

Attachment E2

Comment: The modifications are entirely consistent with the purpose of this chapter. The purpose of the chapter is to provide for alternative and innovative housing forms to be developed in the City to meet the City's housing needs and to provide opportunities for tasteful infill of our developed neighborhoods. The proposed project includes infill of a site that is serviced by existing utility and road infrastructure and has the capacity for the proposed development. The townhouses are designed to fit the site and to present a strong street appeal. The site design encourages unit orientation where feasible to common pedestrian corridors, and in the instance of one of the modifications, to open spaces, in lieu of streets and lanes. The height allowance for multifamily apartments in this zone is unlimited, so if an apartment were proposed the height could easily exceed 40', and as a result the nominal increase in height for the townhouses will not be inconsistent with the zoning. The height, setback and orientation modifications all facilitate good design, privacy, tree preservation and other considerations that are consistent with the purpose and intent of the chapter and the City's broader design intents.

II. SUBDIVISION CRITERIA

The proposed project includes the development of 68-townhouse units, each on their own lot. Each lot will range in size from approximately 927 – 2,120 square feet. To receive approval for a long subdivision a project must show compliance with various standards and criteria in BMC 23, the Subdivision Ordinance. Many components of this ordinance are not applicable as they are superseded by the Infill Toolkit standards in BMC 20.28, when an Infill Toolkit project is incorporated into a subdivision. However, in all projects, a design must show compliance with the Performance Standards and Decision criteria as contained in BMC 23. **Please note, we are requesting separate but concurrent review of the proposed preliminary plat application. We would like the other Type II land use permits to be approved separately from and prior to the decision on the Type III preliminary plat.**

Chapter 23.08 Plat Design, Lot Standards, and Improvement Standards

23.08.030 Performance Standards

B. Community Design. The city of Bellingham has adopted neighborhood plans for each of its 25 unique neighborhoods. Each applicant for a subdivision must make reference to the applicable policies for the neighborhood as outlined in the appropriate neighborhood plan and describe how the proposed adjustment or land division addresses the policies within the neighborhood plan.

Comment: The Property is located in the Birchwood Neighborhood, Area 5, with a Residential Multi/Planned zoning designation. The project is designed to be compatible with the surrounding development and architectural styles and is generally consistent with the Neighborhood Plan policies/goals.

C. Natural features, that may or may not be regulated by other code provisions, including but not limited to trees, topography, shorelines, streams, wetlands, habitat, geologically hazardous

areas, and associated critical area/shoreline buffers, should be incorporated into the overall land division design through preservation to the extent feasible.

Comment: The Property is relatively flat with slight undulations in topography. There are no critical areas on the Property or any critical area buffers that extend to the Property from any adjacent wetlands or streams. There are significant mature trees across much of the site. Tree removal is necessary to develop the site, but the overall design takes into account these trees and where feasible trees are proposed for retention. This includes along all property lines, in open space areas, and along Meridian Street. Where tree removal is necessary mitigation in the form of new tree plantings, both on site and on the adjacent golf course, is proposed. The applicant is working with their arborist and landscape architect to insure maximum feasible tree preservation while recognizing that tree removal will be necessary to meet minimum density requirements for this site.

D. Clearing and Grading.

1. In addition to demonstrating compliance with the land clearing (Chapter [16.60](#) BMC), grading (Chapter [16.70](#) BMC) and Lake Whatcom Reservoir (Chapter [16.80](#) BMC) regulatory provisions, as applicable, the proposed layout of a land division should include the following standards:

- a. Clearing and grading limits are established to avoid impacting critical areas and/or their associated buffers, natural features as identified in subsection [\(A\)](#) of this section and adjacent properties;*
- b. Good engineering practices have been implemented to ensure the proposed grading:*
 - i. Is the least necessary to protect slope stability and prevent erosion;*
 - ii. Will not result in the excessive use of retaining walls and/or rockeries along lot lines, project's exterior boundaries, streets and the exterior boundaries of the plat;*
 - iii. Establishes suitable building sites, driveways, public streets, pedestrian corridors, and utilities that are not located on fill. The city may impose a condition of preliminary approval requiring the submittal of a geotechnical report prepared by a Washington State licensed geologist or geotechnical engineer for city review and approval; and*
 - iv. Will not distribute site material resulting from grading to areas within the land division that would cause additional clearing or grading that would otherwise be unnecessary.*

Comment: The proposed development plan limits grading to only that which is necessary for a new road, utilities, and building foundations. Grading will be designed by a licensed professional and will consider the site's soils and infiltration capacity. Appropriate grading plans will also include SWPPP, TESC, and other BMPs during the construction process. See discussion above related to tree removal and clearing activity.

Comment: The preliminary plat provides adequate provisions for open spaces, drainage, rights-of-way, sidewalks, and other planning features that will assure safe walking conditions for pedestrians. The proposed project is located approximately 3 miles from Birchwood Elementary School, 2.6 miles from Shuksan Middle School, and 3.6 miles from Bellingham High School. Sidewalks connect the site to all three schools via Meridian St, Birchwood Ave, Northwest Ave, Illinois St and Cornwall Ave, and other local residential streets.

6. It will serve the public use and interest and is consistent with the public health, safety, and welfare. The director shall be guided by the policy and standards and may exercise the powers and authority set forth in Chapter [58.17](#) RCW, as amended.

Comment: The proposal will serve the public interest and is consistent with public health, safety, and welfare. The project will add needed housing in a developing area of the City, with adequate provisions for utilities, resident safety, and other considerations related to public welfare, without generating any critical areas impacts.

B. Notwithstanding approval criteria set forth in subsection [\(A\)](#) of this section, in accordance with RCW [58.17.120](#), as amended, a proposed subdivision may be denied because of flood, inundation or presence of environmentally sensitive areas as regulated by Chapter [16.55](#) BMC. Where any portion of the proposed subdivision lies within both a flood control zone, as established pursuant to Chapter [86.15](#) RCW, and the area of special flood hazard as defined in Chapter [17.76](#) BMC, the city shall not approve the preliminary plat unless it imposes a condition requiring the applicant to comply with the applicable regulations in Chapters [16.55](#) and [17.76](#) BMC and any written recommendations from the Washington Department of Ecology. In such cases, no development permit associated with the proposed subdivision shall be issued by the city until flood control problems have been resolved.

Comment: The proposed property is not located within a Flood Plain. There are no nearby buffers.

C. An applicant for a preliminary plat may request that certain requirements established or referenced by this title be modified. Such requests shall be processed according to the procedures and criteria for administrative modification or variances in Chapter [23.48](#) BMC. [Ord. 2018-12-036 § 2 (Exh. A)].

Comment: No modifications from the subdivision ordinance are being requested at this time.

Chapter 23.16 – Preliminary Plats and Cluster Preliminary Plats

23.16.030 Decision Criteria

A. Preliminary plats shall be given approval, including preliminary plat approval subject to conditions, upon finding by the hearing examiner that all of the following have been satisfied:

1. *It is consistent with the applicable provisions of this title, the Bellingham comprehensive plan and the Bellingham Municipal Code;*

Comment: The preliminary plat is consistent with this title and all other applicable criteria of the Bellingham Municipal Code. The project is also broadly consistent with the Comprehensive Plan; it is a project that adds significant housing to an underdeveloped site, which has adequate existing utilities and road infrastructure, and no critical areas, while providing appropriate new infrastructure, pedestrian facilities and other improvements. The project is consistent with various Comprehensive Plan goals and policies related to land use, housing, specifically infill and missing middle housing, the environment and transportation.

2. *It is consistent with the applicable provisions of Chapter 23.08 BMC;*

Comment: The preliminary plat is consistent with Chapter 23.08 BMC – Land Division as discussed in this narrative above.

3. *The division of land provides for coordinated development with adjoining properties or future development of adjoining properties through, where appropriate, the extension of public infrastructure, shared vehicular and pedestrian access, and abutment of utilities;*

Comment: The proposed plat provides for coordinated development with adjoining properties and future development of adjoining properties through the extension of public infrastructure and utilities (in this case, sidewalk along Meridian). Surrounding properties are either developed or have frontage on existing public roads and utility infrastructure. Nothing in the proposed design would preclude any surrounding property from being developed or from achieving adequate access to public roads or utilities.

4. *Each lot in the proposal can reasonably be developed in conformance with applicable provisions of the BMC, including but not limited to critical areas, setbacks, and parking, without requiring a variance that is not processed concurrently with the subdivision application pursuant to Chapter 23.48 BMC;*

Comment: Each lot can be reasonably developed in conformance with the applicable provision of the BMC and no variances are requested.

5. *There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools; and*

2. *Vehicular and Pedestrian Circulation. Streets and trails proposed within a land division should:*

- a. *Extend to and connect with existing streets abutting its perimeter to provide for the logical extension of streets and utilities for coordinated development of contiguous tracts or parcels of undeveloped land.*
- b. *Include a street network that provides multiple routes within and in/out of a proposed division of land with a grid pattern or a network modified grid of curvilinear streets and/or alleys unless there are physical limitations including critical areas, significant natural features, conflicts with the existing built environment, or adverse topography that prevents such a street pattern.*
- c. *Avoid single points of access, cul-de-sacs, and dead-end streets, unless the city determines such extension is not necessary due to physical conditions that exist on or adjacent to the site.*
- d. *Public and private trails should also be considered in the design of a street network.*

3. *Access to Local and Arterial Streets. The land division should show all access locations for all lots and proposed streets to maximize safety consistent with BMC Title 13.*

4. *Safety. Street layouts shall be designed to maximize safety for all modes of transportation. The applicant shall provide, to the extent feasible, a street layout that promotes visibility and reduces user conflicts through the placement of parking areas and the use of curb bulb-outs, landscaping strips, meandering sidewalks and other means of ensuring pedestrian safety and reducing vehicular speed through residential areas.*

5. *Street Trees. The overall street network is designed to accommodate street trees that can be evenly spaced through all existing and proposed street frontages. To ensure the location of these trees will not conflict with proposed utilities, the required street tree permit and landscape plan shall be reviewed concurrently with the public facility contract application for the required infrastructure. If a location conflict arises, the priority is to redesign the utility location first to ensure a consistent planting schedule for the required street trees. An alternative planting plan should only be allowed if the city determines that there are no other alternative utility designs that would avoid a conflict between the utilities and trees. [Ord. 2018-12-036 § 2 (Exh. A)].*

Comment: The proposed site design incorporates vehicular and pedestrian design components to ensure safe travel for all modes of transportation. Sidewalks within the project will connect to public adjacent sidewalks. The private driveway will connect to Meridian Street. Street trees and other landscaping will be incorporated around the site.

E. Dedication.

Land dedicated for public infrastructure, including but not limited to right-of-way, utility, and parks and recreation purposes, is incorporated in the land division as necessary to:

1. Rights-of-Way and Utilities. Serve all lots proposed within the subdivision and to provide for orderly extension of public infrastructure for anticipated development in accordance with BMC Title 13 and the comprehensive plan; except this requirement may be waived if the city engineer determines that additional right-of-way will not be necessary for the future traffic circulation of the city, or for future road widening to accommodate anticipated development in the vicinity.

2. Parks and Recreation. Provide open space, trail, and recreation facilities pursuant to the adopted parks, recreation, and open space plan of the comprehensive plan and construct the facilities according to the city's design standards for park and trail development, as amended.

Comment: The project will not require dedication of right-of-way. Improvements to Meridian Street will be made within the existing right-of-way. No recreation facilities are proposed. Pedestrian walkways throughout the development will connect to the existing sidewalk along Meridian, which will connect to other sidewalks, creating potential to connect to future developments and nearby Cornwall Park.

F. Pedestrian Features.

Incorporate pedestrian features into the overall plat design that provide for networks of walking and bicycle facilities that create access to community services and amenities such as schools, parks, shopping centers, public transportation stops, bicycle and pedestrian corridors identified in the city's bicycle and pedestrian master plans within the proposed land division and to adjoining property that is not subdivided. Pedestrian features should be spaced at 500-foot intervals unless such an interval is not feasible due to a physical hardship that is not a result of the overall plat design.

Comment: Pedestrian features have been included in the project and along the Property frontage to facilitate access to the public sidewalk network in the area.

G. Streets.

In addition to demonstrating compliance with BMC Title 13, Streets and Sidewalks, and the city's development guidelines and public works standards, the overall street layout for a division of land should incorporate the following:

1. Compliance with Comprehensive Plan and Neighborhood Plan. The alignment of arterial streets should be included in a location as nearly as possible with that shown in the most recently adopted city of Bellingham comprehensive plan, the appropriate neighborhood plan and zoning table (Chapter 20.00 BMC).



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Variance Request

3509 Meridian

Please accept this Variance Request letter as a supplement to the project application package for PDP2022-0011/DR2022-0023/SUB2022-0033/SEP2022-0032, dated October 13, 2022. As noted in the Request for Information issued for this project:

k. As proposed, the applicant shall be required to submit a variance to BMC 23.04.090 if the proposal does not include infrastructure improvements around the entire Bellingham Golf and Country Club (BGCC) property. Staff anticipates sidewalk improvements will be required along Meridian St. from the subject property north to the intersection of Meridian Street and McLeod Road.

BMC 23.04.090 states:

Resubdivision of any short platted land that proposes to create five or more lots within five years from the date of filing an original short subdivision including the subject site shall, regardless of ownership, obtain preliminary plat approval in accordance with Chapters 23.08 and 23.16 BMC and final plat approval in accordance with Chapter 23.20 BMC. A preliminary plat decision under this provision shall be conditioned appropriately to require the installation of public infrastructure improvements across the full frontage of the original and proposed short plat boundaries pursuant to Chapter 23.08 BMC. [Ord. 2018-12-036 § 2 (Exh. A)].

In August 2022, a short plat was recorded with the Whatcom County Auditor to create a new 179,793 SF lot (lot 1) from the existing Bellingham Golf and Country Club property (BG & CC Short Plat, Document 2022-0800206). The BGCC retained the large remainder tract for continued operations of the Golf & Country Club. Subsequently, the current proposal came forward, including a 68-lot preliminary plat. Pursuant to BMC 23.04.90, the current proposal would require not only the frontage of lot 1 of the BG & CC Short Plat to be improved, but also the entire frontage of lot 2 (Bellingham Golf and Country Club). Lot 2 of the BG & CC short plat is approximately 5,637,720 square feet in size and has frontage along both Meridian Street and McLeod. Some of these improvements, particularly those along McLeod, would have no direct relationship/correlation to the proposed project impacts, and would be located up to ½ mile from the project site. Complying in full with the applicable BMC would result in unreasonable expense relative to the project impacts. The Applicant is proposing to complete frontage improvements along all of Meridian Street, including that portion that is off-site to the north, but is proposing to

make no frontage improvements along McLeod Road. As a result, a variance from this requirement is proposed. Variances can be requested pursuant to BMC 23.48.040.

BMC 23.48.040 Subdivision Variance

A. Variance. The hearing examiner may grant a variance from any term of this title, except minimum lot size, if it is shown that that proposal is consistent with the following criteria:

- 1. a. Because of unusual shape, the location of preexisting improvements, other extraordinary situation or condition, or physical limitation including, but not limited to, exceptional topographic conditions, geological problems, or environmental constraints, in connection with a specific piece of property, the literal enforcement of this title would involve difficulties, result in an undesirable land division or preclude a proposal from achieving zoned density; and*

In this particular case, there is an extraordinary situation related to the size of the larger BGCC property that was subdivided in 2020, and the resulting scope of improvement that would be required if all frontages were improved. The remainder parcel from the 2-lot subdivision is massive, and has extensive frontage along McLeod Road, which does not have any connectivity to the new development parcel that was created, does not provide any access to this parcel, and is not anticipated to be significantly impacted by traffic from the new development project. If the McLeod frontage improvement were required, this would result in over 2,500 linear feet of $\frac{3}{4}$ frontage improvement along McLeod. This improvement would trigger storm water management facilities separate from the project area. The cost of this total improvement would be immense and would have no correlation to the project impacts. This cost would make it infeasible to develop the proposed project on the new development property, which is already incorporating improvement to all of the Meridian frontage into the project design. This improvement would effectively render the project financially infeasible and as such a literal enforcement of the title would preclude the project from proceeding and therefore preclude the project from achieving the zoned density. Zoned density in this RM area is "High". In the High designation there is a minimum density of 3,599 square feet per unit, resulting in a minimum of 49 residential units on the site. This density could not support the cost of the McLeod improvements, nor could the proposed density of 68 units. Due to the unusual size of the original parent parcel, and the extensive street frontage, situated a great distance from the project area, an extraordinary condition exists that warrants a variance.

- 2. The granting of the variance will not be unduly detrimental to the public welfare nor injurious to the property or improvements in the vicinity and subarea in which the subject property is located.*

The proposed variance will not be unduly detrimental to the public welfare nor injurious to the property or improvements in the vicinity. The project includes full improvement to the entire Meridian frontage, including pedestrian facilities. These facilities will fill in a significant gap in pedestrian facility along Meridian, connecting from an existing WTA bus stop at the north end of the original parent parcel all the way along Meridian to the intersection with Birchwood. This intersection is planned to be improved with a large roundabout, from which pedestrian facilities

will extend to Cornwall Park to the southeast. The proposed Meridian improvement will enhance pedestrian connectivity in the area and complete a large gap in the system, improving the neighborhood. There is no physical connectivity from the project site area to McLeod Road, and it is unlikely that pedestrian improvements along McLeod Road would contribute significantly to access to Northwest Avenue to the west. The majority of commercial and retail uses along Northwest Avenue to the west are concentrated near the intersection of Northwest and Birchwood. There is existing sidewalk along Birchwood from the project area to Northwest. The proposed improvements along Meridian will therefore create connectivity from the site and for pedestrians coming from the north along Meridian directly to Birchwood and then to the commercial areas along Northwest. As a result, the variance will not impact pedestrian access to Northwest. The variance will also facilitate the financial viability of the proposed project, which will add 68 units to an underdeveloped infill site located in an area with unlimited "High" density and existing utility infrastructure sized to accommodate the development. Infill of this property is consistent with the Comprehensive Plan, specifically goals and policies related to Land Use, Housing and Transportation. Projects that contribute to the implementation of the Comprehensive Plan are in the public interest and contribute to the public welfare. Adding unnecessary cost to projects, for improvements that do not directly correlate to the impacts from the project and will increase the cost of the units to the end user, is not consistent with the City's housing affordability strategies. For these reasons the variance request is consistent with this criteria and should be approved.

