2706 MILL AVENUE
MILL AVENUE ITK TOWNHOUSE
DEVELOPMENT

I. Subject Site / Properties Information

Address: 2706 Mill Avenue, Bellingham, WA 98225
Tax Parcel Number(s): 370306 102114 0000
Owner(s): Chili Peppers LLC, PO Box 446, Lynden, WA 98264-0446
Applicant: AVT Consulting LLC, 1708 F Street, Bellingham, WA 98225
Agent(s): Same as Applicant

II. Subject Site / Property Description

The subject property is made up of two parcels, located north of Donovan Avenue, south of Douglas Avenue, west of Interstate-5 and east of 24th Street, at 2706 Mill Avenue in Bellingham, WA (the "Property"). The Property is approximately 167,928 square feet, or 3.85 acres in size. It is located within Section 04, Township 37 North, Range 03 East, W.M.

The Property is located within the Happy Valley Neighborhood, in Area 7, with a Residential Single zoning designation. Use qualifiers for this zone include Detached and Cluster Attached, with 15,000 sq. ft. density minimums for detached lots and 5,000 sq. ft. minimum for cluster lots. Special conditions for this zone include floodplain, stream setbacks, clearing, buffer along Connelly Creek wildlife habitat corridor, I-5 and boundary of Area 3.

The Property is currently developed with a single-family dwelling, detached garage, sheds, and barn. The site is vegetated with a mix of ground cover, pasture grass, shrubs, and trees. There are wetlands located within the Property. A wetland delineation site visit was conducted by Miller Environmental Services on November 1, 2022, and three wetlands, Wetland A, B, and C were delineated on the Property.

Mill Avenue is paved approaching the Property but has not been improved with full width travel lanes, curb, gutter, or sidewalks. Water and sewer utilities are located in Mill Avenue. Sewer is also located adjacent to the property to the south (Varsity Place). Storm water utilities are located in 27th Street and at the Fairhaven Self Storage property across the street to the north. There are two fire hydrants within 100 ft of the Property – one in front of the property to the east (2700 Mill Avenue) and one at the end of Mill Avenue (Mill does not go through to 32nd Street).

Neighboring properties to the west include residential uses in the form of single-family dwellings. The property immediately to the north has been developed with a commercial storage facility. The property to the east is the Connelly Creek Nature Area. Properties to the south have been developed with a mix of single family and multi-family residential uses.

III. Project Description

The proposed project will include the development of the Property with 15 Infill Toolkit (IT) townhouses. The existing single-family dwelling at 2706 Mill is proposed to be retained. The intent of the project design is to create a small community oriented around a central common space. Townhouses will be developed in five groups of buildings, clustered on the western portion of the property to avoid the wetlands and wetland buffer area to the east. Access to the site will be from a new private looped driveway extending south from the terminus of improved Mill Avenue. The driveway is proposed at variable width, with a 20' width

entering the Property, then two sections narrowing to 14' width, then widening again to 20' to provide fire and garbage turnaround. This looped driveway is proposed as a one-way access lane. In the center of the looped driveway there will be a large community open space area, improved with lawn, landscaping and trees. All the proposed townhouses will have front entries oriented to the internal drive lane with back porches/patios oriented to private rear yards or the preserved wetland and buffer areas. Each townhouse will have an attached garage and at least one driveway parking stall. Where the proposed lane is 14' wide, the driveways will be longer so that they can accommodate parking and an adequate maneuvering area. Garages will be setback from the lane to reduce their prominence. Landscaping will be provided around units, the looped driveway and the common area.

New water, sewer and storm water infrastructure will be installed. Water connection is proposed to Mill Avenue. Sewer connection is proposed to the south via an easement through the yard of an adjacent neighbor, to connect to the sewer in Varsity Place (this will allow for gravity sewer; if sewer is required to extend to Mill it will require pumping). Stormwater detention and treatment facilities will be provided on site, below grade in the common open space, with ultimate discharge to the east into the wetland buffer.

The project is proposed as an Infill Toolkit cluster subdivision. The overall base site density is 11 units and utilizing the 50% bonus allowance in BMC 23 for cluster/infill toolkit development the allowable site density increases to 16 units. Lot transition requirements will be met, as BMC 23.08.060(F)(1) allows for transition lots to be 80% of the abutting underlying zoning minimum lot size. The project is designed utilizing mitigation sequencing to predominantly avoid and minimize impacts to critical areas. Standard buffer reduction is proposed along the buffer of Wetland A (25%). However, in some areas, a limited additional buffer impact is proposed to accommodate 2 of the units, a vehicle maneuvering area, and the storm water outfall. The impacts for the units and vehicle maneuvering area result in a small area of indirect wetland impact. This buffer impact is in areas where the buffer is pasture grass. Mitigation will be provided on site in the form of buffer and wetland enhancement.

IV. Design Review

The proposed project is a multi-family residential development containing three or more dwelling units on a site and is therefore required to go through a design review approval process. Design of the buildings and site must be consistent with the Requirements identified in the City of Bellingham Multi-Family Residential Design Handbook (the "Handbook"). The Handbook identifies several requirements that must be met with the project design and also includes Guidelines that can be used to meet the Requirements. The following is a list of each Requirement in the Handbook with an accompanying discussion of how the building or site design incorporates the Guidelines and meets the intent of the Requirement. Individual Guidelines from the Handbook are not listed in this discussion**.** It should be noted that the project is an Infill Toolkit project consisting of townhouse development. The majority of the Design Review standards are not applicable or are marginally applicable and should be considered in the context of the proposed housing form.

I. SITE DESIGN

A. Orientation

Orient buildings to public streets and open spaces in a way that corresponds to the site's natural features and enhances the character of the street for pedestrians.

Comment: The existing single-family dwelling on-site is oriented towards Mill Avenue. The 15 new IT townhouse units will front a new private lane and will be assigned new addresses based off the name of this new private lane. Vehicular access to the townhouses will be from this lane, which will be accessed from Mill Avenue. The units will have front entries oriented to the new lane with pedestrian pathways connecting

each entry to the new flush sidewalk on the looped lane. Each unit entry will project out towards the lane from the house and garage so that they are more prominent than garages. The new townhouse units will have parking located in each of their driveways and attached garages. Vegetation will be planted next to the driveways to create some screening for the vehicles that park in the driveways of each unit. Additional landscaping around the perimeter of the site and unit entries will further enhance the pedestrian experience.

B. Neighborhood Connections

Provide functional pedestrian and vehicular connections to existing neighborhoods.

Comment: The Property is located at the end of Mill Avenue. There is only one approximately 257-foot section on Mill Avenue that has sidewalk, otherwise there are no existing pedestrian pathways on Mill. The project is requesting a variance to not install frontage improvements, including a sidewalk, along Mill Avenue along the northern frontage of the Property extending east, as this section of right of way is located within a critical area and dead ends into the Connelly Creek nature preserve. As an alternative, the Applicant is proposing to install a sidewalk adjacent to the Property, along the western edge of 27th Street, to provide a safer walking connection from Mill Avenue to Happy Valley Elementary School, in a location that would be more utilized by adjacent property owners and the residents of the proposed townhouse development. A variance for this infrastructure improvement is further addressed below. There is a transit stop located less than 900 feet to the west of the property, near the intersection of Mill and 24th Street. No bike lanes exist on Mill Avenue.

C. Parking Location and Design

Minimize the impact of parking facilities on the fronting street, sidewalk and neighboring properties by designing and locating parking lots, carports, and garages so that they do not dominate the street front.

Comment: The existing single-family dwelling that fronts on Mill Ave will have two tandem parking spaces provided on-site. The fifteen (15) new townhouse units will each provide two tandem parking stalls; one inside of the attached parking garage and the other located in the driveway in front of the garage.

D. Clearing and Grading

Preserve significant natural features whenever feasible and minimize changes to the natural topography.

Comment: There are critical areas located on the subject Property. Three wetlands were identified and delineated and incorporated into the proposed development plans. All three wetlands will be avoided entirely and buffer impacts will be minimized to only the outer 25% of the buffer. A critical area and mitigation report has been included with this application submission. The Property is relatively flat. The proposed buildings will be built at street grade. No significant changes will be made to the natural topography of the site.

E. Fences and Walls Adjacent to Streets

When using fences or walls, use designs and materials that will maintain a pedestrian scale along streets or public walkways.

Comment: There are no proposed fences or walls adjacent to the abutting streets.

F. Open Space and Recreational Area

Locate and design useable space to encourage its use for leisure or recreational activities.

Comment: Each lot will have a private front porch area, small front yard and rear yards that provide for leisure and recreation space. A common usable space area will also be provided at the center of the development, above the proposed stormwater vault, to promote community gathering. This area will be enhanced with lawn, landscaping and trees.

G. Mailboxes, Site Lighting, Bus Stops

Locate and design functions such as mailboxes and bus stops to promote ease of use and safety. Provide lighting adequate for the function without creating excessive glare or light levels.

Comment: A cluster mailbox will be located between Unit A.2 and B.1, along the east side of the lane, to serve all of the new townhouse units. Addresses for each unit will be clearly identified. There are two Whatcom Transit Authority stops located within 900' of the Property, at the intersection of Mill Avenue and 24th Street. Exterior lighting will be typical of residential single-family development and all lighting shall be shielded to reduce glare.

H. Trash and Recycling Storage

Provide adequate screening for trash and recycling facilities associated with multifamily developments.

Comment: Trash and recycling bins for each of the new townhouses will be kept in the attached garages and will be wheeled out to the curb on pick-up day. A letter from SSC has been included with this application narrative.

I. Landscape Design – Overall Project

Provide landscaping that is in scale with the buildings and spaces, and compliments the function of the space.

Comment: Landscaping in the form of ground cover, shrubs and small trees will be provided around the proposed development, open space, and parking areas. The remainder of the site will be preserved (critical areas and buffers) and enhanced with mitigation plantings. Street trees will be provided along the new lane and along a portion of the frontage on Mill Avenue.

J. Landscape Design – Parking Areas

Use landscaping to help define, break up, and screen parking areas.

Comment: The existing dwelling and parking area will remain as is. There will be landscaping planted around the new townhouse units and their parking areas. There will be an open greenspace centrally located that will consist primarily of grass with perimeter landscaping, including trees; this area will be maintained as usable space.

K. Signs

Minimize the amount of signage needed to identify the multifamily development.

Comment: The building addresses will be clearly visible from the street. No other signage is proposed at this time.

L. Sidewalk Design

Design sidewalks to be consistent with the existing or proposed street design for the subject area.

Comment: Sidewalk infrastructure is proposed for a portion of the Property along Mill and for the new looping lane. A Variance has been included with this application requesting that the eastern portion of the property along the Mill Avenue right of way not be improved to not disturb the existing critical areas. The Applicant is proposing to construct sidewalk along the western edge of 27th Street extending north to connect to Happy Valley Elementary school. This is further addressed in the Variance narrative in Section VII below.

M. Site Drainage

When open storm water facilities are proposed to be located on the site, minimize negative impacts on natural site features and incorporate them into the overall landscape scheme.

Comment: No open storm water facilities are proposed in this design. A stormwater detention vault is proposed to be centrally located, beneath the common usable space area, and runoff from the proposed development will be collected and treated on-site via the proposed vault.

II. BUILDING DESIGN

A. Neighborhood Scale

The scale of those portions of the building facing an existing developed neighborhood shall conform to the scale established in the neighborhood or the scale identified for the district.

Comment: The neighboring properties and those in this area of the Happy Valley Neighborhood are developed with a mix of one-story to two-story residential single-family buildings. The proposed buildings are similar in height, bulk and mass to existing development in the district.

B. Neighborhood Compatibility

New buildings should reflect some of the architectural character of surrounding buildings when locating in a neighborhood where the existing context is well defined.

Comment: The character of this area is defined by a variety of single -family structures from different eras. Varied finish materials, roof pitches, building modulations and scale are present in the neighborhood. As designed, the townhouses share many design features with surrounding developed properties and are consistent in character with the development in the neighborhood.

C. Privacy

Orient buildings to provide for privacy, to the extent practical, both within the project and for adjacent residential uses.

Comment: The proposed townhouses will have small front and rear yards. These areas will be screened with vegetation.

D. Facade and Articulation

Use architectural features that break up blank, flat walls and roofs and give the building a human scale.

Comment: The townhouses will be modulated and will use a variety of different colors and materials to provide a more human scale.

E. Windows

Provide articulation of the building facade by using well-proportioned and spaced windows.

Comment: Window spacing and sizing is similar to and consistent with those used in other residential developments in the area. Most of the windows are proportioned vertically and will be to human scale.

F. Building Foundations

Design a building foundation to blend visually with the site.

Comment: The townhouse foundations will be primarily below or at grade, and not visible from the street. However, additional landscaping will be used around the townhouse units, parking spaces, open and private useable spaces to help soften any potential exposed foundation locations.

G. Entries

Clearly define the main entrance of a building, orient it to a pedestrian walkway and enhance safety through lighting and visibility.

Comment: The main entrances of the townhouse units will be oriented towards the new looped lane. These entries will have direct sidewalk connection to the sidewalks. Lighting will be provided on the front porches to enhance safety and visibility.

H. Building Materials

Use durable exterior finish materials that provide visual detail, reduce the perceived scale of the building through texture or pattern and appear similar to those used in the neighborhood.

Comment: The proposed exterior finishes of the townhouses will be durable and will provide visual detail. Buildings within the surrounding area do not have consistent exterior finish materials or colors, with a mix of wood siding, stucco, metal, and other materials. The proposed materials – fibre-cement siding, and composition roofing – are durable, include details, and draw influence from the surrounding buildings. They are consistent with development in the area.

I. Garages and Accessory Buildings

Design garages and carports in a way that does not dominate the streetscape or obscure building entries. Accessory buildings shall be subordinate in scale to the main buildings.

Comment: The attached garages will be set back from the front face of the townhouse units so that they do not dominate the streetscape or obscure the building entries.

J. Additions to Existing Structures or Site with Existing Buildings

When retaining existing structures, incorporate them into a project in a way that preserves their integrity and contributes to a desirable neighborhood character.

Comment: The existing single-family dwelling on the Property will be retained. All other accessory buildings and structures will be removed. The existing residence fronts the public street and screens the majority of the development; from the street, the view of the Property will not be substantially altered.

V. INFILL TOOLKIT

Chapter 20.28 Infill Housing

The project is being proposed as an Infill Toolkit project pursuant to BMC 20.28. The homes are being proposed as "townhouses" and must be shown to be consistent with the applicable criteria from BMC 20.28.050 and 20.28.140. The following is a discussion of the applicable Infill Toolkit Standards.

BMC Section 20.28.050 General Standards

A. Pedestrian-Oriented Design.

Comment: The fifteen (15) new Infill Toolkit Townhomes will front onto the new lane. A minimum of two parking stalls are proposed for each townhouse unit; at least one stall in the driveway and the other located inside of the attached garage. Several townhouse units will have driveways large enough to accommodate two stalls. The parking will be screened from Mill Avenue by the location of the existing dwelling on Mill, the locations of the new townhouse units and with new landscaping. No alley access is available, therefore street/lane loaded garages are proposed. Pursuant to ITK regulations, the width of the garages and driveways are required to be proportionally less than the width of the dwelling unit. Units B – E do not currently comply with this standard and therefore a minor modification is being requested. The ITK also requires the maximum width of a driveway serving an individual unit that crosses a pedestrian facility associated with a street or lane to not exceed 12 feet. As proposed, only the A units meet this standard; units B - E units do not as their driveway widths are wider than 12', resulting in the need for a minor modification for these units.

B. Density

Comment: The subject Property is 167,613 SF in size and is within Area 7 with a Residential Single zoning designation. Per the zoning table in BMC 20.00, this Area requires a 15,000 SF minimum detached lot size and a 5,000 SF minimum cluster lot size. This results in a density of 11 units, however BMC 23.08.040(C) allows a maximum bonus of an additional 50 percent more lots, when at least one-half of the total units/lots proposed in the subdivision are developed with infill toolkit housing types. We are proposing to utilize the allowable density bonus, with the development of 15 new IT townhouse units (100% of the new density), with an existing single-family dwelling on-site, for a total of 16 units.

C. Lot Requirements.

Comment: There are no minimum lot dimensions, lot sizes or minimum street frontage requirements, however BMC 23.08.060(F)(1) requires lots created through a cluster land division to provide a transition of lot size when abutting property with a residential-single, detached zoning designation that is developed with single-family uses on fee simple lots. Lots 1-11 of the preliminary plat abut neighboring single family zoned properties and have been designed to comply with BMC 23.08.060(F)(1). The new subdivision lot sizes will range from 2,583 – 5,579 SF. The transition lots need to either be the smaller of the area of the existing developed lot(s) or 80% of the abutting underlying zoning minimum lot size, which is 5,000 SF.

Therefore, we have designed the plat to have lots 1-11 each at least 4,000 SF in size. The existing single-family dwelling on-site will be located on newly created Lot 1, which is 8,579 SF in size. BMC 23.08.060(F)(1) is also discussed below in the subdivision section of the narrative. All infill housing proposed will provide access to a public right-of-way.

D. Subdivision.

Comment: A 16-lot cluster subdivision is proposed. The plat will contain notice of all associated land use approvals.

E. Common Facilities

Comment: Legal documents identifying the rights and responsibilities of property owners and/or the homeowners' association for the use and maintenance of common facilities will be submitted for approval by the planning director and recorded and a note will be included on the plat.

F. Encroachments and Common Wall Development.

Comment: As the project includes common wall development, a joint agreement will be required to be signed and approved by the City of Bellingham and be recorded with Whatcom County Auditor's office.

G. Private Lanes, Common Pedestrian Corridors, and Alleys.

Comment: A new lane will provide access from Mill Avenue. The lane will loop and will vary in width from approximately 10'-20'. A 4' wide flush sidewalk will be provided around the perimeter of the lane. An access easement will be provided for the shared lane. Table 20.28.050 requires a Large Lane to be provided for developments with 6+ dwelling units and therefore a travel lane width of 12' is required, along with 4' of pedestrian pathways on both sides. As proposed, the minimum lane width for the proposed development drops to 10' and therefore a minor modification will be required from this standard. There are also sections of the lane that will not have 4' of pedestrian pathways on both sides, only one side, and therefore an additional minor modification will be required from this standard. The lane and common pedestrian corridor will be surfaced with a hard material and the 4' wide pedestrian path will be further delineated from the lane with a change in material and/or color. The proposed pedestrian paths will be flush with the travel lane. The lane is proposed to be one directional, to be used in a clockwise fashion. No parking will be allowed within the lane width.

H. Parking.

Comment: The IT townhouses will be 1,000 SF or over in size and will require two parking stalls to be provided. As proposed, each townhouse unit will provide at least one driveway stall and one garage stall. Driveway stalls will be tandem and therefore allowed in the front yard setback from the lane. All parking stalls will be 9' x 18' in size and all exterior driveway parking will exceed 18' in depth. No guest parking is proposed.

I. Landscaping and Fencing

Comment: No new fencing is proposed at this time. Landscaping will be located around the new development including around all units, private open spaces, along the lane, between driveways and front entries, and in the common open space area. Street trees will be required along Mill Avenue and along the new lane.

BMC 20.28.140 Townhouse.

A. Description. A townhouse is one of a row of homes sharing common walls, each with its own front and rear access to the outside.

Comment: Each of the 15 new townhouse units will have their own front and rear access to the outside.

B. Site Requirements and Setbacks.

Comment: The proposal is for 15 new IT townhouses and an associated 16-lot subdivision. Lots 2-16 will each be developed with an IT townhouse. Lot 1 will retain the existing single-family dwelling on the Property. All the townhouses will front the new lane. BMC 20.28.140 requires townhouses to be located 10' minimum and 20' maximum from the fronting street and to have minimum 5' side and 10' rear yard setbacks. Units A.1 and A.2 will be closer to the fronting street than 10' and therefore a front yard setback minor modification will be required. Unit E.4, due to the loop of the new lane, will be located over 20' from the fronting street and will also require a front yard setback minor modification. All other units will meet front yard setback requirements. The C, D, and E units will all be located over 10' from the rear property boundary line. The A and B units will be located less than 10' from the rear property boundary line and therefore a minor modification will be required. All units meet the required 5' side yard setback, where applicable, except that Unit A.1 is located next to Mill Avenue right-of-way and will therefore require a 10-foot setback (flanking) instead of a 5-foot setback. As proposed the A.1 townhouse is located 5' from the Mill Avenue right-of-way and therefore a minor modification is being requested for this unit. BMC 20.28.140(B)(2) additionally requires that garages be set back at least four feet from the street face of residential buildings and all 15 IT townhouses are set back at least 7 feet from the street faces.

The location of the existing single-family dwelling is not changing and therefore the front (38.4') and one of the side yard (39.3') setbacks will not be changing. There will be a new rear yard setback of 14.5' and a new side yard setback of 5' feet. These setbacks meet applicable residential single requirements.

C. Bulk and Massing.

Comment: There are no more than 8 units attached. The proposed FAR is .20. All townhouses will be less than 35 feet in height.

D. Usable Space, Open Space and Landscaping.

Comment: Per BMC 20.28.140(D), each dwelling unit is required to provide 200 square feet of private usable space or the private usable space can be consolidated and provided as common usable space. As proposed, all units will have small front yard and rear yard spaces provided (approximately 12,084 SF) and private rooftop deck spaces, however we are proposing to provide 4,843 SF of common community area that each unit will have direct access to. As a result, all usable open space requirements will be exceeded. The project will provide 73.8% open space. A green factor score of .410 is proposed.

E. Parking

Comment: All parking shall be provided pursuant to BMC 20.28.050(H), which requires infill housing over 1,000 SF in size to provide two on-site parking stalls. As proposed, each new IT townhouse will be over 1,000 SF in size. Each IT townhouse will provide two or more on-site parking stalls. Townhouse Units B, C, D, and E will each provide two surface parking stalls and two garage parking stalls, for a total of 52 parking stalls. The "A" townhouse Units will only provide one garage stall and one surface parking stall.

This will result in an overall parking stall count of 56 stalls, whereas the code only requires 30 stalls to be required.

F. Design Standards

Comment: Each townhouse unit will face the new private lane and flush pedestrian corridor. Each IT townhouse will have its own entrance. Each unit will have a covered main entry that is at least 40 SF in size, with no dimension less than 5 ft. The townhouse units are modulated at least four feet, with the garage wall being set back from the front wall of the units. The Applicants met with SSC and discussed garbage and recycling pick-up and a letter has been provided from SSC stating that the garbage and recycling bins will be kept inside of the attached garages and will be taken out to the curbs on pick-up day and not consolidated.

G. Design Guidelines

Comment: The new IT townhouses will be two stories in height and will have covered front porch entrances with a mix of exterior colors and materials to create modulation and visual interest. The units will be designed with similar materials to those used on surrounding developments. With the exception of the A units, it is unlikely that the garage doors will be visible from Mill Avenue, however vegetation will be planted between each garage entrance for screening purposes. The garage doors will have small windows. Landscaping will also be planted around the new property boundary lines and common space area to create privacy from neighbors.

Minor Modification Requests from BMC 20.28

The overall project will require compliance with BMC 20.28 for Infill Housing. As proposed, the new Infill Toolkit townhouses comply with the majority of the applicable requirements in 20.28, however there are four minor modifications that are necessary, related to driveway width, lane width, and setbacks. The project does not comply with the following specific standards:

- Table 20.28.050 requires a Large Lane to be provided for developments with 6+ dwelling units and therefore a travel lane width of 12’ is required, along with 4’ of pedestrian pathways on both sides. As proposed, there are sections of the lane that drops below 12’ in width and there are locations where there is only a 4’ flush sidewalk on one side of the lane, not both.
- BMC 20.28.050(A)(4)(a) requires the width of garages and driveways accessing a street or lane to be proportionally less than the width of the dwelling unit. Buildings B-E do not comply with this standard. Buildings B-E are 42’ in width and the garages are 21’6” in width.
- BMC 20.28.050(B) requires the maximum width of a driveway serving an individual unit that crosses a pedestrian facility associated with a street or lane to not exceed 12’. The A units driveway widths meet this standard; however the B, C, D and E units do not; the driveways for these units are wider than 12’.
- Setback modifications:
  - Figure 20.28.140(A) requires a 10’ minimum setback from the fronting street. Units A.1 and A.2 will only be located 6’ feet from the fronting lane.
  - Figure 20.28.140(A) requires a 20’ maximum setback from the fronting street and unit E.4 is located 28’ from the fronting street.
  - IT Townhouse unit A.1 is proposed to be located on newly created lot 16, which is adjacent to the Mill Avenue right-of-way. Figure 20.28.140(A) requires a 10’ minimum setback to a side street. As proposed, Unit A.1 is located 5’ from the Mill Avenue right-of-way.

- Figure 20.28.140(A) requires a 10' rear setback when no alley is present. IT townhouse "A" and "B" units will be located 5' and 5.5' from the rear property boundary lines.

Per BMC 20.28.030(B):

"*Applicants may request minor modifications to the general parameters and design standards set forth in this chapter."*

Modifications must meet two specific criteria; an inline response to these criteria is provided below, which addresses the three minor modifications to the above infill toolkit criteria.

1. a. The site is constrained due to unusual shape, topography, easements, sensitive areas, the location of pre-existing improvements, or other extraordinary situation of condition, or

b. *The granting of the modification establishes a better development pattern found to be compatible with adjacent development (existing and anticipated) including, but not limited to, pedestrian-oriented development, setbacks, lot orientation, or other contextual elements associated with the proposed development; and*

Comment:

- As this criterion pertains to the driveway and garage widths, the design is the result of unique site conditions, specifically that there is limited available on-street parking in the vicinity and that critical areas limit the available development footprint. The driveways are proposed to be wider than 12' because this permits additional overflow parking in the driveway (2 stalls). There is no street parking in the vicinity, which is a unique condition, and warrants the provision of additional on-site parking for guests, deliveries, etc. The on-site critical areas reduce the space available for development and limit land that could be utilized for guest parking. If guest parking were provided along the proposed lane, it would not reduce the length of driveways and would force the development footprint further east on the site, generating more critical areas impacts. The least impactful approach to address additional guest parking is to provide it in wider driveways. This design is driven by these unique circumstances but also generates a better development pattern (surrounding single family development does not have a driveway width restriction, so the design is not out of character for the area, and pushing overflow parking into the neighborhood would negatively impact surrounding property owners). The width of the garages are 6" over what would be considered as "proportionately less" than the width of each townhouse unit. This is necessary as the garage must have shear walls on either side that meet a certain width. With the proposed garage door width, these shear walls push the total "garage" wall width just over 50%. This design does not change the intent of the code as the garage will still appear proportionally less as the garage door is only 18' in width and the garage will only be one story in height, in comparison to the townhouse itself, which will be two stories in height.
- As this criterion pertains to the lane design, the design is the result of unique site conditions, specifically the limited available development footprint due to critical areas and the unique shape of the development footprint resulting from these conditions. These conditions encourage a looped lane design, which can be one-way, and therefore limit the need for the full width. In addition, due to the interior of the loop being a common space, accessed directly from each unit across the lane, it makes sense not to have sidewalk on the interior of the lane. If a full width lane were required, with sidewalk both sides, it would push the development footprint east, resulting in unnecessary critical areas buffer impacts and sidewalks that do not provide service to any specific unit. The proposed lane design helps to establish a better development pattern within the developable area on site.
- As this criterion pertains to the unit setbacks, the design is the result of unique site conditions, specifically the limited available development footprint due to critical areas and the unique shape of

the development footprint resulting from these conditions. The area of land available for development between the existing residence and the critical areas buffers near Mill Ave is too narrow to provide full setbacks for these units without more critical areas impacts. Furthermore, the A.1 end cap unit, while side flanking, is adjacent to a portion of Mill Ave that is proposed to be retained in a natural state (see Variance discussion below); this is a unique condition that limits the need for a larger 10' side flanking setback. Unit E.4 is located on the corner of the internal looped lane, and due to this unique location on the lane, a larger than 20' setback is warranted. The design facilitates the minimum critical areas impacts necessary for development.

2. The modification is consistent with the purpose and intent of this chapter.

Comment: The purpose of the chapter is to "*implement comprehensive plan goals and policies encouraging infill development, more efficient use of the remaining developable land, protection of environmentally sensitive areas, creating opportunities for more affordable housing and increasing housing choice and diversity".* All the modifications that are proposed help to facilitate the infill of the maximum allowable density on this site, resulting in the most efficient use of the City's remaining developable land, while also reducing impacts to environmentally sensitive areas. The design includes retention of the existing single-family residence, and the provision of 15 new townhouse units, a housing form that is more affordable than detached single family and is not available in this area today. If the modifications were not approved the project would be required to either expand the development footprint, generating more critical areas buffer impacts, or reduce density. Neither of those results would be consistent with the purpose of the chapter. facilitate infill development that is in scale and character with surrounding development, and that efficiently utilizes existing infrastructure.

VI. Subdivision Criteria

Chapter 23.08 Plat Design, Lot Standards and Improvement Standards

The proposed project is for 15 new Infill Toolkit Townhouses, which will each be located on their own lot, plus an existing single family residence on a separate lot, therefore requiring a 16-lot subdivision (preliminary plat). As a result, the subdivision will need to be consistent with the subdivision criteria in BMC 23.08 and 23.16, which is further addressed below.

BMC 23.08.030 Performance Standards

Any subdivision of land is required to meet certain performance standards outlined in BMC 23.08.030. The following is a discussion of these standards and the project's compliance with them.

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 subject Property is located in the Happy Valley Neighborhood in Area 7, which has a Residential Single zoning designation that allows 15,000 SF min. detached lot sizes or 5,000 SF min. cluster lot sizes. Although there are no specific goals or policies for Area 7, Policy-53 for the Happy Valley Neighborhood as a whole encourages "*development of a variety of housing types and densities to support a diverse residential population.*" The proposed townhouses allow for higher density in a condensed area of the Property, while allowing the critical areas to the east on the Property to be protected, meeting HV

Policy-12, which encourages restoring and enhancing Padden and Connelly Creeks *"by planting native vegetation along their corridors, increasing development setbacks, and preserving adjacent wetlands".*

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 project is designed to avoid and minimize impacts to onsite critical areas. Three wetlands were identified on the Property, and as designed no direct or indirect impacts are proposed, and limited buffer impacts are proposed. Mitigation is provided for these buffer impacts, including new plantings and preservation measures such as fencing, signage and a conservation easement. Furthermore, a variance is being requested in order to avoid improvements to Mill Avenue right of way along the north property line. The variance effectively increases the preservation of natural features and limits direct impacts that would otherwise be required for the right of way improvements. The area proposed for development is predominantly lawn and pasture area; no significant trees are located in this area or proposed for removal.

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: All development will need to comply with appropriate grading plans including SWPPP, TESC and other BMP's and these additional exhibits will be submitted at the time of Building Permit submittal for each of the new townhouse units. Existing grades are followed to the degree possible, and no excessive use of retaining walls will occur.

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: New dedications will be required for the public utilities within the project. No parks and recreation dedications are proposed. An easement for a sewer extension to the south has been acquired from a neighboring property.

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: The new looped lane for the project will provide a 4' flush pedestrian pathway throughout, connecting all units to Mill Avenue and to common facilities within the project. The proposed project will also require the Mill Avenue right-of-way fronting the western developed portion of the Property to be improved with sidewalks. Due to the locations of critical areas on-site and off-site to the east, a variance to not improve the eastern portion of Mill Avenue right-of-way along the undeveloped portion of the Property is proposed. This variance is further addressed below. In lieu of this improvement and as mitigation for the variance, the project proposes to create new offsite sidewalk improvements along the eastern side of 27th Street, which will create a safer walking route to nearby Happy Valley Elementary School for the neighborhood.

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).

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: A new private lane will connect to Mill Avenue with both vehicular and pedestrian facilities. The lane will be one way to maximize safety for all modes of transportation and will include adequate pedestrian facilities. New street trees will be installed along the existing and proposed street frontages, including along the lane.

BMC 23.16.030 Decision Criteria

In addition to compliance with the performance standards, any subdivision is required to show compliance with Decision Criteria identified in BMC 23.16.030. The following is a discussion of the project's compliance with these decision criteria.

A. A short subdivision application shall be given preliminary approval, including preliminary approval subject to conditions, upon finding by the director 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 has been designed to be largely consistent with the applicable provisions of Title 23, the Comprehensive Plan, and all applicable sections of the BMC, including but not limited to those related to lot size, setbacks, building envelope, performance standards, utility and road abutment, environmental, and others. Where minor modifications have been requested from the Infill Toolkit Standards, all relate to the proposed townhouse development. The project represents context sensitive infill on an underdeveloped lot, with a design that limits critical areas impacts to the maximum extent possible and is in character with surrounding development. The project includes off site pedestrian facilities desired by the neighborhood, which create safe connections for residents to access the nearby elementary school. This is entirely consistent with the Land Use and Housing Chapters of the Comprehensive Plan and is not in conflict with any other Chapter of the Comprehensive Plan. One variance is requested, which is associated with required street frontage improvements, and is intended to reduce critical areas impacts associated with the project. This variance has been requested concurrently with the plat.

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

Comment: The preliminary plat is entirely consistent with the provisions of Chapter 23.08 BMC, except for 23.04.090, which requires the installation of public infrastructure for land divisions that create 5 or more lots along the frontage of the Property. We are proposing to not improve the Mill Street right-of-way along the east frontage of the Property and are therefore requesting a Variance, which is further addressed in the narrative below.

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 preliminary plat is designed to fit in with the existing infrastructure of the neighborhood. Roads and utilities already serve the Property and can adequately serve the proposed lots. Nothing in the design of the subdivision will preclude the orderly future extension of services in the area, as they are needed.

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 and meet applicable development criteria. A variance is being requested with regards to the Mill Avenue frontage improvements and is further addressed below. Minor modifications are also being requested from Infill Toolkit standards in BMC 20.28, relating to the townhouse units. The variance is being requested concurrently with the plat.

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;

Comment: All provisions listed are adequately met. The project will provide adequate open space. Water is located in Mill Avenue. Sewer is located to the south and will be extended north to the Property. An underground stormwater vault will be provided under the common open space area for the project, with a storm drain distributing runoff into the adjacent wetland after detention and treatment. The existing single-family dwelling is already hooked up to utilities. The new IT townhouse units will have all new utilities. A flush pedestrian pathway will be located along the new looped lane. The nearest recreation area is the Connolly Creek Trail, located to the east of the Property. The Property is within the Happy Valley Elementary, Fairhaven Middle, and Sehome High School Districts, the closest school located 330 feet from the Property. The school bus stop for Fairhaven Middle School is located at the intersection of Donovan Avenue and 30th Street, approximately .8 miles away. There are no school bus stops for Happy Valley or Sehome High School, as the Property is considered to be within walking distance of these schools. We are proposing to improve the western side of 27th Street with a new sidewalk to create a safer connection to Happy Valley Elementary and to Sehome High School.

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 proposed Subdivision will serve the public use and interest and is consistent with public health, safety, and welfare. It is consistent with applicable zoning regulations, Neighborhood Plan standards and other relevant codes and will facilitate the infill of 15 units within an existing developed neighborhood.

VII. Variance Request

The proposed design incorporates a single variance from the standards in BMC 23 related to road frontage improvements. BMC 23.08.070, Public infrastructure, dedications and improvement requirements, states:

B. Street Standards. All rights-of-way within and abutting a land division shall be improved in accordance with BMC Title 13.

In this case, the Property abuts Mill Avenue right of way along the entire north property line. Mill Ave is improved along the west approximately 100' of the frontage, to a minimum standard, and is unimproved over the remaining east approximately 460'. The relevant code requires the entire right of way to be improved to a ¾ standard, with full width travel lanes, curb, gutter and sidewalk on the abutting side. The project design includes improvement of Mill Ave from the new proposed lane to the west, however the remaining portion of the right of way from the new proposed lane to the east is proposed to remain in its existing condition (no improvements). This results in the need for a variance from the improvement requirement. Variances such as this can be requested pursuant to BMC 23.48, with two criteria needing to be met pursuant to BMC 23.48.040.A.1 and 2. The proposed variance is consistent with these criteria and should be granted.

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, 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

Comment: The section of Mill Avenue right of way in question is unique in two ways, first it is almost entirely encumbered with wetlands and buffers, and second, it dead ends into the Connelly Creek Nature Area with no ability to connect through to the east to the nearest developed street (32nd Street). The critical areas and existing preserved natural areas to the east of the Property constitute physical limitations that make extension of the road unnecessary and unreasonable and would generate significant difficulties. The Connelly Creek Nature Area is an important preserved area in the Happy Valley Neighborhood providing wetland and stream protection, habitat corridor and stormwater attenuation functions. If the standard frontage improvements were required a new public road would need to be extended over 400' into the heart of the preserved area, resulting in direct wetland fill and significant buffer impacts. This road would dead end in the preserved area and would provide no vehicular or pedestrian connection to any other undeveloped properties. There are existing pedestrian connections from this area of Happy Valley to the trail system in the Nature Area via McKenzie Avenue one block to the south so there is no need to extend additional pedestrian facilities through the right of way, as these would also generate unnecessary critical areas impacts.

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.*

Comment: The proposed variance will not be unduly detrimental to the public welfare nor injurious to the property or improvements in the vicinity. There is no need for a public infrastructure improvement in this area for vehicular or pedestrian purposes. There is no need for a vehicular connection for life safety or circulation purposes. There are existing pedestrian connections to the existing trail system just to the south on McKenzie Avenue. The construction of this "infrastructure to nowhere" will generate significant critical areas impacts in an area already set aside to be preserved, will add significant cost to the project, impacting the affordability of the finished homes, and will result in public infrastructure that will need to be maintained in perpetuity by the City. None of these outcomes are in the public interest or contribute to the public welfare; contrarily all these outcomes will generate detrimental impacts to the public welfare and are inconsistent with relevant Comprehensive Plan goals and policies from the land use, transportation and environment chapters. The applicant recognizes that with approval of the variance they will no longer be obligated to make a public infrastructure improvement that they would otherwise be required to expend resources towards, and considering this, have voluntarily proposed to make a pedestrian improvement along 27th Street off site to the north. This improvement will fill in a public sidewalk gap and create a direct pedestrian connection from the Property to Happy Valley Elementary school. The neighborhood, during the neighborhood meeting, and in a subsequent site visit organized by the applicant, expressed concern about this gap in the system and the lack of sidewalks in general in the vicinity, and requested that the applicant pursue some form of offsite pedestrian improvement. The proposed improvement is the most effective from a circulation standpoint and is offered in good faith to address the potential for detrimental impacts from the project in the neighborhood. This improvement can be viewed as mitigation for the variance.