

PLANNING COMMISSION RESOLUTION NO. 2001- 94

A RESOLUTION OF THE CITY OF MILL CREEK )  
PLANNING COMMISSION, RECOMMENDING )  
APPROVAL TO THE CITY COUNCIL OF THE CITY ) FINDINGS,  
OF MILL CREEK, WASHINGTON OF A ) REASONS AND  
PRELIMINARY PLAT/PLANNED AREA ) RECOMMENDATIONS  
DEVELOPMENT FOR A 10-LOT SINGLE-FAMILY )  
SUBDIVISION, CASE FILE NUMBER PP 01-54. )

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WHEREAS, Peter and Kathleen Neva have submitted the appropriate information to the City of Mill Creek for consideration of a Preliminary Plat/Planned Area Development for a ten-lot single-family subdivision; and

WHEREAS, on September 13, 2001, 2001, the City's Responsible Official signed and issued a Mitigated Determination of Non-Significance (MDNS)/Notice of Property Development Impact Mitigation for the proposed project; and

WHEREAS, on October 8, 2001, a legal notice stating the time, place and purpose of the public hearing was published in the Everett Herald, and on October 8, 2001, was posted on the property pursuant to MCMC 14.07.030(A)(3), and on October 5, 2001, was sent to surrounding property owners within 500 feet of the site in accordance with MCMC 14.07.030(A)(2); and

WHEREAS, the Planning Commission duly convened a public hearing on October 18, 2001, to consider the matter, take testimony and inquire into the facts of the proposal. The Planning Commission closed the public hearing and began deliberation on several issues raised during the public testimony portion of the hearing. The Planning Commission voted to continued their

deliberations on the issues until November 15, 2001 to allow staff and the applicant appropriate time to prepare additional information to address concerns raised by the Planning Commission; and

WHEREAS, the Planning Commission duly reconvened the public hearing on November 15, 2001, wherein they completed their deliberations and considered the additional information and the proposed revisions to the development.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MILL CREEK:

Section 1: The Planning Commission has considered the staff report, attached as Exhibit A, and the proposed Preliminary Plat, attached as Exhibit B, all incorporated herein, and the testimony and other facts elicited at the public hearing and finds that the proposed Preliminary Plat, as conditioned, is consistent with the Mill Creek Comprehensive Plan, the Mill Creek Subdivision, Zoning, and Environmental ordinances and makes appropriate provisions for the public health, safety and general welfare.

Section 2: The Planning Commission adopts the findings and recommendations as contained in Exhibit A, as they may be modified by the Planning Commission motion contained in Exhibit C, attached and incorporated herein.

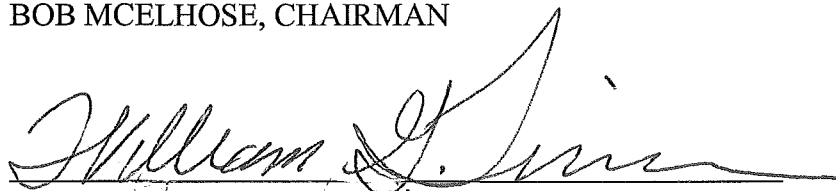
Section 3: The Planning Commission, therefore, recommends to the City Council approval of the Preliminary Plat 01-54 for Peter and Kathleen Neva as fully described and conditioned in Exhibit A, Exhibit B, and Exhibit C.

Done and Passed by majority vote, this fifteenth day of November, 2001.

CITY OF MILL CREEK PLANNING COMMISSION



BOB MCELHOSE, CHAIRMAN



SECRETARY OF THE PLANNING COMMISSION

ATTACHMENT:      Exhibit A - Staff Report  
                         Exhibit B – Preliminary Plat  
                         Exhibit C - Planning Commission Motion with Conditions

**EXHIBIT A  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
STAFF REPORT  
TO THE CITY OF MILL CREEK PLANNING COMMISSION**

**PART I - SUMMARY INFORMATION**

**HEARING DATE:** October 18, 2001

**CITY FILE NO:** Preliminary Plat 00-54 (Madison at Mill Creek)

**REQUESTED ACTION:** Consideration of a Preliminary Plat/Planned Area Development to subdivide 2.52 acres into 10 lots for single-family detached development

**APPLICANT/  
PROPERTY OWNER:** Peter and Kathleen Neva  
13823 Bothell-Everett Highway  
Mill Creek, Washington 98012

**LOCATION:** The site is located on the east side of SR 527, south of and adjacent to 138<sup>th</sup> Street Southeast (see **Attachment 1**)

**PROPERTY SIZE:** 2.52 acres

**LEGAL  
DESCRIPTION:** See **Attachment 2**

**COMPREHENSIVE  
PLAN DESIGNATION:** Residential - Low Density (maximum 4 dwelling units per acre)

**ZONING DISTRICT:** Low Density Residential (LDR)

**PART II - STATUTORY REQUIREMENTS**

**SEPA COMPLIANCE/DEVELOPMENT IMPACT MITIGATION ORDINANCE:**

The proposed Preliminary Plat is subject to the provisions of the State Environmental Policy Act (SEPA) and the provisions of Chapter 17.48 Mill Creek Municipal Code (MCMC), Development Impact Mitigation.

City staff identified certain elements of the environment that require mitigation pursuant to SEPA and Chapter 17.48 MCMC. On September 13, 2001, the City's Responsible Official issued a Mitigated Determination of Non-Significance (MDNS)/Notice of Property Development Impact Mitigation for the proposed project. Specific elements identified as requiring measures to mitigate the impacts of the proposed development include: Earth, Air, Water, Plants and Animals, Transportation, Recreation, and Public Facilities (fire and school facilities). The mitigation measures required to address the identified environmental impacts are incorporated into the conditions of approval.

**PUBLIC NOTICE:**

In accordance with Chapter 14.07.030 MCMC, notice of the public hearing was mailed to property owners of record within 500 feet of the proposed project on October 5, 2001. Notice was posted on the site and published in the Everett Herald on October 8, 2001. All statutory public notice requirements have been met.

**PART III - BACKGROUND INFORMATION**

**EXISTING SITE CHARACTERISTICS:**

The project site encompasses 2.52 acres. The site is currently developed with two detached, single-family homes with associated yard areas; thus, the plat results in a net increase of 8 dwelling units. Both homes will be removed as a result of the site development. The yards consist of grass and low shrubs, except for some second growth mature trees located on the south property line.

**SURROUNDING PROPERTY ZONING/LAND USES:**

The surrounding properties' zoning designations and existing land uses are as follows:

- the properties to the north, south, and east are zoned Low Density Residential and are occupied by attached and detached single-family homes (The Village Green, Burk Place, and Mill Creek Village subdivisions); and
- the property to the west is zoned Office Park and is occupied by the Saint Francis Episcopal Church and a single-family dwelling on a 5-acre lot (Heatherwood Drive area).

**UTILITIES:**

The subject site is located within the service area of the Silver Lake Water District. Water and sewer services are available. Electrical service is available from Snohomish County PUD. Natural gas service is available from Puget Sound Energy.

## **FIRE PROTECTION:**

Fire protection, suppression, and emergency medical service will be provided through a contract with the City by Snohomish County Fire Protection District No. 7.

## **PART IV - PROJECT ANALYSIS**

### **DEVELOPMENT REVIEW PROCESS AND DESIGN:**

#### **Development Review Process**

The proposal is being processed in conformance with the provisions contained in Chapter 14 (Development Code Administration), Chapter 16 (Subdivisions and Plats), Chapter 17 (Zoning), and Chapter 18 (Environment) of the Mill Creek Municipal Code (MCMC).

In accordance with MCMC 16.12, the development is being processed as a Planned Area Development (PAD). The PAD review process is intended to allow more flexibility in project design to allow for more creative development, preserve open space and natural vegetation, and to provide for integration of new development into the existing community while protecting the values and integrity of the surrounding neighborhood. Under this process, development code requirements can be modified to meet the intent of the PAD process.

Pursuant to the PAD review process, the applicant is requesting a reduction in the 8,400 square foot minimum lot size (7,071 square feet average, 5,533 square feet minimum proposed) and in the minimum yard setbacks. Staff analysis and recommendation of the modification requests follow later in this report.

#### **Site Development Design**

##### **General Description**

The proposed preliminary plat consists of the subdivision of 2.52 acres into 10 lots for single-family detached development (see **Exhibit B** (Plat Map) of the Planning Commission Resolution). The development is proposed to take access from a new public cul-de-sac street that will connect to 138<sup>th</sup> Street Southeast. The property is surrounded by developed residential properties. Consistent with the Streetscape Element of the Comprehensive Plan, a 35-foot roadway buffer/cutting preserve is provided adjacent to SR 527. A portion of the roadway buffer has already been donated to WSDOT to accommodate the construction of the SR 527 noise walls. However, for the purpose of density and open space calculations, the area donated to WSDOT is considered part of the plat. WSDOT is currently in the process of constructing the noise wall.

##### **Project Density**

The development must be consistent with the density restrictions of both the Comprehensive Plan and the Zoning Code. The property is designated on the Comprehensive Plan Land Use Plan as Residential-Low Density (maximum 4 units per acre). The proposed plat has a density of 3.97 units per acre (.03 units below the maximum permitted). Utilizing the Planned Area Development maximum density formula established in MCMC 16.12 which utilizes net developable area, the

development can not exceed 11 dwelling units. Thus, the development is consistent with the Comprehensive Plan and Zoning Code density requirements.

### Plat Design

Design options for the plat are restricted by the unusual configuration of the parcel, the fact that the properties surrounding the site are developed, and the site's proximity to SR 527. The proposed plat consists of 10 single-family lots, with an average lot size of 7,071 square feet. The largest lot is 9,000 square feet (Lot 1); and the smallest lot is 5,533 square feet (Lot 4). The developer has indicated that one and two-story homes with two-car garages will be constructed on the lots. The plat is connected to 138<sup>th</sup> Street via a new public street that terminates into a cul-de-sac. The street is located as far to the east (away from SR 527) as possible to minimize conflicts with SR 527 traffic turning onto 138<sup>th</sup> Southeast. Because of the property's unusual configuration, several of the lots on the south side of the plat share driveways that connect to the new street.

### Perimeter Buffers

Policy 1.16 of the Land Use Element of the Comprehensive Plan requires buffer areas along the peripheral boundaries of each residential development. The purpose of the required buffer includes providing neighborhood and development identity and wildlife habitat corridors. In addition, Policies 4.02 and 4.03 of the Environmental Features Element require that significant vegetation be preserved wherever possible and requires vegetated buffer zones between developments. The proposed plat is bordered on the west by the SR 527 roadway buffer/cutting preserve. The area between the highway and the sound wall will be landscaped by WSDOT consistent with the landscaping within the SR 527 corridor. A 20-foot building setback area provides a perimeter buffer on the north and south property edges of the development and on the east edge of Lot 10. The south property line includes several mature trees that will be preserved, if possible. A 10-foot building setback area provides a perimeter buffer on the east edge of Lot 9. The recommended conditions of approval require the perimeter buffers to be landscaped in a manner to provide a buffer between the plat and adjacent properties.

### Pedestrian Facilities

Proposed public pedestrian facilities include a 5-foot wide sidewalk on the west side of the new public street, as well as within the frontage of those lots not directly fronting on the public street. A sidewalk is not proposed on the east side of the street because of the limited number of pedestrians expected from the 10 new residences and the restricted amount of space available in the plat. Within the SR 527 roadway buffer a 6-foot wide meandering sidewalk is being constructed by WSDOT between the highway and the noise wall. A 5-foot wide sidewalk is proposed adjacent to 138<sup>th</sup> Street Southeast as a part of the frontage improvements. Sidewalks adjacent to the new street and 138<sup>th</sup> Street are separated from the curb with a 5-foot wide planter strip.

### Open Space

One requirement of a Planned Area Development is that 20 percent of the net developable site must be preserved for open space/recreation purposes. The proposed development includes open space within the roadway buffer/cutting preserve adjacent to SR 527. In addition, the area above the stormwater vault is proposed as a private park with children's play equipment, picnic tables, landscaping, a walking path, and community barbecues. The open space areas are identified as Tract

999 on the plat map. In total, 22,764 square feet of open space, or 25% of the net site, is set aside in open space tracts.

#### Vehicular Access and Circulation

Vehicular access to the plat is provided by a cul-de-sac street from 138<sup>th</sup> Street Southeast. The City Engineer has determined that site distance easements will be required on the west corner of the entrance road at the intersection with 138<sup>th</sup> Street Southeast to ensure an adequate line of sight for drivers entering and exiting the development. Sight obstructing landscaping and structures will be prohibited within the easement. The dimensions of the easements will be determined by the applicant's engineer to the satisfaction of the City Engineer. This requirement is included in the recommended conditions of approval.

The roadway is proposed to have a width of 22 feet as measured face of curb to face of curb. This width will promote slower vehicular speeds and provide a residential atmosphere to the streetscape. No parking will be permitted on the street; thus, the proposed cul-de-sac includes a landscaped island that incorporates 5 public parking spaces. Also, a minimum of 4 off-street parking spaces (2 in garage plus 2 on a driveway) are proposed for each lot. Thus, 25 open off-street parking spaces will be available and a minimum of 20 parking spaces are available within individual garages.

#### Requested Modifications

Pursuant to MCMC 16.12.040, the applicant is requesting two modifications to the Zoning Code, 1) a reduction in the minimum lot size and 2) a reduction in the building setback requirements. Modifications to zoning code requirements are permissible through the PAD process if it can be demonstrated that the modification meets certain criteria including:

- the preservation of open space and natural vegetation;
- providing for the integration of new development into the existing community while protecting the values and integrity of the surrounding neighborhood;
- the provision of a more efficient street and utility systems by clustering buildings; and
- providing for an integrated landscape development.

*Reduced Lot Size* - The Low Density Residential zone includes a requirement for a minimum lot size of 8,400 square feet. This is the lot size that is typical in conventional subdivisions where tracts of common open space are not required. In lieu of 8,400 square feet minimum, the applicant is requesting a minimum lot size of 5,533 square feet, with an average lot size of 7,071 square feet.

The basis of the request is that the size and shape of the property, and its proximity to SR 527 and the adjacent developed properties, make development of a conventional single-family development impossible. Required roadway buffers, the stormwater facility, common open space areas, and the physical limits of where the public street can be located all act to make it difficult to achieve the density anticipated by the Comprehensive Plan (4 units per acre) without a reduced lot size.

By reducing the lot size for the homes, the applicant has been able to provide 22,764 square feet of usable open space including landscaped picnic areas and children's play equipment. The subterranean stormwater management facility are also provided within this open space tract. The reduced lot size provides more usable open space than would be provided in a conventional single-family development and allows for the efficient placement of stormwater utilities.

*Reduced Setback* – The Low Density Residential zone requires a side yard setback of 20 feet total, with no side yard less than 5 feet and a front yard setback of 20 feet. Corner lots (i.e., lots that abut a street or access tract on two contiguous sides) are considered to have two front yards. The applicant is requesting the following setback modifications:

- Lots 2 through 8, a minimum side yard setback of 10 feet total, with no side yard less than 5 feet;
- Lot 9, a minimum side yard setback of 15 feet total (a minimum 5-foot side yard setback from the west property line and a minimum 10-foot side yard setback from the east property line);
- Lot 10, a minimum side yard of 10 feet from the north property line, and a minimum front yard setback of 10 feet from the south property line (adjacent to the access drive for Lots 7, 8, and 9).

The proposed setback lines are shown on the proposed plat map.

The 5-foot setbacks allow more flexibility in the design of the homes to be constructed in the plat. Please note that the plat's perimeter setbacks are proposed to meet or exceed the zoning code minimum standards because of the required perimeter buffers discussed previously. It is also important to note that although the applicant has requested a reduction in some of the setbacks, the maximum site coverage of 35 percent will still apply. Thus, no increase in impervious surfaces results from the reduced setbacks.

#### Utilities-Water and Sewer

Sanitary sewer is available in 139<sup>th</sup> Place Southeast via a proposed easement within Lot 12 of the Village Green development. As an alternative, sewer service can be provided by running a pipe to a sewer line in Trillium Boulevard within the SR 527 right-of-way. While possible, this option would be more expensive. A water main is available within 138<sup>th</sup> Street Southeast. Silver Lake Water District has indicated that the water and sewer capacity is available to serve the proposed development.

#### Utilities-Stormwater

The applicant has submitted a Preliminary Storm Drainage Plan with the Preliminary Plat application. The new drainage system is proposed to be a closed system (i.e., no open channels). The preliminary drainage layout proposes to collect the stormwater in the street and convey the stormwater in pipes to a subterranean detention vault with water quality treatment. The outlet will be routed to the existing drainage system of the Village Green development, which currently captures the untreated runoff of the undeveloped site.



While an open pond is usually preferable to a vault, a vault is acceptable to the City in this case since the applicant has demonstrated that a safe and effective pond is not possible due to the space constraints of the site. The final design and sizing of the vault will be addressed during the civil plan review process. It will be designed to meet the requirements of the current Department of Ecology Stormwater Manual. The applicant will be required to submit a final drainage report during the civil plan review phase. The project will likely require a Hydraulics Permit Approval (HPA) from the Department of Fish and Wildlife. Additional drainage conditions may be required in conjunction with the HPA.

Traffic and Street Improvements:

The site has 314 feet of frontage on SR 527. WSDOT is widening SR 527 and installing noise walls within the frontage adjacent to the development site. This work will include the usual improvements of curb, gutter, meandering sidewalk, and roadway buffer landscaping. The applicant is not required to construct or fund these proposed improvements, but must coordinate with WSDOT to show this work on the plans.

The applicant is required to perform the standard frontage improvements to their property including street and pedestrian lighting as well as sidewalks. Frontage improvements to 138<sup>th</sup> Street Southeast are required to bring the adjacent roadway frontage up to an acceptable new road condition. Improvements include repair and/or replacement of the pavement to the centerline of the roadway as well as providing curb, gutter, adequate stormwater detention and water quality facilities, and sidewalks. The new public and private access roads within the plat will be designed and constructed to City standards.

City of Mill Creek Traffic Impacts:

The traffic study for the site indicates that the development is expected to generate an estimated 77 new daily trips and approximately 8 weekday PM peak hour trips. These new trips will have a negligible effect to City street segments in terms of Level of Service (LOS) impacts.

City of Mill Creek Traffic Mitigation:

To address the cumulative impacts of the added trips to City street segments, the applicant will provide a \$4,615 contribution toward the future improvement of the street segments identified in the City's Traffic Mitigation Program. The suggested conditions of approval include the requirement for the applicant to pay transportation mitigation fees to the City of Mill Creek prior to approval of the final plat.

Snohomish County Transportation Impacts

In accordance with the interlocal agreement with Snohomish County for reciprocal assessment of traffic impact mitigation fees, the applicant is required to pay mitigation fees to offset the project's impacts to the County's Road System Capacity and for Transportation Demand Management.

Through the SEPA review process, Snohomish County has determined, based on adopted formulas, that \$9,724.65 is required to mitigate transportation impacts to the County road system. In addition, Snohomish County has determined that a transportation demand management payment of \$442.38

is required. The suggested conditions of approval include the requirement for the applicant to pay transportation mitigation fees to Snohomish County prior to approval of the final plat.

School District Impacts:

The City of Mill Creek and the Everett School District have executed an Interlocal Agreement for mitigation of development impacts on district facilities. Approval of the project will have an impact on the Everett School District facilities. The Everett School District has determined that a contribution of \$6,001.95 is required to mitigate the impacts of the development in lieu of dedication of land for school facilities.

The suggested conditions of approval include the requirement for the applicant to enter into a voluntary mitigation agreement. A copy of the executed agreement and proof of payment of the mitigation fees are required prior to the approval of the final plat.

Fire District Impacts

The City of Mill Creek and Snohomish County Fire District No. 7 have executed an Interlocal Agreement for mitigation of development impacts on fire facilities/services. Mitigation fees are determined by the anticipated impact a development will have on District facilities. Based on the provisions of the agreement, the mitigation required is \$365.00 per residential lot. Assuming eight additional single-family units (two single-family homes exist on the site), \$2,920.00 is required to mitigate impacts to District facilities. The suggested conditions of approval include the requirement for the applicant to pay fire district mitigation fees to Snohomish County Fire Protection District No. 7 prior to approval of the final plat.

City Park System Impacts

Approval of the Preliminary Plat will allow the construction of additional eight single-family homes, which will increase the demands on the City's Neighborhood and Community Park recreation facilities. To mitigate the project's impacts on these facilities, mitigation fees are required for the development of neighborhood parks and for the acquisition and development of community parks. Based upon the formula for calculating impact fees in Resolution 99-276, the proposed project is required to pay the following fees to offset impacts to parks and recreation facilities:

**Neighborhood Parks (acquisition and development):**

$$\$1,628.93/\text{single-family unit} \times 8 \text{ additional units} = \$13,031.44$$

**Community Parks:**

$$\$1,416.96/\text{single-family unit} \times 8 \text{ additional units} = \$11,335.68$$

The suggested conditions of approval include the requirement for the applicant to pay the park mitigation fees prior to approval of the final plat.

**CONSISTENCY WITH THE MILL CREEK COMPREHENSIVE PLAN:**

For a development to be approved, the Planning Commission must make a finding that the proposed development is consistent with the Land Use Map and applicable policies of the Comprehensive Plan. The proposed residential development has been reviewed by staff for consistency with the Mill Creek Comprehensive Plan. Since the plan is by its nature "comprehensive," the staff report provides the following matrix which focuses on the applicable policies that have direct influence on the design of this project.

POLICY	FOCUS	COMMENT
<b>LAND USE ELEMENT</b>		
Land Use Map	Site designated for Residential-Low Density (4 units/acre maximum).	Density of the project is 3.97 units per acre.
1.01	City's residential character should be composed of wide range of densities and maintain and enhance the City as a predominantly single-family residential community.	Project represents the low end of the potential density ranges. The residential character of the proposed development is single-family detached.
1.16	Peripheral boundaries of each residential development should contain appropriately-sized buffer areas.	The front, side, and rear yard setbacks create a 10- to 20-foot wide landscaped buffer to the north, east, and south. The 35-foot roadway buffer/cutting preserve adjacent to SR 527 in conjunction with the open space tract create a buffer to the west.
1.17	Entrances should be clearly identifiable; building mass should be in scale with lot sizes, pedestrian and vehicular circulation should be safe and efficient.	Project entrance as proposed will be clearly identifiable; the 20-foot front yard building setbacks required within the Low Density Residential zone district will provide an appropriate scale between lot area and the building mass of the detached single-family homes; vehicle and pedestrian circulation is safe and efficient.

<b>POLICY</b>	<b>FOCUS</b>	<b>COMMENT</b>
1.18	Residential developments shall be designed to be compatible with adjacent developments.	The single-family use is compatible with the adjacent single-family developments. The proposed project includes peripheral property buffers as required. The proposed subdivision as conditioned is compatible with adjacent developments.
<b>CAPITAL FACILITIES ELEMENT</b>		
2.03	Stormwater management facilities to include quality and quantity controls pursuant to Level of Service guidelines.	Project is conditioned to incorporate stormwater management facilities that comply with City established Level of Service guidelines.
<b>UTILITIES ELEMENT</b>		
1.01	Urban development shall occur only where adequate utilities are available.	Adequate utility services are available.
1.10	Requires under grounding of utilities where possible.	Utilities are conditioned to be located underground.
<b>TRANSPORTATION ELEMENT</b>		
2.03	Project shall not reduce Levels of Service below established standards.	City Engineer has determined that the project does not reduce Levels of Service below established standards.
3.04	Access points from the public right-of-way to private developments shall be located at appropriate locations.	City Engineer has determined access location is appropriate.

POLICY	FOCUS	COMMENT
4.01	Public sidewalks required throughout residential neighborhoods. Sidewalk should be located on both sides of the street and be connected with other public/private trail systems. Sidewalks adjacent to arterial streets should be consistent with the Streetscape Element of the Comprehensive Plan.	The proposed plat as conditioned includes pedestrian connections throughout the plat. A sidewalk is only provided on the west side of the public access road because of low number of units within the plat and the restricted area within the plat. A meandering sidewalk is provided within the SR 527 Roadway buffer consistent with the Streetscape Element of the Comprehensive Plan.
<b>STREETSCAPE ELEMENT</b>		
1.02	Proposals shall incorporate all requirements of streetscape plans.	Sidewalks are to be located within the 35-foot roadway buffer.
3.01	35-foot roadway buffer required.	A 35-foot roadway buffer is provided.
<b>ENVIRONMENTAL FEATURES ELEMENT</b>		
3.01	Adequate erosion control measures required.	Suggested conditions of approval require erosion control measures.
4.01	Wooded areas to be preserved where possible.	Conditions of approval and the MDNS issued for the project require preservation of trees where possible. Significant trees are present on the south edge of the site and will be preserved if possible.
4.03	Requires that vegetated buffer zones be established between developments.	The project proposes a 10- to 20-foot property buffer from adjacent properties in the form of building setbacks. To the west is the 35-foot roadway buffer/cutting preserve and open space tract.

<b>PARKS AND RECREATION ELEMENT</b>		
5.02	Park impact mitigation required for residential development.	MDNS issued for the project and conditions of approval require payment of park impact mitigation fees.

In summary, staff has reviewed the applicable policies of the Comprehensive Plan. Based on this review, we find that the proposed project with conditions of approval complies with the applicable policies.

**CONSISTENCY WITH DEVELOPMENT REGULATIONS:**

As stated previously, this application is being processed under the provisions of the Subdivision, Zoning, and Environment sections of the MCMC (Chapters 16 and 17). The following matrix evaluates the proposed project with the applicable development regulations:

<b>DEVELOPMENT REGULATIONS</b>		
<b>SECTION</b>	<b>REQUIREMENT</b>	<b>COMMENT</b>
16.12.060	Requires 20 percent of net developable area of the PRD to be established as common open space.	The plat proposes 25 percent of the net developable area as common open space. This area is within the SR 527 roadway buffer and stormwater detention vault tract. All of this area is considered usable (see discussion above under Open Space, page 4).
16.14.010	Requires a finding that the proposed subdivision is beneficial to the public health, safety, and welfare and is in the public interest. Includes the adequate provision for: public health, safety and general welfare, open spaces, drainage ways, streets and other public ways, transit stops, water	Streets and sidewalks comply with standards recommended by the City Engineer. Mitigation is required to offset impacts of the development on parks and recreation facilities, identified City and County roadway projects, and fire protection facilities. Utilities are available with sufficient capacity to serve

<b>DEVELOPMENT REGULATIONS</b>		
<b>SECTION</b>	<b>REQUIREMENT</b>	<b>COMMENT</b>
16.14.010 (continued)	supplies, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds, mitigation of adverse environmental impacts, and protection of environmentally significant features.	the proposed development. Stormwater drainage facilities will meet LOS standards as established within the Comprehensive Plan.
17.06.010	Single-family residential is permitted as a Principal Use in the Low Density Residential zone district.	Project consists of subdividing property to allow detached single-family residences.
17.06.055	Maximum density is the net area of the project (site area minus streets and unbuildable areas) divided by the minimum lot size permitted in the zone district.	Net site area is 92,402 square feet. Minimum lot size in the Low Density Residential zone district is 8,400 square feet. Maximum number of units is 11. 10 units proposed.
17.06.040	Minimum lot size is 8,400 square feet.	A modification to minimum lot size has been requested. The smallest proposed lot size is 5,533 square feet. Average lot size is 7,071 square feet.
17.22.180	Comprehensive Plan - concurrency and consistency required.	As discussed above, the project is consistent with the applicable policies of the Comprehensive Plan and does not reduce Levels of Service below established standards.

In summary, staff has reviewed the applicable development regulations and, based on this review, finds that the proposed project, subject to proposed conditions, complies with the applicable development regulations.

**PART V - FINDINGS AND CONCLUSIONS, STAFF RECOMMENDATION, AND  
CONDITIONS OF APPROVAL**

**FINDINGS AND CONCLUSIONS:**

Having viewed the property and reviewed the application and supporting materials, staff makes the following findings and conclusions:

1. The request is for the approval of a Preliminary Plat for 10 lots to be developed with single-family detached residences.
2. Access to the proposed plat would be from a new public street connected to 138<sup>th</sup> Street Southeast. Access to the individual lots is proposed from the new street to be constructed by the applicant.
3. The proposed project has been reviewed under the provisions of the State Environmental Policy Act (SEPA) and Chapter 17.48 MCMC, the Development Impact Mitigation Ordinance. This review has revealed that there will be an impact on the City and County street systems, The City parks and recreation system, the Everett School District, and on Snohomish County Fire Protection District No. 7 facilities/services.
4. In accordance with the Mitigated Determination of Non-Significance and Notice of Property Development Impact Mitigation issued by the responsible official on September 13, 2001, impact mitigation agreements will be required to mitigate the identified impacts.
5. The proposed plat is located within a Low Density Residential zone district. Single-family residential development is a principal use in the Low Density Residential zone district.
6. The proposed plat is consistent with the applicable development regulations with regard to residential use, density, lot design, open space, and provision of public facilities.
7. Pursuant to the PAD process within MCMC 16.12, the applicant has requested modifications to allow a reduced lot size and reduced yard setbacks. Based upon the analysis within the staff report, the requested modifications are appropriate.
8. The proposed plat has been reviewed and found consistent with the applicable policies and Land Use Map of the City of Mill Creek Comprehensive Plan.
9. The proposed plat proposes adequate common open space as required by the provisions of the PAD review process.
10. The proposed residential development has been reviewed in regard to the requirements of 16.14.010. The development, subject to the conditions below, is found to be beneficial to the public health, safety, and welfare and is in the public interest.
11. If approved subject to the conditions recommended below, the proposed plat will be consistent with the requirements of Titles 16, 17 and 18 MCMC.



12. The statutory requirements for environmental review and public notification have been duly satisfied.

**STAFF RECOMMENDATION:**

Based upon the findings and conclusions stated above, staff recommends approval of the Preliminary Plat subject to the following conditions of approval:

**DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDED CONDITIONS OF APPROVAL:**

1. Development shall occur as portrayed on the Preliminary Plat map attached as Exhibit B to the Planning Commission Resolution, except as may be modified by conditions imposed by the Planning Commission.
2. The maximum number of building lots shall be 10. Construction shall be limited to one single-family detached residence per lot.
3. The subdivision shall be incorporated into a homeowners association which will be responsible for the maintenance of all privately owned common facilities, including Tract 999 (east of the noise wall).
4. Water and sewer facilities shall be designed and installed in accordance with the requirements of the Silver Lake Water District.
5. Fire hydrant design, location, and spacing shall be reviewed and approved by Fire District No. 7 and the Silver Lake Water District.
6. Public access easements shall be provided for all pedestrian pathways located within the plat and outside of a public right-of-way. The applicant will work with WSDOT to ensure that the sidewalk adjacent to 138th Street Southeast connects the sidewalk being constructed by WSDOT in the SR 527 roadway buffer.
7. The applicant shall submit for City approval a planting plan for the public street within the plat, Tract 999 (east of the noise wall), and the perimeter buffer areas. The planting plan shall be prepared by a licensed landscape architect and shall be reviewed and approved by the City's Design Review Board prior to final plat approval. The plan shall be implemented commensurate with house construction.
8. The applicant shall submit for City approval plans for the subdivision identification sign. The plans shall be reviewed and approved by the City's Design Review Board prior to installation.
9. Site clearing and grading shall be restricted to areas necessary for the installation of utilities, and construction of roads and sidewalks. No other clearing is allowed without the approval

of City staff. No lot clearing shall be allowed nor building permits issued prior to the submittal and approval of individual tree preservation plans for each lot following approval by the City Council of the final plat.

10. All utility, stormwater, drainage, maintenance easements, property buffers, and pedestrian easements, together with attendant restrictions and conditions, shall be portrayed on the face of the final plat.
11. Mail boxes shall be grouped or clustered in lockable hutches in locations identified by the United States Postal Service and the Mill Creek Police Department. Structures shall be enclosed in a decorative wood enclosure to the satisfaction of the City Engineer.
12. Existing significant trees shall be preserved within roadway buffers/cutting preserves and property buffers. In addition, existing significant trees shall be preserved on individual residential lots where possible and practical. Of specific concern is the mature vegetation on the south edge of the site. The trees to be preserved shall be determined after a review of the tree survey on file with the City and on-site identification by City staff. Preservation areas and individual trees identified to be saved shall be protected from encroachment by vehicles, earth moving and excavating machinery and material storage by the erection of barrier fencing approved by City staff. Failure to maintain, or removal of the fencing without approval of the City, shall result in the issuance of a stop work order.
13. Trees designated for preservation that are damaged or removed shall be replaced at a ratio of 3:1. The replacement trees shall be a coniferous species and have a minimum height at planting of 12 feet. In addition, a penalty of \$1,000.00 per tree may be assessed for any trees that are removed or destroyed by the applicant or his agent without the express approval of the City. The City may, at its discretion, issue a stop work order for the construction on the subject lots until the penalty is paid.
14. Dust shall be controlled by watering areas of soil disturbance during construction. All fireplaces shall be either natural gas appliances or certified pellet/wood stoves or inserts.
15. The applicant shall contribute \$24,367.12 to mitigate impacts on City park and recreation facilities. Of this amount, \$13,031.44 shall be used for the acquisition and development of the SR 527 Corridor Neighborhood/Community Park as identified within the Comprehensive Plan. The balance of the mitigation \$11,335.68 shall be used for the acquisition and development of a community park(s). Verification of payment shall be provided to the City before final plat approval.

16. The applicant shall enter into a voluntary mitigation agreement to contribute \$6,001.95 to the Everett School District to mitigate impacts on school district facilities. A copy of the executed agreement and proof of payment of the mitigation fees are required prior to the approval of the final plat.
17. The applicant shall contribute \$9,724.65 to Snohomish County to mitigate transportation impacts to the County road system and contribute a \$442.38 transportation demand management payment to Snohomish County. Proof of payment of the mitigation fees is required prior to approval of the final plat.
18. The applicant shall contribute \$2,920.00 (\$365.00 per residential lot) to mitigate impacts to Snohomish County Fire Protection District No. 7. Verification of payment shall be provided to the City before final plat approval.

#### **DEPARTMENT OF PUBLIC WORKS RECOMMENDED CONDITIONS OF APPROVAL**

##### Lot Clearing:

19. The applicant shall provide grading, stormwater, erosion and sediment control plans to the satisfaction of the City Engineer prior to commencing any clearing for the site. All related work shall be adequately secured through a secured agreement acceptable to the City Engineer.

##### Transportation:

20. All new utilities within the project and project's frontage shall be placed underground in accordance with City Code. No new poles shall be installed in the project's frontage. Appropriate easements or right-of-way for all utilities shall be provided by the applicant as shown on the face of the Final Plat.
21. Adequate street lighting will be required on all project frontage. Minimum pedestrian lighting is 0.5 foot candles, and in areas where street lighting is not sufficient, pedestrian lighting will be required. Lighting calculations and plans shall be submitted for review by City staff.
22. Improvements to 138th Street SE frontage are required. These improvements shall be designed and constructed to the satisfaction of the Directors of Community Development and Public Works. The increased impervious surface should be taken in to account in this project's storm drainage.
23. The public and private access roads shall be designed and constructed to meet all emergency vehicle access requirements and City of Mill Creek standards. The shared driveways shall be clearly designated as private roads both on site and in the plans. All roads that provide access to stormwater facilities shall be designed for maintenance vehicle loading.
24. Access from 138th Street Southeast to Lot 12 of the Heatherwood Garden development shall be coordinated and maintained to the satisfaction of the property owner and the Director of Public Works.

25. The applicant shall contribute to the City's transportation mitigation program based on the projected traffic distribution as outlined in the final, accepted traffic report. The traffic study for this project, dated July 24, 2000, by Gibson Traffic Consultants identifies the mitigation to the City of Mill Creek as follows:

<b>Segment</b>	<b># of Trips</b>
Seattle Hill Road	0
164 <sup>th</sup> Street Southeast	8
Dumas Road	23
Trillium Boulevard	4
Mill Creek Boulevard east of SR 527	3
Mill Creek Boulevard west of SR 527	0
Village Green Drive	0
148 <sup>th</sup> Street Southeast	0
153 <sup>rd</sup> Street SE (formerly 152 <sup>nd</sup> PI SE)	27
<b>TOTAL</b>	<b>65</b>

This results in a mitigation offer amount for Mill Creek of \$4,615 (65 trips at \$71 per trip).

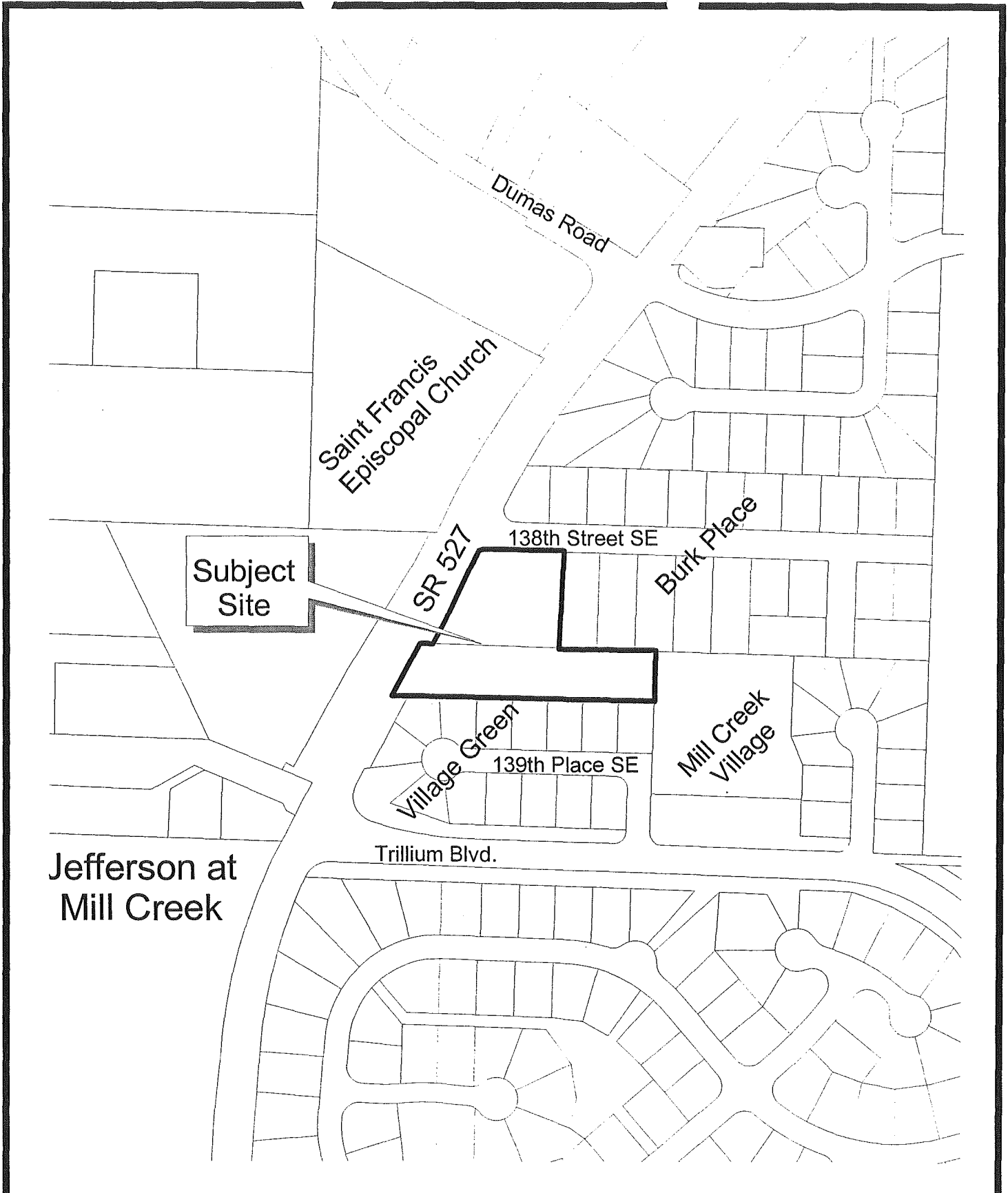
Stormwater:

26. The applicant shall have drainage improvements designed and installed for the site and adjacent roadways in accordance with City of Mill Creek, the current Department of Ecology Stormwater Management Manual for the Puget Sound Basin and any HPA permit requirements established by the State Department of Fish and Wildlife.
27. The applicant shall provide grading, stormwater, erosion, and sediment control plans to the satisfaction of the City Engineer prior to commencing any clearing for the site. All related work shall be adequately secured through a secured agreement acceptable to the City Engineer.
28. A final, signed storm drainage design report shall be submitted to the City Engineer for review and approval. The final report shall use the City's accepted rainfall rates and release criteria, and also identify and include a downstream analysis and mitigation for any downstream impacts created by development of the site. All required drainage improvements shall be included in the applicant's engineering design plans for the City Engineer's approval. The approved stormwater system shall include the following:
- A. Detention and stormwater treatment facilities and a conveyance system that meets the City of Mill Creek, Department of Fish and Wildlife and Department of Ecology (DOE) Stormwater Manual requirements. An underground detention vault with water quality treatment will be accepted by the City.
  - B. Provisions for maintenance of the stormwater system, including, but not limited to: adequate access to maintenance locations; provisions, including easements,

that allow the City to inspect, maintain, and/or operate the detention and treatment system at its discretion; and adequate easement provisions to ensure uninterrupted function of the facilities of the proposed development.

- C. Any off site improvements identified as needed in the final stormwater report.
  - D. Requirements that the owners are obligated to own, maintain and operate the stormwater system to the City's satisfaction. This obligation shall be secured by a performance agreement and security in accordance with DOE guidelines. Specific maintenance measures, including, but not limited to, frequency of inspections, cleanings, and disposal, shall be indicated on the approved engineering plans for the site development.
29. Site visibility easements shall be dedicated to the City at the intersections of the plat's entrance road with 138<sup>th</sup> Street Southeast. Dimensions for the easements shall be determined by the applicant's engineer to the satisfaction of the City Engineer.

Attachments: Attachment 1 – Vicinity Map  
Attachment 2 – Legal Description



# VICINITY MAP



## Attachment 2

### LEGAL DESCRIPTION:

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#### PARCEL A:

LOT 13, BURK PLACE DRIVISION NO. 2, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 24 OF PLATS, PAGE 58, IN SNOHOMISH COUNTY, WASHINGTON:

EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASH. BY DEED RECORDED UNDER RECORDING NO. 9902170789.

#### PARCEL B:

THAT PORTION OF LOT 2, HEATHERWOOD GARDEN TRACTS NO. 2, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 19, IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2;  
THENCE EAST ALONG THE NORTH LINE THEREOF 500 FEET;  
THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID LOT 2, A DISTANCE OF 110 FEET;

THENCE WESTERLY TO A POINT ON THE WESTERLY LINE OF SAID LOT 2, WHICH POINT IS 125 FEET SOUTHWESTERLY FROM THE NORTHWEST CORNER OF SAID LOT;

THENCE NORTHWESTERLY ALONG SAID WESTERLY LINE 125 FEET TO THE POINT OF BEGINNING;

EXCEPT PORTION DEEDED TO STATE OF WASH. BY DEED UNDER UNDER RECORDING NUMBER 200006080486.

PARCEL C: THE SOUTH 95.00 FEET OF LOT 12, AS MEASURED PERPENDICULAR TO THE EAST LINE OF LOT 12, PLAT OF BURK PLACE, DIVISION NO. 2, ACCORDING TO THE PLAT THEREOF REC. IN VOL. 24 OF PLATS, PAGE 58, SNO. CO., STATE OF WASHINGTON.

**ADDENDUM TO  
EXHIBIT A  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
STAFF REPORT  
TO THE CITY OF MILL CREEK PLANNING COMMISSION  
November 15, 2001**

Revised Lot Configuration

Based upon the direction of the Planning Commission, the applicant has modified the plat map to increase the size of the lots on the south edge of the plat to be more compatible with the adjacent single-family development. Instead of six lots located adjacent to the south property line, five lots are now proposed (Lots 5 through 9). On the northwest portion of the property, four lots for attached single-family development are proposed (Lots 1 through 4) where three had previously existed.

Revised Modification Request

The applicant is proposing revisions to the modification request to accommodate the changes that have been made to the plat. The requested modifications are revised as follows:

- For Lots 1, 2, and 4, allow a side yard setback of 10 feet total, with no side yard less than zero;
- For Lot 3, allow a side yard setback of 3 feet total, with no side yard less than zero;
- For lot 10, allow a rear yard setback of 15 feet; and
- A reduced average lot size of 7,308 square feet.

Setback Modifications

To accomplish the goal of increasing the size of the lots on the south side of the plat, the applicant has revised the northwest portion of the plat to include attached single-family development for Lots 1, 2, 3 and 4. These lots share a common driveway that will access the new public street and the proposed dwelling units will share a common wall at the garage. This proposed lot configuration is very similar to the lot configuration that is used extensively within the Amberleigh subdivision and has proven to be very successful from a marketability and livability standpoint.

To accomplish this design, a modification to allow a 0-foot side yards between Lots 1 and 2 and Lots 3 and 4 is required. As stated in the original staff report, modifications to zoning code requirements are permissible through the PAD process if it can be demonstrated that the modification meets certain criteria including:

- Providing for the integration of new development into the existing community while protecting the values and integrity of the surrounding neighborhood; and
- Providing for an integrated landscape development.



The proposed reduced rear and side yard setbacks meet the above criteria as the modifications have been done to make the lots on the south side of the development more compatible with the existing single-family development. In addition, the shared drive for Lots 1 through 4 will allow for a more integrated landscape along the west side of the new public street. Instead of three or four driveways, only one driveway will be present. This will allow for additional landscaping and a more appealing streetscape.

### Reduced Lot Size Modification

With the proposed revisions to the plat the average lot size has increased from 7,071 square feet to 7,308 square feet and the smallest lot has increased from 5,533 square feet to 5,726 square feet. Perhaps even more important is that the average size of the lots adjacent to the single-family development average 7,617 square feet instead of 6,400 square feet as was previously proposed, an increase of over 1,200 square feet per lot.

As stated in the original staff report, the basis of the request is that the size and shape of the property, and its proximity to SR 527 and the adjacent developed properties, make development of a conventional single-family development impossible. Required roadway buffers, the stormwater facility, common open space areas, and the physical limits of where the public street can be located all act to make it difficult to achieve the density anticipated by the Comprehensive Plan (4 units per acre) without a reduced lot size.

By reducing the lot size for the homes, the applicant has been able to provide 22,764 square feet of usable open space including landscaped picnic areas and children's play equipment. The subterranean stormwater management facility is also provided within this open space tract. The reduced lot size provides more usable open space than would be provided in a conventional single-family development and allows for the efficient placement of stormwater utilities.

### Recommendation/Conclusion

Since the reduced setbacks and the reduced lot sizes meet the required criteria, staff recommends approval of the proposed modifications. The original staff report, including the findings and conclusions, recommendation, and conditions of approval, with the exception of the modification request discussion remain valid.

Attachments: Attachment 1 – Revised Planning Commission Resolution  
Attachment 2 – Revised Exhibit B (Preliminary Plat) to Planning Commission Resolution