

the wetland, stream and their buffers, acknowledging that the actions proposed are all beneficial to the long-term sustainability and health of the system. Under *TMC* Section 13.11.170, permitted uses/activities, the act of preservation of natural wildlife habitats is permitted with appropriate review. Physical modifications within these natural areas, including short-term construction impacts, require a Wetland Development Permit.

The request must also be found consistent with the criteria set forth in *TMC* Section 13.11.250.

11. Conclusions Adopted As Findings:

Any Conclusion of Law hereinafter stated which may be deemed a Finding of Fact herein is hereby adopted as such.

CONCLUSIONS

1. Jurisdiction:

The Land Use Administrator has jurisdiction over this application pursuant to *TMC* Sections 13.05.030 and 13.11.150. Additionally, the Administrator has the authority to attach conditions as deemed necessary to mitigate adverse impacts pursuant to *TMC* Sections 13.05.040 and 13.11.200.

2. Burden of Proof:

The applicant bears the burden of proof to demonstrate the proposal is consistent with the provisions of the *TMC*, the applicable provisions of the City's comprehensive land use plans, and other applicable ordinances of the City.

3. Consistency with Policies and Regulations:

This Wetland Development Permit application has been reviewed for consistency with the applicable sections of the *TMC* and the *Environmental Policy Plan (EPP)*-Critical Areas and Natural Resources Lands Element. The *EPP* is an adopted element of the City's *Land Use Management Plan*. The following is an analysis of the criteria necessary to be met for the approval of a wetland development set forth in *TMC* Section 13.11.150.

The Administrator concludes that the request is consistent with the criteria set forth in *TMC* Section 13.11.250 for demonstrating that an extraordinary hardship would exist with regard to the subject site if strict compliance with the standards of the code were required. In this regard, there is no reasonable economic use or value with less impact on the subject wetland and stream than the proposal addressed herein. The applicant's project would result in a net benefit to the wetland and stream systems and would provide for improved habitat opportunities to the terrestrial and aquatic species that utilize the systems.

Further, there are no feasible on-site alternatives to the proposed activity or use. The project involves habitat restoration activities that can only succeed if they are conducted on the site as proposed. No adverse impacts are anticipated with this proposal and no additional storm water will be generated. If properly conditioned, all impacts related to the proposal will be properly mitigated, and it will comply with all other state and federal laws applicable to the project.

Lastly, the extraordinary hardship demonstrated with regard to the request is not a result of actions by the applicant related to the segregation of the property. On the contrary, the applicant has demonstrated through the proposal that it is attempting to improve the natural systems located on the subject site in a manner that will benefit the overall ecosystem and blend seamlessly with other habitat improvement projects previously conducted in the area.

The Land Use Administrator concludes that, if properly conditioned, the proposal is consistent with the criteria for the protection of wetlands in the Critical Areas Preservation Ordinance Chapter 13.11 of the *TMC*. The result of the proposed activity would be no net loss of stream and wetland functions or values.

4. Special Conditions:

1. The applicant must submit a planting plan for the property located within the City of Tacoma's jurisdictional limits for the approval of the Environmental Program Coordinator prior to any work conducted on-site. The planting plan must specify plant species, types, quantities, locations, sizes, and spacing, the planting season or timing; watering schedule; nutrient requirements for planting and, where appropriate, measures to protect plants from destruction. A complete planting plan of the entire area will be required to review consistency in the character of the area as permits are also required for the adjacent jurisdiction in Pierce County.

2. The applicant must submit a scaled project plan indicating the proposed construction location of each planned restoration element and sequence of construction phases as they relate to both Pierce County and the City of Tacoma properties. The scaled plan must be consistent with the Phase 1: Swan Creek Restoration Project Plan, and the Phase 2: Recommended Improvements to the Conceptual Design. The final plan must be approved by the Environmental Program Coordinator prior to commencement of planting.

3. The applicant must provide Notice on Title of property as required by 13.11.060;

In addition to provisions of Chapter 13.05, the owner of any property upon which approval under Title 13, Land Use Regulatory Code, or Chapter 2.02, Building Code, of the Official Code of the City of Tacoma is sought, with a critical area or critical area buffer verified on site through an assessment, delineation, or permit application, shall record with the Pierce County Auditor a notice of presence of the critical area and/or buffer. Such recording shall contain notice of the critical area and/or buffer and the applicability of this chapter to said property. Such notification shall be in a form as

specified by the Public Works Department, Building and Land Use Services Division. The notice shall be notarized and the applicant must submit proof that the notice has been legally recorded before the final approval for development is issued. The notice shall run with the land and failure to record such notice shall be in violation of this chapter.

Usual Conditions:

A. The decision set forth herein is based upon representations made and information submitted, including development plans and proposals, submitted to the Land Use Administrator. Any substantial change(s) or deviation(s) in such development plans, proposals, or conditions of approval imposed shall be subject to the approval of the Land Use Administrator, and may require additional permitting and public notification and comment.

B. The authorization(s) granted herein is/are subject to all applicable federal, state and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances are conditions precedent to the approvals granted and are continuing requirements of such approvals. By accepting this/these approvals, the applicant represents that the developments and activities allowed will comply with such laws, regulations and ordinances. If, during the term of the approvals granted, the developments and activities permitted do not comply with such laws, regulations or ordinances, the applicant agrees to promptly bring such developments or activities into compliance.

C. The permit shall become void after a period of five (5) years after the effective date of approval in the event no substantial construction has taken place in accordance with the plans for which the permit has been authorized. The referred to expiration provision may be waived or the time period for the expiration extended upon timely application in accordance with the requirements set forth in Section 13.05.070 of the *Tacoma Municipal Code*.

5. Findings Adopted as Conclusions:


Any finding hereinafter stated which may be deemed a conclusion is hereby adopted as such.

DECISION:

FILE NO: WET99-00005

The Wetland Development Permit, as described herein, is approved subject to the special conditions set forth in Conclusion 4 above.

ORDERED this 24th day of August, 1999


Peter Katich
LAND USE ADMINISTRATOR

The effective date of approval for this request is September 8, 1999, provided no requests for reconsideration or appeals are timely filed.

FULL DECISION TRANSMITTED this 24th day of August, 1999 to the following:

William L. Pugh, P.E., 747 Market Street, Room 420, Tacoma, WA 98402.
John F. O'Loughlin, 2201 Portland Ave. Tacoma, WA 98421-2711
David Molenaar, WA Dept. of Fish and Wildlife, MS 43200, 600 Capitol Way North, Olympia, WA 98501-1091
Don Nauer, WA Dept. of Fish and Wildlife, 3808 122nd Ave. East, Edgewood, WA 98372

SUMMARY OF DECISION TRANSMITTED this 24th day of August, 1999 to the following:

All property owners with 400 feet of the subject site
Public Works Department
Tacoma Public Utility/Light Division
Tacoma Public Utility/Engineering Division
Tacoma Fire Department (Carl Anderson)
Tacoma Police Department, Operations Commander
Human Rights Department
Planning & Development Services Dept.
Metropolitan Park District
Pierce Transit, Attn: John Hubbard
US West Communications, -Attn: Land Eng. Clerk
Puget Sound Energy, Attn: -Andy Markos
New Tacoma (CBD/PORT) Neighborhood Council, Donna Stenger
Washington Dept. Of Ecology Envir. Review Section
Environmental Protection Agency - Attn: Christina Ngo
Puget Sound Air Pollution Control Agency
Tacoma/Pierce County Health Department

U.S, Fish and Wildlife Service-Attn: Jeff Krausman
Puyallup Indian Tribe, Land Use Department-Attn: Sally McMaster
The Tahoma Audubon Society, Thelma T. Gilmur, 2601 - 70th Avenue West, Tacoma,
WA 98466-5430
Jack Gossett, Seattle District Corps of Engineers, PO Box 3755, Seattle, WA 98124-
2255
Leslie Ann Rose, Citizens for a Healthy Bay, 917 Pacific Avenue, Suite 406, Tacoma
WA, 98402

APPEAL PROCEDURES

RECONSIDERATION:

Any person having standing under the ordinance governing this application and feeling that the decision of the Administrator is based on errors of procedure or fact may make a written request for review by the Administrator within fourteen (14) days of the issuance of the written order. This request shall set forth the alleged errors, and the Administrator may, after further review, take such further actions as deemed proper, and may render a revised decision. A request for RECONSIDERATION of the Land Use Administrator's decision in this matter must be filed in writing with the Building and Land Use Services Division, Room 345, Third Floor, Tacoma Municipal Building, 747 Market Street, Tacoma, WA 98402, on or before September 7, 1999.

APPEAL TO HEARING EXAMINER:

Any decision of the Land Use Administrator may be appealed by any aggrieved person or entity as defined in Section 13.05.050 of the *Tacoma Municipal Code*, within fourteen (14) days of the issuance of this decision, or within seven (7) days of the date of issuance of the Administrator's decision on a reconsideration, to appeal the decision to the Hearing Examiner.

An appeal to the Hearing Examiner is initiated by filing a Notice of Appeal accompanied by the required filing fee. Filing of the appeal shall not be complete until both the Notice of Appeal and required filing fee have been received. The Notice of Appeal must be in writing and shall contain the following:

- (1) A brief statement showing how the appellant is aggrieved or adversely affected.
- (2) A statement of the grounds for the appeal, explaining why the appellant believes the administrative decision is wrong.
- (3) The requested relief, such as reversal or modification of the decision.
- (4) The signature, mailing address and telephone number of the appellant and any representative of the appellant.

An APPEAL of the Land Use Administrator's decision in this matter must be filed with the Hearing Examiner's Office, Seventh Floor, Tacoma Municipal Building, on or before September 7, 1999 together with a fee of **\$200.00**. THE FEE SHALL BE REFUNDED TO THE APPELLANT SHOULD THE APPELLANT PREVAIL. (Pursuant to Section 2.09.020 of the *Tacoma Municipal Code*, fees for appeals shall be waived for qualifying senior citizens and persons who are permanently handicapped who are eligible for tax exemption because of financial status.)

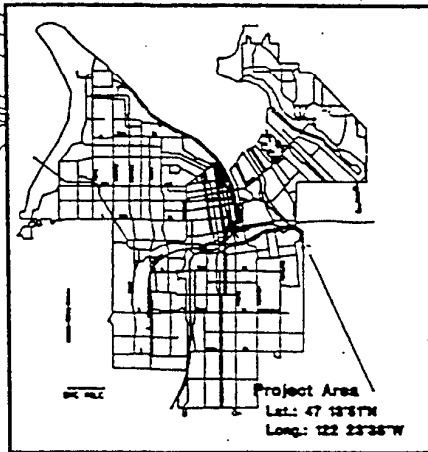
APPEAL OF ENVIRONMENTAL DETERMINATION:

The environmental determination for this proposal was made in accordance with the requirements of the State Environmental Policy Act and the Tacoma Municipal Code Section 13.12, and is on file with the City of Tacoma Building and Land Use Services Division. You may appeal this determination on or before September 7, 1999. Appeals may be filed at the SEPA public information center, Tacoma Municipal Building, 3rd Floor, 747 Market Street, Tacoma, WA 98402 by filing a notice of appeal, the contents of the appeal as outlined in Section 13.12.680 of the *Tacoma Municipal Code* and a \$200 filing fee.

Figure 1 Vicinity Map Swan Creek Restoration Project

Directions to Site:

Traveling SE on River Road from the intersection with Portland Avenue, turn south on Pioneer Way East. Travel approximately 1,800 feet to northern edge of restoration



scale: 1"=500'

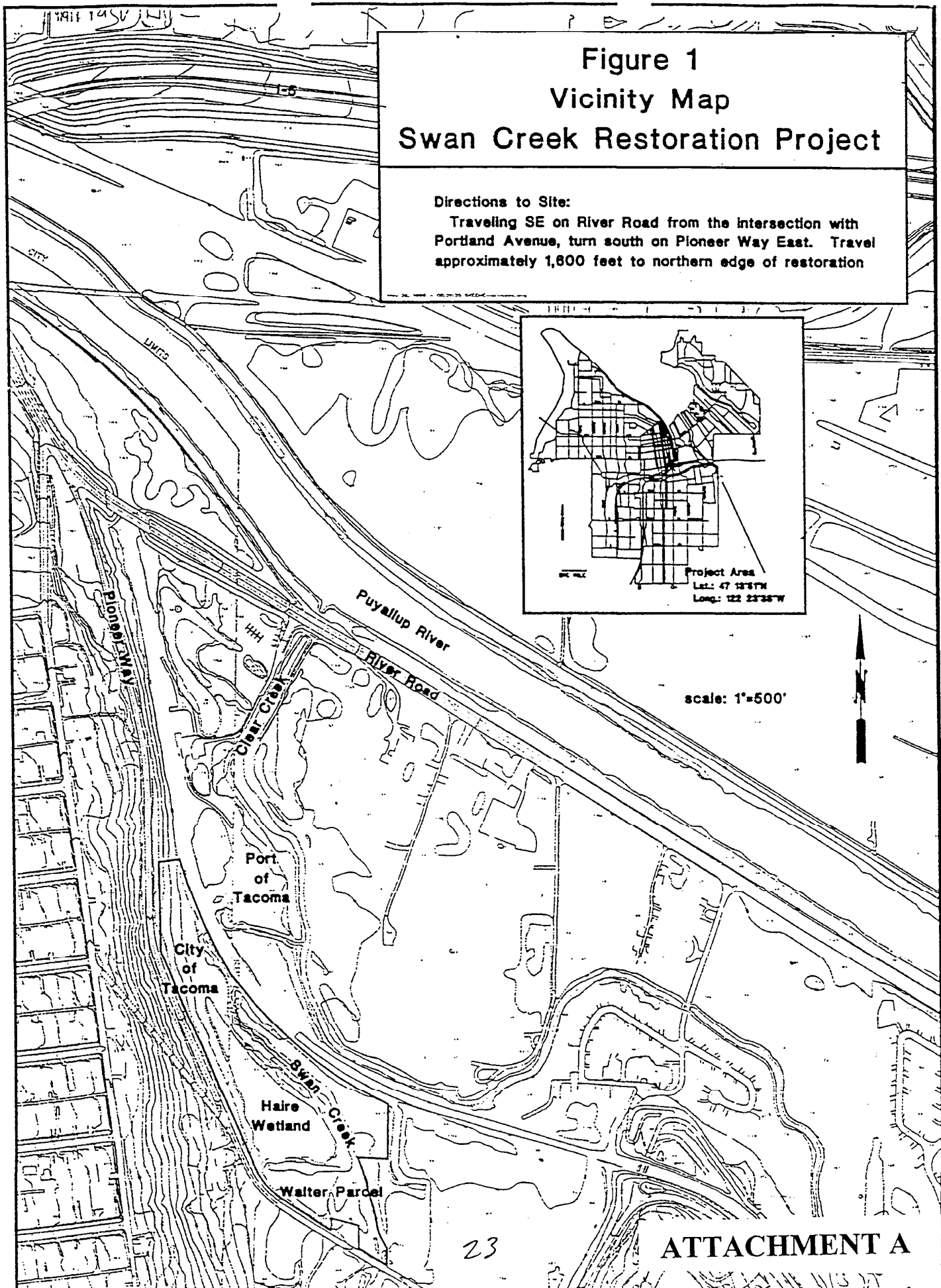
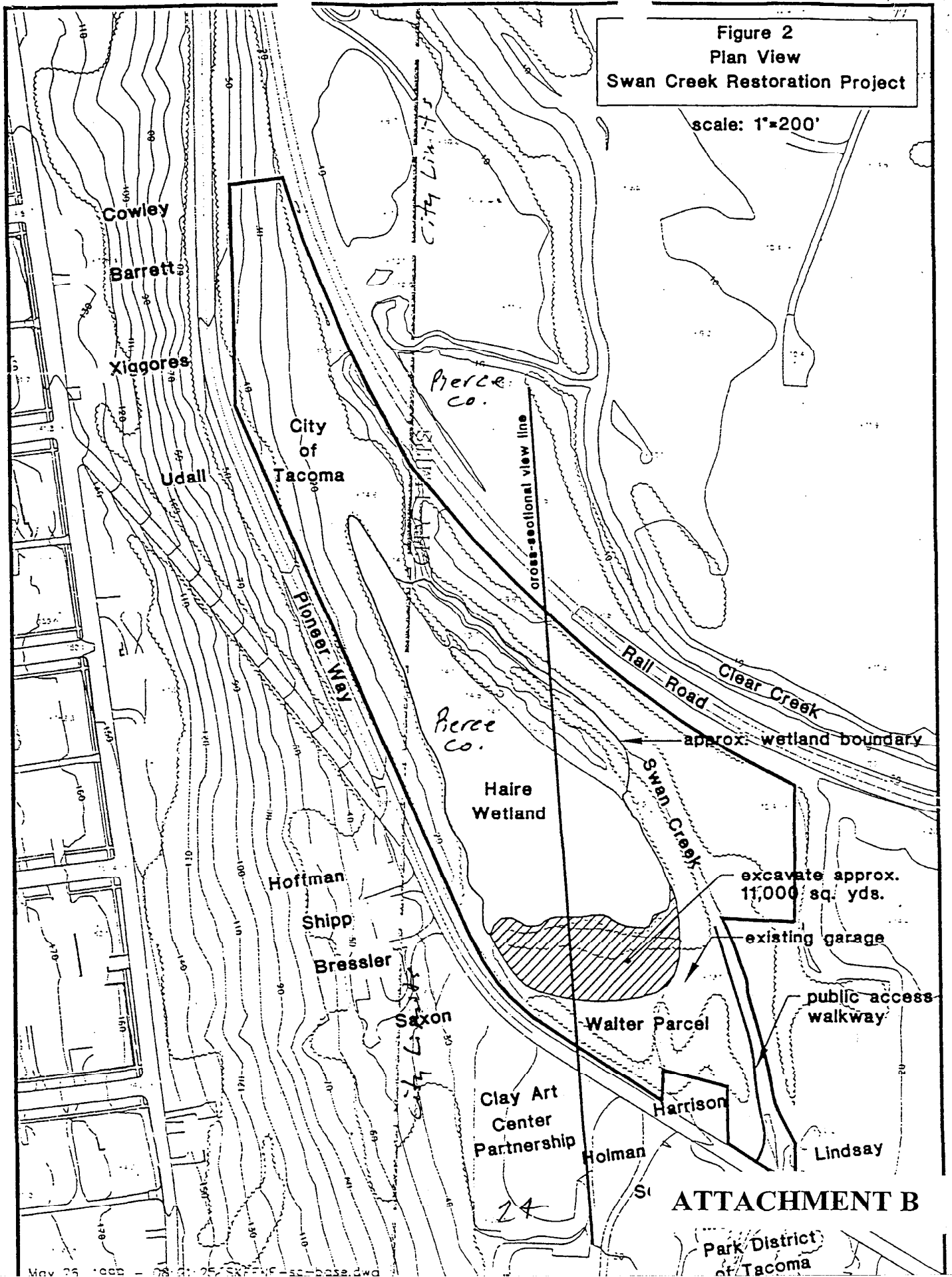


Figure 2
Plan View
Swan Creek Restoration Project

scale: 1"=200'



ATTACHMENT B

Park District
of Tacoma

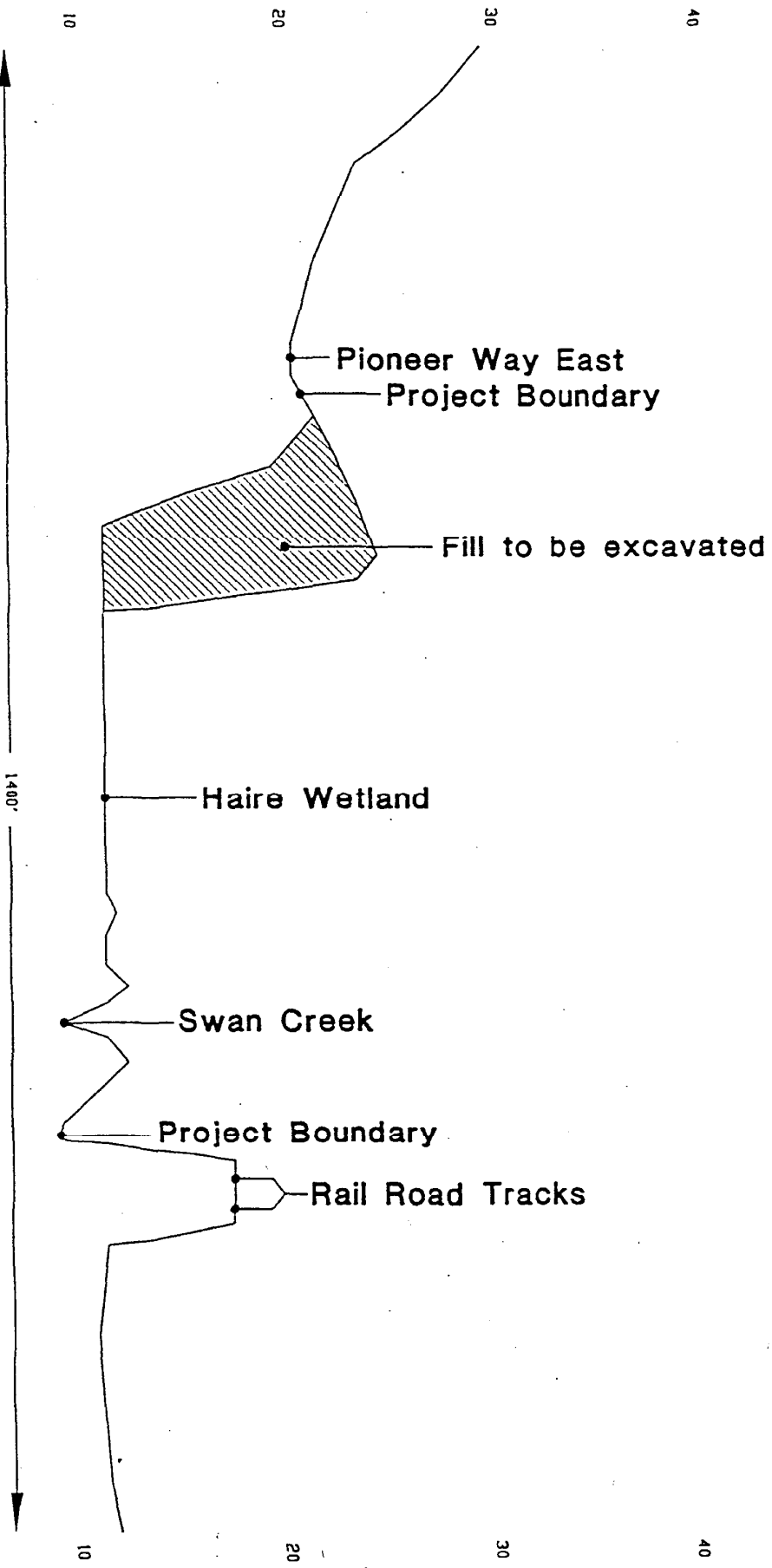


Figure 3
Cross Sectional View
Swan Creek Restoration Project

scale: 1"=150' H
 1"=7.5' V

note: vertical datum is NGVD29



June 1, 1999

Mr. John O'Loughlin,
Environmental Field Supervisor
City of Tacoma, Public Works Department
2201 Portland Avenue
Tacoma, WA 98421-2711

**Swan Creek Stream Restoration Project
Recommended Improvements to the Conceptual Design**

Dear John:

As we discussed during preliminary project planning meetings for Swan Creek, we are recommending minor modifications to the conceptual design. We are initiating these changes entirely because we believe these changes will improve the performance and ecological benefits provided by the design without substantially changing the cost of design and construction. We understand that the Board of Trustees must approve any changes to the conceptual design, and we have prepared the following explanation and the attached sketch to illustrate the proposed changes and the ecological benefits they will provide.

The proposed changes to the original conceptual design involve connecting and integrating the Haire wetland with the other elements of the project in a way that causes water to flow through both the existing and proposed wetlands. By establishing better connectivity between components of the system, we will allow fish access to existing habitat that is currently isolated from Swan Creek. Improvements that encourage better water circulation through the wetland will also improve and maintain good water quality conditions within suitable off-channel habitat.

The specific changes to the conceptual design are shown on the attached sketch. Where the original conceptual design included a single two-way channel between the proposed wetland and Swan Creek, we propose adding a channel flowing out of the proposed wetland into the Haire wetland. During preliminary field reconnaissance, we observed that the hydraulic connection between the Haire wetland and Swan Creek allows fish passage only during high flow events. We propose to modify the outlet from the Haire wetland to allow fish to move freely between Swan Creek and the Haire wetland. The two proposed changes together will create a flow-through

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ATTACHMENT D

Mr. John O'Loughlin
June 1, 1999
page 2

system parallel to Swan Creek that incorporates the off-channel habitat of Haire wetland and the proposed wetland.

To ensure that fish stranding does not occur within the Haire wetland, we will design the inlet and outlet to maintain flow through the wetland sufficient to maintain fish passage at both the inlet and outlet. The design will include an adjustable flow-splitting device at the upstream end of project. The adaptive management plan will include guidelines for adjusting the flow splitter in anticipation of seasonal changes in hydrologic conditions to balance flow within Swan Creek and within the parallel wetland system.

We believe these simple changes will improve the performance and ecological benefit provided by the project without affecting the design and construction costs. If you have any questions regarding the recommendations included within this letter, please call me at (425) 775-4682. Similarly, if the Board of Trustees has concerns about allowing these changes, I am happy to field their questions, or meet to discuss the proposed modifications in more detail. If the Board of Trustees objects to the proposed changes, we are prepared to provide design drawings consistent with the original conceptual design. Please contact me after you have reviewed these recommendations, and we will discuss our next steps towards completing the design process.

Sincerely,
Pentec Environmental, Inc.



D. Shane Cherry
Geomorphologist

DSC/ds
Attachment

cc: Todd Thornberg, Hart Crowser, Inc.
Jeff Fisher, Pentec Environmental, Inc.
Jon Houghton, Pentec Environmental, Inc.

PIERCE COUNTY PARKS AND RECREATION
9112 Lakewood Dr SW, Suite 121 * Lakewood, WA 98499-3998 * 253-798-4049, FAX 253-582-7461

June 16, 1999

MEMORANDUM

TO: Roger Miener

FROM: Grant Griffin

SUBJECT: Memorandum of Conversation – Conservation Futures and Storm Water Improvements

As we discussed today, the Technical Advisory Committee (TAC) is currently reviewing the 1999 nominations for Conservation Futures purchase. They raised a question; Can Conservation Futures funds be used to acquire property that will later be developed into a regional storm water drainage pond?

We reviewed your October 1992 discussion with the Citizens Advisory Board (CAB). In this discussion, the CAB was reminded that the intent of the Conservation Futures program is the preservation of open space and wildlife habitat. The Conservation Futures program and funds can not be viewed as a source of funds for active parks. Again, the funds are restricted to the purchase of interests in real property that preserve open space and wildlife habitat. With this in mind we discussed the question raised by the TAC. We concluded that naturally occurring wetland areas provide values that are consistent with the intent of the program. The values include wildlife habitat and open space. In addition, wetland areas serve an ecological function of receiving storm water flows. The wetlands provide storage and filtration of the storm flows and a slow release of the water into the surrounding area.

This fund can not be viewed as a source of funds for such public works projects as active parks or storm drainage projects. Rather, the fund must be used to further the intent, which is to preserve open space and wildlife habitat. If the dominate and overwhelming purpose of the acquisition is the preservation of wetland and wildlife habitat; or the enhancement of existing wetland and wildlife habitat and receiving storm water flows is a necessary part of and needed by the habitat and wildlife, than the intent is being fulfilled. The accent has to be on the open space and wildlife habitat aspects of the acquisition for it to fit with the intent of the program.

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ATTACHMENT E





CONSERVATION FUTURES COVENANTS

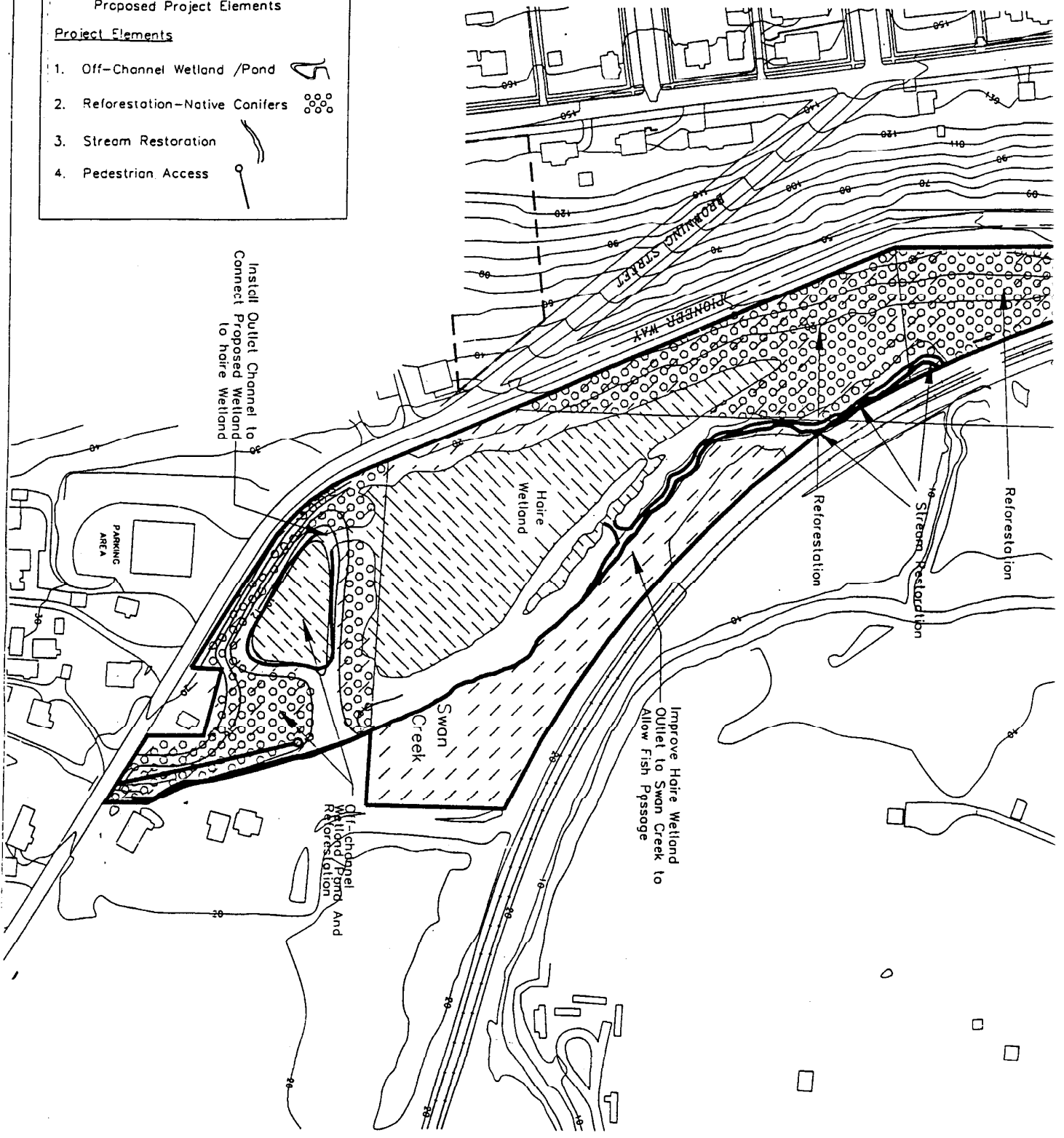
In consideration of the Public Monies used in whole or part to acquire title to these lands, these Covenants shall run upon these lands in perpetuity and in fulfillment of the requirements necessary to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve wildlife habitat areas, farm, agricultural, and timber lands for the public use and enjoyment. Whomever shall be the steward and title holder of these lands shall not make or permit any use of these lands which is inconsistent with the requirements necessary to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve wildlife habitat areas, farm, agricultural, and timber lands for the public use and enjoyment. Further, whomever shall be the steward and title holder of these lands shall operate and maintain this property as follows:

1. The property and any improvements to the property shall be kept safe and clean.
2. Any sanitation and sanitary facilities present on the property shall be maintained in accordance with applicable state and local public health standards.
3. Any plans for improvements to these lands shall be reviewed and approval given by Pierce County or its successors to assure compliance these Covenants. This does not apply to routine maintenance. Improvements include but are not limited to picnic tables, viewpoints, rest areas, docks, benches, boat launches, restrooms, and parking lots. Work shall not commence without written approval from Pierce County or its successors.
4. Proposals for leases, easements, rights-of-way, and/or other conditions or restrictions, which could potentially limit the use of or alter the character of these lands, shall be reviewed and approved by Pierce County or its successor for compliance and consistency with these Covenants.
5. These lands shall be kept open for public use at reasonable hours and times of year.
6. These lands shall be open for the use of all segments of the public without restriction because of the race, creed, color, gender, religion, national origin or residence of the user.
7. Roads, trails, tables, benches, and other improvements shall be kept in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration that would discourage public use.
8. These lands shall be operated and maintained in accordance with all applicable federal, state, and local laws and regulations.
9. User or other types of fees may be charged in connection with areas that are the subject of these Covenants, provided that the fees and charges are commensurate with the value of recreation services or opportunities furnished and are within the prevailing range of public fees and charges within the state for the particular activity involved.
10. These lands shall not be assignable in whole or in part without the express written consent of Pierce County or its successor.

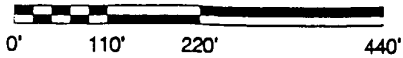
Figure SC-4
 SITE PLAN
 Swan Creek Restoration Project
 Proposed Project Elements

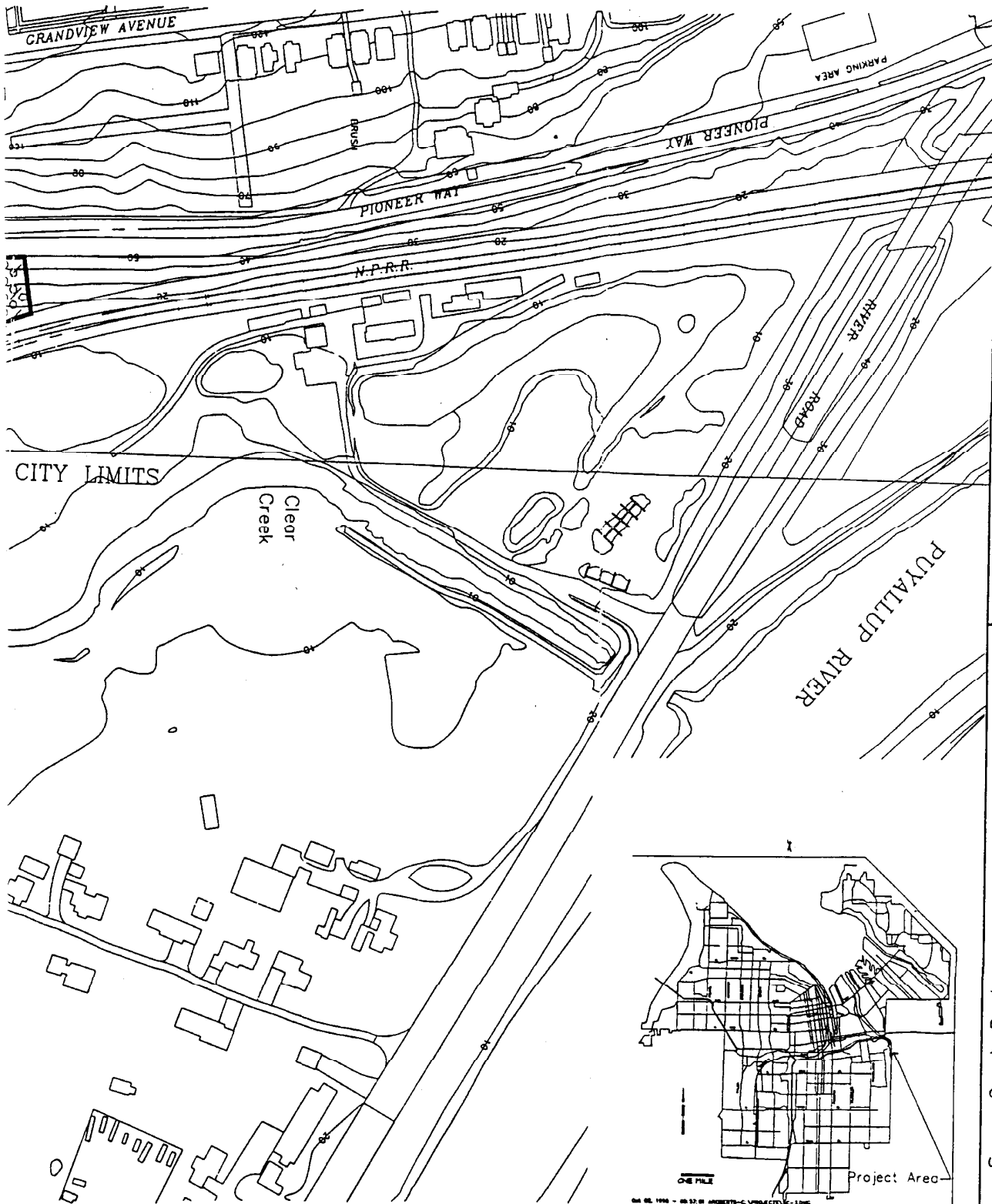
Project Elements

- 1. Off-Channel Wetland /Pond 
- 2. Reforestation-Native Conifers 
- 3. Stream Restoration 
- 4. Pedestrian Access 



APPROXIMATE SCALE IN FEET





Concept Plan Provided by City of Tacoma

Swan Creek Restoration Concept Plan
 Tacoma, Washington
 City of Tacoma

03/23/99 SC-3.DWG