developer is obligated to pay the share of the costs to the City associated with the estimated impact of development on the City's sanitary sewer system. Based on the developable acreage contained in this plat, a payment of \$3,679.91 is due prior to the approval of the subject final plat.

- 5 lots tract on 1.93 acres
- 2.6 units/acre
- 4 units/acre maximum permitted in R-1

### Subdivision-Related Public Improvements

In accordance with UDO Section 16.340, prior to an ordinance being placed on a City Council agenda for the approval of a final plat, all subdivision-related public improvements shall be constructed and a Certificate of Final Acceptance shall be issued. In lieu of completion of the public improvements and the issuance of a certificate, financial security (an escrow secured with cash, an irrevocable letter of credit, or a surety bond) may be provided to the City to secure the completion of all public improvements.

A Certificate of Final Acceptance has not been issued for the subdivision-related public infrastructure, nor has any form of financial security been received to secure the completion of the public improvements. This application will be placed on hold following Planning Commission action until the requirements to be placed on a City Council agenda are met.

### Recommendation

Staff recommends <b>APPROVAL</b> of the final plat.
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### Project Information

<b>Proposed Use:</b> single-family residential <b>Number of Lots:</b> 5 lots
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**Land Area:** 1.93 acres

**Density:** 2.6 units/acre

**Location:** south of Langsford Road, approximately ½ mile E of Blackwell Road

**Zoning:** R-1 (Single-family Residential)

**Surrounding zoning and use:**

**North:** R-1 – *Mill Creek of Summit Mill, 3rd Plat*

**South: (across SE Millstone Ave):** AG (Agricultural) – large acreage tract (outside city limits)

**East:** R-1 – *Mill Creek of Summit Mill, 3rd Plat*

**West:** R-1 – *Summit Mill, 2<sup>nd</sup> Plat*

## Background

- January 21, 1997 – The City Council approved a development agreement entered into between the City and the developers of Summit Mill by Ordinance No. 4396.
- April 8, 2003 – The Planning Commission approved the Preliminary Plat (Application #2003-023) for *Mill Creek of Summit Mill*.
- November 6, 2003 – The City Council approved the final plat (Application #2003-202) for *Mill Creek of Summit Mill, 1<sup>st</sup> Plat, Lots 1-41 and Tracts A-H* by Ordinance No. 5637.
- May 4, 2006 – The City Council approved the final plat (Application #2005-237) for *Mill Creek of Summit Mill, 2<sup>nd</sup> Plat, Lots 42-86 and Tracts K-CC* by Ordinance No. 6176.
- April 16, 2009 – The City Council approved the Amendment to Development Agreement, Settlement Agreement and Release of Claims by and between Lake Ridge, LLC, and the City of Lee's Summit by Ordinance No. 6782. The amendment was executed on May 15, 2009. The amendment to the development agreement required the developer to construct the outstanding Millstone Avenue sidewalk requirements in one phase prior to the issuance of any building permits for any future development beyond *Mill Creek of Summit Mill, 2<sup>nd</sup> Plat*.
- May 27, 2014 – The Planning Commission approved the preliminary plat (Application #2014-032) for *Mill Creek of Summit Mill, Lots 87-176 and Tract F*.
- May 7, 2015 – The City Council approved the final plat (Application #PL2014-078) for *Mill Creek of Summit Mill, 3<sup>rd</sup> Plat, Lots 87-124 & Tract F* by Ordinance No. 7617.
- May 7, 2015 – The City Council approved a Partial Waiver of Sidewalk Improvement Obligations under Agreement Relating to the Summit Mill Development by Ordinance No. 7621. The partial waiver allows the developer to construct the outstanding Millstone Avenue sidewalk requirements in phases at the time the abutting plat is developed. Construction of the sidewalk on the west side of Millstone Avenue would coincide with the development of *Mill Creek of Summit Mill, 3<sup>rd</sup> Plat*. Construction of the sidewalk on the east side of Millstone Avenue would coincide with the development of *Mill Creek of Summit Mill, 4<sup>th</sup> Plat*.
- November 12, 2015 – The City Council approved the Second Amendment to Development Agreement and the Amendment to Settlement Agreement & Limited Release between MCDC Partners, LLC and the City of Lee's Summit by Ordinance No. 7745. The Second Amendment to Development Agreement restructured the payments of the remaining sewer

impact fee of the development by proportionally dividing out the remaining sewer impact fee based on developable acreage instead of gross acreage.

**Development Agreement.** The developers of Summit Mill entered into a Development Agreement with the City, which was approved by the City Council on January 21, 1997 by Ordinance No. 4396. The developer agreed to make street, water and sanitary improvements or deposit funds with the City in lieu thereof, to ensure that the cost associated with the impact of the development of the property on the existing City infrastructure is borne by the developer. Since that time, the property has changed hands from the original developer, Summit Mill, LLC. However, the applicant shall develop the subject property of this application under the continued obligations of the Development Agreement.

An Amendment to Development Agreement, Settlement Agreement and Release of Claims was executed on May 15, 2009. The amendment to the development agreement addressed certain improvements related to streets, sanitary sewer and sidewalks. The applicant shall develop the subject property of this application under the continued obligations of the Amendment to Development Agreement, Settlement Agreement and Release of Claims.

A Second Amendment to Development Agreement and the Amendment to Settlement Agreement & Limited Release was executed on November 25, 2015. The amendment restructured the method of computation for the sanitary sewer impact fee to be paid per plat by the developer. The applicant shall develop the subject property of this application under the obligations of the Second Amendment to Development Agreement and the Amendment to Settlement Agreement & Limited Release.

**Sanitary Sewer Improvements.** The original development agreement from 1997 includes the requirement for the developer to perform certain sanitary sewer improvements. One of the obligations was payment of \$222,000.00 as the developer's share of the costs to the City associated with the estimated impact of development on the City's sanitary sewer system. Said funds would be paid to the City at the time of each final plat in an amount proportional to the acres being platted as compared to the total acres of the development. A total of \$183,148.93 of the \$222,000.00 obligation has been paid to date. The remaining obligation of \$38,850.58 (includes both the 4<sup>th</sup> and 6<sup>th</sup> Plats) shall be paid prior to the approval of each remaining plat proportional to developable acreage. Based on developable acreage, an amount of \$3,679.91 shall be paid prior to the approval of the subject plat.

## **Code and Ordinance Requirements to be met Following Approval**

*The items in the box below are specific to this subdivision and must be satisfactorily addressed in order to bring this plat into compliance with the Codes and Ordinances of the City.*

### **Public Works**

1. All required engineering plans and studies, including water lines, sanitary sewers, storm drainage, streets and erosion and sediment control shall be submitted along with the final plat and approved prior to the approval of the final plat. All public infrastructure must be substantially complete, prior to the issuance of any building permits.
2. A Master Drainage Plan (MDP) shall be submitted and approved in accordance with the City's Design and Construction Manual for all areas of the development, including all surrounding impacted areas, along with the engineering plans for the development. The MDP shall address drainage level of service issues on an individual lot basis.

3. All Engineering Plan Review and Inspection Fees shall be paid prior to approval of the associated engineering plans and prior to the issuance of any infrastructure permits or the start of construction (excluding land disturbance permit).
4. All subdivision-related public improvements must have a Certificate of Final Acceptance prior to approval of the final plat, unless security is provided in the manner set forth in the City's Unified Development Ordinance (UDO) Section 16.340. If security is provided, building permits may be issued upon issuance of a Certificate of Substantial Completion of the public infrastructure as outlined in Section 1000 of the City's Design and Construction Manual.
5. The As-graded Master Drainage Plan shall be submitted to and accepted by the City prior to the issuance of a Certificate of Substantial Completion and prior to the issuance of any building permits for the development.
6. A Land Disturbance Permit shall be obtained from the Public Works Department if groundbreaking will take place prior to the issuance of an infrastructure permit or prior to the approval of the engineering plans.
7. An additional easement is necessary across a portion of Tract F-1 for the sanitary sewer extension. The width of this easement should be twice the depth of the sanitary sewer at the deepest point across Tract F-1.
8. A restriction note shall be included on the final plat stating: "Individual lot owner(s) shall not change or obstruct the drainage flow paths on the lots, as shown on the Master Drainage Plan, unless specific application is made and approved by the City Engineer." The easement along the road frontage of Lot 164 shall be widened in accordance with the City of Lee's Summit Design and Construction Manual.
9. Any cut and / or fill operations, which cause public infrastructure to exceed the maximum / minimum depths of cover shall be mitigated by relocating the infrastructure vertically and / or horizontally to meet the specifications contained within the City's Design and Construction Manual.

#### **Planning and Codes Administration**

10. The following note shall be added to the plat: "All storm water conveyance, retention or detention facilities to be located on common property shall be owned and maintained by the property owners' association in accordance with the standards set forth in the 'Covenants, Conditions and Restrictions.' Refer to the 'Covenants, Conditions and Restrictions' associated with this development for requirements."
11. No final plat shall be recorded by the developer until the Director of Planning and Codes Administration and the City Attorney have reviewed and approved the declaration of covenants and restrictions pertaining to common property as prepared in accordance with Section 5.520 of the UDO, and until the Director has received certification from the Missouri Secretary of State verifying the existence and good standing of the property owners' association required by Section 5.510 of the UDO. In addition, the approved Declaration of Covenants, Conditions and Restrictions shall be recorded prior to the recording of the final plat.
12. A final plat shall be approved and recorded (with the necessary copies returned to Planning and Codes Administration) prior to any building permits being issued.
13. This subdivision is subject to the terms of the Development Agreement between Summit Mill, LLC, and the City of Lee's Summit, dated January 22, 1997.

14. This subdivision is subject to the terms of the Amendment to Development Agreement, Settlement Agreement and Release of Claims by and between Lake Ridge, LLC, and the City of Lee's Summit, dated May 15, 2009.
15. This subdivision is subject to the terms of the Second Amendment to Development Agreement and the Amendment to Settlement Agreement & Limited Release, dated November 25, 2015.
16. Based on the developable acreage included in the subject *Mill Creek of Summit Mill, 5th Plat*, an amount of \$3,679.91 shall be paid prior to the approval of this plat by the City Council.

RGM/res

Attachments:

1. Final Plat, date stamped December 22, 2015 – 2 pages
2. Location Map