



## STAFF REPORT TO HEARING EXAMINER

<b>TO:</b>	City of Milton Hearing Examiner
<b>FROM:</b>	Brittany Port, AICP – Contract Senior Planner
<b>DATE:</b>	August 17, 2020
<b>PROJECT:</b>	Gorbun Preliminary Plat
<b>PROJECT NUMBER:</b>	LUA 2019-0019
<b>APPLICANTS/PROPERTY OWNERS:</b>	PNW Home Buyer, LLC (253) 691-2049 Attn: Igor Gorbun <a href="mailto:pnwhomebuyer@gmail.com">pnwhomebuyer@gmail.com</a> 2110 104 <sup>th</sup> Ave Ct, #E-205 Edgewood, WA 98372
<b>PROPOSAL:</b>	<p>The applicant proposes to subdivide the 1.58 acre parcel into six lots and a private road tract. The average lot size is 8,992sf. 30 feet of right-of-way will be dedicated along the site's 23<sup>rd</sup> Avenue frontage, and half street road improvements will be constructed.</p> <p>An existing home on the site will be demolished. A stormwater vault within Lot 1 will manage stormwater from the proposed subdivision as BMPs designed for infiltration were deemed infeasible due to the results of the soils report and depth to groundwater. All stormwater facilities will be maintained by an HOA.</p>
<b>LOCATION:</b>	308 23 <sup>rd</sup> Ave (Pierce County Assessor parcel no. 0420041048)
<b>PERMITS REQUESTED:</b>	Preliminary Subdivision Approval, SEPA
<b>ZONING/COMPREHENSIVE PLAN DESIGNATION:</b>	Residential (RS)
<b>DATE APPLICATION DEEMED COMPLETE:</b>	The application was received on November 15, 2019. The application was deemed complete on December 2, 2019.
<b>PUBLIC NOTICE:</b>	Pursuant to MMC 17.72, the City advertised the Notice of Application and Notice of Neighborhood Meeting on December 14, 2019. The City published notification of the public hearing on August 12, 2020, more than fifteen days prior to the date and time of the hearing.
<b>SEPA:</b>	A Mitigated Determination of Non-Significance was issued on June 12, 2020. The appeal period expired July 10, 2020. There were no major comments and the determination was not appealed.
<b>RECOMMENDATION:</b>	Staff recommends approval with conditions.

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**I. EXHIBIT**

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1. Master Application, received on November 15, 2019
2. Pre-Application Conference Summary, dated October 9, 2019
3. Title Report, prepared by Chicago Title Company, dated October 31, 2019, received on November 15, 2019
4. Certificate of Power Availability, dated November 7, 2019, received on November 13, 2019
5. Certificate of Water Availability, received on November 13, 2019
6. Site Specific Sewer Availability Letter, dated November 8, 2019, received on November 13, 2019
7. SEPA Checklist, dated November 15, 2019, received on November 15, 2019
8. Survey & Site Plan, received on November 15, 2019
9. Tree Protection Plan, prepared by WCFI, received on November 15, 2019
10. Notice of Complete Application, issued on December 2, 2019
11. Notice of Application, issued on December 14, 2019
12. Comen Comment Letter, dated December 18, 2019
13. Velichko Comment Letter, dated December 21, 2019
14. Smith Comment Letter, dated January 3, 2020
15. Notice of Neighborhood Meeting, issued on January 4, 2020
16. Burke Comment Letter, dated January 14, 2020
17. 1<sup>st</sup> City Substantive Review, issued on February 12, 2020
18. Revised Preliminary Plat & Preliminary Storm Drainage Plan, prepared by Apex Engineering & Associates, received on April 20, 2020
19. Preliminary Stormwater Site Plan, prepared by Apex Engineering & Associates, received on April 20, 2020
20. SEPA Mitigated Determination of Non-Significance, issued on June 12, 2020
21. Comments on SEPA MDNS from Department of Ecology, dated June 24, 2020
22. Comments on SEPA M DNS from Tacoma-Pierce County Health Department, dated July 1, 2020
23. Notice of Public Hearing, issued on August 12, 2020

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**II. EXISTING CONDITIONS**

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**A. HISTORY**

Previously, a single family residential home was located on the 1.58 acre property, which has since been demolished. The property is located at 308 23<sup>rd</sup> Ave. The site is primarily lawn with shrubs and 64

significant trees existing on site, 10 of which will be retained with 11 trees to be planted as street trees, and additional replacement trees to be specified upon submittal of a landscape plan.

**B. CONTEXT**

The Comprehensive Plan and Zoning designations for the site are Residential (RS).

**C. SURROUNDING LAND USES**

DIRECTION FROM SITE	ZONING/COMPREHENSIVE PLAN DESIGNATION	EXISTING LAND USE
<b>NORTH</b>	Residential (RS)	Single-family Residence
<b>SOUTH</b>	Residential (RS)	Single-family Residence
<b>EAST</b>	Residential (RS)	Single-family Residence
<b>WEST</b>	Residential (RS)	Single-family Residence

**Figure 1: Aerial Photograph**





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**III. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

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The City issued a SEPA Mitigated Determination of Non-Significance on June 12, 2020. The MDNS contained nine (9) mitigation measures which are also recommended as conditions of approval in Section XII of this staff report.

The City received two (2) comments on the Mitigated Determination of Non-Significance during the 14 day comment period, from the Department of Ecology and the Tacoma Pierce County Health Department. These comments are included as an exhibit to this staff report.

The City did not receive any appeals of its SEPA determination.

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**IV. AUTHORITY OF THE HEARING EXAMINER**

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**17.71.050 Specific – Process types.**

[...]

6. Decision-Maker/Criteria.
  - a. The hearing examiner is the decision-maker for a Process Type IV process application. The hearing examiner shall approve a project, or approve with modifications if the applicant has demonstrated the proposal complies with the applicable decision criteria of the Milton Municipal Code and all applicable development standards. The applicant carries the burden of proof and must demonstrate a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the hearing examiner shall deny the application.

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**V. COMMENTS FROM THE PUBLIC ON THE PROPOSAL PRIOR TO HEARING**

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**A. NEIGHBORHOOD MEETING**

On January 22, 2019 the City held the required neighborhood meeting in the City Council Chambers. Notice was given in accordance with MMC 17.71.090, and several members of the public attended, in addition to the owner of the property, and the applicants engineer. In attendance from the City were Nick Afzali (Public Works Director), Jamie Carter (City Engineer), and Brittany Port (Contract Senior Planner).

After a brief introduction of the project by City staff, the applicant presented their project and answered questions from the public and City staff. The meeting was adjourned at approximately 6:45, 45 minutes after it had commenced. Some of the questions asked/comments raised are included as follows:

- How will the stormwater for the subdivision be managed?
- Will the trees on the property line be retained, and if not, how will the trees on adjacent properties be protected from wind?

**B. WRITTEN COMMENTS**

The City received four written comments on the proposed project from the public. The four comment letters are included as exhibits to this staff report.

**VI. CONSISTENCY WITH THE COMPREHENSIVE PLAN**

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The following comprehensive plan policies support the proposal:

**A. LAND USE ELEMENT**

- Goal RE 2 Residential development where allowed should be of high quality design and should be consistent with the character of Milton.
  
- Pol. RE 2.2 The Single-Family (RS) land use designation and zoning district is intended to help preserve the City’s pattern of larger lot residential neighborhoods. Uses allowed within this category include single-family homes, accessory dwelling units, and mobile home parks. The net density for this category shall not exceed four to six dwelling units per acre.

**B. HOUSING ELEMENT**

- Goal 2 Maintain the City’s small town character and protect existing single-family neighborhoods.
  
- Pol. 2.1 The city’s land use and housing plans should strive to maintain the predominantly single family residential character of Milton while ensuring adequate capacity to accommodate growth forecasts.
  
- Pol. 2.2 New development should be consistent with the character of existing neighborhoods.
  
- Pol. 2.7 New divisions of land should be laid out and designed in such a way as to preserve neighborhood cohesiveness and match the existing housing pattern.

**VII. CONSISTENCY WITH ZONING REGULATIONS**

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**A. TITLE 16 – SUBDIVISIONS**

**16.12.040 Access standards for subdivisions.**

- A. Future Street Reservations. The public works director may require the applicant to reserve or dedicate right-of-way up to 60 feet in width for any future transportation system improvements as identified in the most recently adopted version of the city of Milton transportation improvement plan. When land is subdivided into larger parcels than ordinary building lots, the plat shall arrange such parcels to allow for the opening of future streets and further subdivision.

**STAFF ANALYSIS:** *N/A – the proposed development does not require future street reservations.*

- B. Access Required. Each lot in a plat shall have direct access to a public street or shall be served by an access corridor such as a private street, tract, access easement or panhandle having direct access to a public street.

**STAFF ANALYSIS:** *Each lot in the plat is served by an access tract (Tract 'A'), which provides direct to 23<sup>rd</sup> Avenue. The tract is 30'-45' in width, with a hammerhead turnaround for fire apparatus access.*

- C. Access Requirements.

1. The land use administrator shall review the proposed permit for adequate ingress and egress to all proposed lots. The administrator may require the extension of streets or access rights from the property line to property line of the plat to ensure the feasibility of future extension of streets.
2. The land use administrator may limit the location of direct access to city arterial or other city streets if there is other reasonable access available.
3. The public works director will deny any right-of-way dedication not meeting city standards.
4. The face of the recorded plat shall include a notification of any obligation by an adjoining landowner to construct or maintain a future road.

**STAFF ANALYSIS:** *The land use administrator has reviewed the proposed plat for adequate ingress and egress. Extension of streets or future street extensions is not required. The face of the recorded plat shall include notification of adjoining landowners to maintain private road within Tract 'A'.*

- D. Access Standards. Private streets, access corridors, tracts and panhandles may be approved by the land use administrator, in consultation with the public works director and fire marshal.

1. The minimum width for a panhandle, an access tract or an access corridor serving one or two lots is 20 feet with a minimum pavement width of 14 feet unless the access is needed for a fire lane. If the access is needed for a fire lane, a minimum width of 30 feet with a minimum pavement width of 20 feet is required. The minimum width of an access tract or corridor that serves three or four lots is 30 feet with a minimum pavement width of 20 feet. Parking is prohibited within a panhandle, access tract, access corridor or fire lane.
2. Access corridors up to 150 feet in length do not require a turn-around. Access corridors that are 20 feet wide and greater and less than 500 feet in length shall provide a dedicated turn-around as described in IFC Appendix D Table D103.4. Access corridors that are more than 500 feet in length up to 750 feet in length shall be 30 feet in width, and shall provide a dedicated turn-around as described in IFC Appendix D Table D103.4. Access corridors more than 750 feet in length shall be subject to approval of the fire marshal. The length of the access corridor shall be measured along the center line of the access from the edge of the public right-of-way to the nearest lot line of the most distant lot.

3. The land use administrator may require greater width to address the need for such items as parking, drainage, or emergency access. The administrator may also permit a lesser width for 30-foot-wide access corridors to address constraints such as critical areas or existing parcel boundaries.
4. When determining if the proposed lot meets the applicable bulk and dimensional regulations set forth in Chapters 17.15A and 17.15B MMC, the land use administrator shall not include the corridor as part of a lot.
5. Access corridors serving more than two lots shall have official city street designations and addresses. Signage for private streets must indicate the street is private, for example "25th Avenue Court (Private)." The public works director may prescribe the form and placement of street signs.
6. At least one required minimum lot width must separate two adjacent access corridors or the access portions of two panhandle lots, or any combination of an access corridor and access portion of a panhandle lot.
7. Panhandle lots are allowed in subdivisions. The access portion of a panhandle lot shall be excluded from the density calculation and shall not be included as part of a lot in determining the minimum lot size. (Ord. 1853 § 6, 2014; Ord. 1741 § 16, 2009).

**STAFF ANALYSIS:** *Per subsection D.1 – the access Tract 'A' has a width of 30' with 25' of pavement at its narrowest in the hammerhead which meets the requirements for the minimum width of an access corridor serving three or four lots. A note will be included in the face of the plat that parking is prohibited within the access tract. Per subsection D.2 - a turnaround has been provided as the access corridor is more than 150 feet in length. Per subsection D.3 – the land use administrator has not determined that greater width is needed. Conformance with subsection D.4 will be addressed under Section VII.B. Subsections D.5-D.7 do not apply.*

## **16.12.050 General review criteria for preliminary plats.**

The city will grant approval to permit applications only if the application meets all of the following conditions:

- A. Avoidance of Irregular Lot Shapes. The land use administrator may prohibit proposed lots having five or more corners. The administrator shall base the approval on whether the lot shape is necessary or desirable due to factors including, but not limited to, critical areas, topography, natural features, street layouts, access, or existing parcel boundaries. The administrator may deny the creation of lots with five or more corners if the primary purpose of the lot shape is to meet minimum lot size or dimension requirements.

**STAFF ANALYSIS:** *Lots 1, 2, 4 and 5 have slightly irregular lot shapes due to the shape of Tract 'A' which is required for fire access.*

- B. Natural Features. The proposal for any subdivisions must demonstrate due regard for all natural features, such as large trees, watercourses, historical spots and similar community assets, which, if preserved, will add attractiveness and value to the property. (Ord. 1741 § 16, 2009).

**STAFF ANALYSIS:** *64 significant trees have been identified on site. The applicant proposes to retain 10 of the total 64 trees. The applicant has identified 91 replacement trees to be planted in accordance with MMC 17.44.110. Planting all 91 trees is not possible based on spacing. The applicant will be required to submit a landscape plan and deviation request in accordance with MMC 17.44.100.N and plant with shrubs or other suitable material. The applicant will plant 7 street trees along 23<sup>rd</sup> Avenue, and another 4 trees along the south side of Tract A. The applicant shall submit a deviation request and plans for planting an acceptable number of trees prior to final plat approval.*

**16.12.060 Requirements.**

In addition to satisfying the criteria identified in MMC 16.04.040, the preliminary plat shall comply with the following:

- A. The city may impose conditions to ensure the use does not adversely affect public facilities or services.
  1. The applicant must demonstrate how on-site drainage will conform to Chapter 13.26 MMC, Storm Drainage of Surface Water – Utility, Management and Maintenance, and the applicable public works development standards and regulations.
  2. The public works director shall consider factors including, but not limited to, sight distance at points of access/egress, safe walking routes to schools and any improvements identified in the most recently adopted city of Milton transportation improvement plan.

**STAFF ANALYSIS:** *Per subsection A.1 – the applicant has submitted a conceptual stormwater site plan and report that indicates that the proposal will conform to Chapter 13.26 MMC and the adopted Stormwater Management Manual by providing a stormwater vault within Lot 1 as BMPs designed for infiltration were deemed infeasible due to the results of the soils report and depth to groundwater. All stormwater facilities will be maintained by an HOA. The City’s Stormwater Official has determined that this conceptual stormwater site plan conforms with the above enough at this stage and that adequate provisions have been made for stormwater to proceed to the civil engineering phase.*

*Per subsection A.2 – the City has determined that a traffic impact analysis is not required to be submitted as the plat will be a minor generator of trips approximately adding 6 new PM peak trips. The City’s Public Works Director has reviewed the sight distance for the access location on 23<sup>rd</sup> Avenue and found to be consistent with the AASHTO Green Book. Safe routes to school are addressed through the requirement to construct frontage improvement along the entire frontage of the plat per MMC 12.24, including sidewalks.*

- B. Provision of fire hydrants must conform to the requirements of any applicable public works development standards and regulations.

**STAFF ANALYSIS:** *An existing fire hydrant located at the northwest corner of the property on 23<sup>rd</sup> Ave and a new fire hydrant at the northeast corner of Lot 1 meets the requirements of the City's fire regulations and public works development standards.*

- C. The applicant has provided all required SEPA environmental documentation pursuant to MMC Title 18. The SEPA responsible official (MMC 18.04.060) may adopt any existing environmental documents or incorporate those documents by reference.

**STAFF ANALYSIS:** *The applicant submitted a SEPA checklist on November 15, 2019.*

- D. The preliminary plat must comply with noise levels set forth in Chapter 173-60 WAC and Chapter 9.37 MMC (Noise Regulations) for both construction noise and for the proposed lots.

**STAFF ANALYSIS:** *Noise levels from the proposed plat are not anticipated to be out of character with the rest of the neighborhood. See Section XII for recommended conditions relating to noise levels during construction.*

- E. The preliminary plat must, at a minimum, meet the following requirements, as applicable:

1. The site conforms to Chapters 17.15A, 17.15B and 17.15C MMC for all lots;
2. The applicant has designed all external illumination to face inward, to minimize impact to adjacent properties;
3. Parking area design shall conform to Chapter 17.48 MMC (Off-Street Parking and Loading). Additionally, the design shall minimize impact of headlight glare from internal traffic on adjoining streets or residential uses;
4. For applications containing possible nonresidential uses, if the site abuts an existing residential use, the applicant must construct, and the city approve, a solid visual and noise barrier composed of fencing and landscaping as needed to shield nonresidential from abutting residential uses prior to occupancy;
5. The applicant must mitigate the generation of noxious or offensive emissions or odors, or other nuisances, which may be injurious or detrimental to the community; and
6. The applicant has paid all applicable fees. (Ord. 1741 § 16, 2009).

**STAFF ANALYSIS:** *Per subsection E.1 – conformance with Chapter 17.15A, 17.15B and 17.15C are discussed below under Section VII.B.*

*Per subsection E.2 – external illumination is anticipated to be consistent with that of the surrounding neighborhood of single-family residences.*

*Per subsection E.3 – headlight glare is not anticipated to cause an adverse impact on adjoining streets or residential uses as the*

*driveways will be facing the proposed homes and off-street parking is proposed to be provided within garages.*

*Per subsection E.4 – this does not apply.*

*Per subsection E.5 – no noxious or offensive emissions or odors are anticipated to occur as a result of the proposed plat. See Section XII for recommended conditions relating to construction emissions or odors.*

**B. TITLE 17 – ZONING**

**MMC 17.14.010 Table of uses.**

DESCRIPTION OF USE	RS	RMD	RM	MX	B	M-1	CF	OS
<b>Residential Use Category</b>								
Dwelling, single-family	au	au	au	au				
acc: Accessory Use au: Authorized or Permitted Use cup: Conditionally Permitted Use su1: Type I Special Use su2: Type II Special Use								

**STAFF ANALYSIS:** *Single-family dwellings are an authorized or permitted use within the Residential (RS) zone.*

**MMC 17.15A.010 Land development dimensional regulations table.**

STANDARDS	RS <sup>4</sup>	RMD <sup>4</sup>	RM <sup>4</sup>	MX <sup>4</sup>	B	M-1	OS	CF
Minimum Lot Area	<b>8,000 sq. ft.</b>	4,000 sq. ft.	8,000 sq. ft.	3,000 sq. ft.	3,000 sq. ft.	12,000 sq. ft.	0 sq. ft.	3,000 sq. ft.
For an Accessory Apartment	<b>9,600 sq. ft.</b>	8,000 sq. ft.	n/a	n/a	n/a	n/a	n/a	n/a
For a Duplex Unit	<b>12,000 sq. ft.</b>	10,000 sq. ft.	n/a	n/a	n/a	n/a	n/a	n/a
Standard Net Density for Multiple Units	n/a	12 du/ac	12 du/ac	12 du/ac	n/a	n/a	n/a	n/a
Maximum Net Density <sup>1</sup>	<b>5.45 du/ac<sup>1</sup></b>	18.00 du/ac <sup>2</sup>	18.00 du/ac <sup>2</sup>	18.00 du/ac <sup>3</sup>	n/a	n/a	n/a	n/a
Minimum Lot Width	<b>75 ft.</b>	45 ft.	60 ft.	40 ft.	40 ft.	75 ft.	n/a	20 ft.

<sup>1</sup> The net density may not be exceeded.

<sup>2</sup> These densities can only be achieved through the development of an adult retirement community, otherwise the standard net density applies.

<sup>3</sup> These densities can only be achieved through the development of mixed business and residential developments (in the MX zone) or the development of adult retirement community housing (in the RM or MX zones), otherwise the net standard density applies.

<sup>4</sup> In the RS, RMD, RM and MX zones the maximum density and the minimum lot size shall be met.

**STAFF ANALYSIS:** *All six (6) lots meet the minimum lot area of 8,000 square feet. No accessory apartments or duplexes are proposed. The proposed development has a net*

*developable area of 53,596 square feet (1.23 ac) after the shared access tract "Tract A" and right-of-way dedication has been removed per MMC 17.08.244. The resultant proposed density is 4.87 du/ac, which is less than the maximum net density allowed. All six (6) lots meet the minimum lot width of 75'.*

**MMC 17.15B.010 Building bulk table.**

STANDARDS	RS	RMD	RM	MX	B	M-1	OS	CF
Maximum Height	<b>35 ft.</b>	35 ft.	35 ft.	45 ft.	45 ft.	40 ft.	35 ft.	35 ft.
Maximum Building Coverage <sup>1</sup>	<b>n/a</b>	50%	n/a	90%	60%	60%	n/a	60%
Maximum Net or Phased Floor/Lot Ratio: Square Feet <sup>2</sup>	<b>n/a</b>	n/a	n/a	3 to 1	1 to 1	1 to 1	n/a	1 to 1
Minimum Setback from Right-of-Way <sup>3,4</sup>	<b>20 ft.</b>	20 ft.	20 ft.	0 ft.	0 ft.	10 ft.	20 ft.	10 ft.
Minimum Side Yard Setback <sup>5</sup>	<b>7.5 ft.</b>	7.5 ft.	7.5 ft.	5 ft.	0 ft.	0 ft.	5 ft.	5 ft.
Minimum Rear Yard Setback <sup>6</sup>	<b>25 ft.</b>	10 ft.	25 ft.	0 ft.	0 ft.	0 ft.	7.5 ft.	7.5 ft.
Minimum Rear Yard	<b>7.5 ft.</b>	7.5 ft.	7.5 ft.	0 ft.	0 ft.	0 ft.	7.5 ft.	7.5 ft.

**STAFF ANALYSIS:** *The proposed site plan meets the requirements found in 17.15B for setbacks. Full conformance with 17.15B will be determined upon submittal of building plans for building permit review.*

**MMC 17.15C.010 Landscape regulations table.**

LANDSCAPE STANDARDS <sup>4, 5, 6</sup>	RS	RMD	RM	MX	B	M-1	OS	CF
Street Planting Strip	<b>n/a</b>	n/a	35 ft.	45 ft.	8 ft	10 ft	20 ft	20 ft
Side Yard Planting Strip	<b>n/a</b>	n/a <sup>7</sup>	7.5 ft <sup>7</sup>	90%	8 ft	8 ft	20 ft	8 ft
Rear Yard Planting Strip	<b>n/a</b>	n/a	25 ft	3 to 1	8 ft	8 ft	20 ft	8 ft
Internal Parking Lot Landscaping <sup>8</sup>	<b>n/a</b>	n/a	7%	7%	7%	7%	7%	7%
<sup>4</sup> All development must satisfy the provisions contained in MMC 17.44.110, Landscape requirements.								
<sup>5</sup> All areas, except single-family residences, not proposed for buildings, parking, or driveways shall be landscaped.								
<sup>6</sup> Perimeter landscape requirements exclusive of proposed access driveways.								

**STAFF ANALYSIS:** *Landscaping is not required per MMC 17.15C. All development, however, must satisfy the provisions contained in MMC 17.44. See discussion below.*

**MMC 17.44.110 Landscape requirements.**

[...]

C. Applicability. These standards shall apply to:

1. New nonresidential development, including expansion that disturbs more than 2,500 square feet of ground area or 60 percent of assessed value.
2. Any nonresidential development exterior renovation, excluding mechanical improvements where the proposed improvements, including multi-year, are likely to exceed 40 percent of the assessed value of the structure.
3. Multifamily development, including expansion and/or remodels.
4. New parking areas or repaving of 5,000 square feet or greater.
5. **New subdivisions of five or more lots.**

[...]

F. General Landscaping Requirements.

1. All areas of exposed soil, regardless of duration, shall be subject to erosion and sedimentation best management practices as described in Chapter 13.26 MMC, Storm Drainage of Surface Water – Utility, Management and Maintenance.

**STAFF ANALYSIS:** *See Section VII.C.*

2. All required landscaped areas shall be planted at the next planting season.

**STAFF ANALYSIS:** *Staff recommends conditioning approval of this permit to require landscaped areas to be planted at the next planting season, and to be bonded to ensure survival of landscape material.*

3. All landscaped areas shall include at a minimum three low impact elements, from subsection J of this section, with no more than two guidelines from each subsection, in the design to minimize and treat runoff.

**STAFF ANALYSIS:** *Staff recommends conditioning approval of this permit to require a minimum of three low impact elements be addressed when a landscape plan has been submitted prior to final plat approval.*

4. Open Storm Retention/Detention Facilities.

**STAFF ANALYSIS:** *Not applicable based on conceptual drainage proposal.*

5. The plant material character of the landscape areas shall have the following characteristics:
  - a. Trees. A minimum of 70 percent required parking area trees shall be deciduous, except, if existing trees are retained, the percentage of deciduous trees can be decreased accordingly. Perimeter landscape areas shall be no more than 50 percent evergreen.
  - b. Shrubs. Shrub and hedge material used shall cover at least 60 percent of the required area.

- c. Vegetative Groundcover/Turf. Vegetative groundcovers that are sensitive to occasional foot traffic should not be used in landscape areas where foot traffic might be likely.

**STAFF ANALYSIS:** *This does not apply as the proposal is not required to provide parking lot or perimeter landscaping.*

- 6. Minimum Landscape Material Specifications. The following general planting regulations shall apply to all landscaped areas that require landscape plans:

**STAFF ANALYSIS:** *Staff recommends conditioning approval of this permit to require that landscape materials conform to the requirements in MMC 17.44.110.F.6 when a landscape plan has been submitted, prior to final plat approval.*

G. Significant Tree and Tree Grove Protection.

- 1. Significant trees are healthy deciduous trees with a diameter at breast height (DBH) of greater than or equal to six inches, and evergreen trees in excess of 10 feet in height. Breast height is defined as four and one-half feet above grade. A grove of trees consists of a grouping of five or more significant trees with contiguous canopy cover. The health of the tree shall be determined by a Washington State licensed arborist.

**STAFF ANALYSIS:** *64 significant trees have been identified on site. The applicant proposes to retain 10 of the total 64 trees. The applicant has identified 91 replacement trees to be planted in accordance with MMC 17.44.110. Planting all 91 trees is not possible based on spacing. The applicant will be required to submit a landscape plan and deviation request in accordance with MMC 17.44.100.N and plant with shrubs or other suitable material. The applicant will plant 7 street trees along 23<sup>rd</sup> Avenue, and another 4 trees along the south side of Tract A. The applicant shall submit a deviation request and plans for planting an acceptable number of trees prior to final plat approval.*

**MMC 17.48.040 Off-street parking requirements.**

The minimum number of off-street parking spaces required shall be as follows:

<b>Dwelling, single-family</b>	2 spaces per dwelling unit
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**STAFF ANALYSIS:** *The proposed development meets the minimum lot size for all 6 lots and will be able to accommodate 2 off-street parking spaces for each dwelling unit.*

**C. TITLE 13 – PUBLIC SERVICES**

**STAFF ANALYSIS:** *Full compliance with Title 13 will be determined and approved upon the issuance of Civil Plans.*

#### **D. TITLE 18 – ENVIRONMENT**

**STAFF ANALYSIS:** *No critical areas or their buffers are present on the site. The applicant submitted a SEPA checklist for the proposed development pursuant to MMC 18.04, that identified any environmental impacts that may occur due to the proposed development. A mitigated determination of non-significance has been issued for the project, with no significant comments or appeals.*

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### **VIII. CONCURRENCY MANAGEMENT**

Pursuant to the requirements in the State Growth Management Act, the City of Milton is required to ensure that applicable public improvements or strategies to accommodate the impacts of development are made concurrent with the development. Pursuant to MMC 17.75, the City is required to review development applications to ensure that transportation facilities and services needed to maintain minimum level of service standards are available simultaneous to, or within a reasonable time after, development occupancy or use.

**STAFF ANALYSIS:** *City staff reviewed the development application against the requirements under MMC 17.75 for concurrency level of service using the adopted level of service standards and test. The City did not require the applicant submit a traffic impact assessment as a part of their complete application, due to the development being a minor traffic generator (approximately 6 PM peak trips). The proposed development will have a minimal impact on the existing and future LOS of the nearby road network. As such, no mitigation measures have been identified for the proposed development to reduce the need for transportation facilities.*

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### **IX. AGREEMENTS**

No special agreements have been entered into as a part of the proposal.

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### **X. CONCLUSIONS AND FINDINGS**

1. The applicant is the owner of the property.
2. The property is zoned Residential (RS).
3. The City submitted an application for Preliminary Subdivision Approval on November 15, 2019. The application was determined to be completed on December 2, 2019.
4. Timely notice of the application was posted in accordance with MMC 17.71.120 on December 14, 2019. A notice was mailed to surrounding property owners within 500 feet of the project site, sent to SEPA agencies, published in The Tacoma News Tribune, and posted as a board on the site.

5. The City posted notice of a neighborhood meeting in accordance with MMC 17.71.090 on January 4, 2020. The neighborhood public meeting was held on January 22, 2020 at City Hall.
6. Notice of this public hearing was posted in accordance with MMC 17.71.130 on August 12, 2020, at least 15 calendar days prior to the date of this hearing.
7. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
8. As conditioned, the proposed development meets the requirements of the Milton Municipal Code.
9. Preliminary subdivision approval does not usurp the requirement for conformance to all applicable sections of the Milton Municipal Code, or State and Federal Requirements.

## XI. RECOMMENDATION

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The City hereby recommends approval of the proposal, as conditioned below.

## XII. CONDITIONS

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The following conditions are imposed as a result of review and analysis of the proposal. Voluntary agreements and the following conditions have allowed the City to recommend approving this proposal and to issue a SEPA mitigated determination of non-significance.

All conditions of approval shall be satisfied prior to issuance of final plat for the project.

1. The submitted plans are preliminary in nature. Any plans submitted in support of this plat must meet all standards of the City at the time the plans are submitted.
2. The project is still required to obtain all other approvals including but not limited to, water/sewer connections, building permit, civil plan, drainage, electrical, and right of way.
3. The applicant will be responsible for dedicating 30' of right-of-way along the sites 23<sup>rd</sup> Avenue frontage and constructing half street improvements in accordance with MMC 12.24.
4. To mitigate transportation impacts in the City of Milton, the project will contribute to the City's Traffic Impact Fee program. Per Ordinance 1982-20, the current traffic impact fee is \$4,380 per PM peak trip. The project will contribute 6 new PM peak trips to the City's road network. As currently calculated, the total fee would be \$26,280. The total fee will be calculated at the time of building permit issuance, and may increase as the City's adopted traffic impact fee increases. The applicant will be responsible for contributing towards the traffic impact fee program at the adopted rate for 6 new PM peak trips.
5. The operation of construction equipment shall adhere to the local noise ordinance in the Milton Municipal Code and the normal City recognized work hours of 7:00 am to 7:00 pm non-holiday weekdays. (MMC 9.37.020)
6. If during construction any artifacts are uncovered the applicant shall follow the [Inadvertent Discovery Plan \(IDP\)](#) procedures and shall notify the Department of Ecology, the Puyallup Tribe, the Muckleshoot Tribe and the Washington State Department of Archeology and Historic Preservation.

7. The preliminary grading of the site is projected to be balanced, however, approximately 15,000 cubic yards of material is estimated to be moved. Should export/import of material be necessary, the site must utilize clean fill and disposal of fill must be to an approved disposal site.
8. The applicant shall provide adequate site control measures for erosion control for the proposed movement of 15,000 cubic yards of material, including site stabilization measures to stabilize the site after clearing and grading is complete.
9. If contamination is suspected, discovered, or occurs during the proposed construction of a new residences and associated utilities, testing of the potentially contaminated media must be conducted. If contamination of soil or groundwater is readily apparent, or is revealed by testing, the Department of Ecology must be notified. Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300. For assistance and information about subsequent cleanup and to identify the type of testing that will be required, contact the Toxic Cleanup Program at the Southwest Regional Office at (360) 407-7094.
10. Compliance with all applicable City codes is required during and following any site development activity, including MMC 13.26 (Storm Drainage of Surface Water – Utility, Management and Maintenance).
11. All stormwater facilities for all new impervious surface including, but not limited to roofs, driveways, the private road, and sidewalks must meet the 2012 Department of Ecology Stormwater Manual for Western Washington (as amended in 2014).
12. A Temporary Erosion and Sedimentation Control (TESC) plan must be submitted with a SWPPP prior to clearing and grading permit issuance. This plan shall be approved by the City's Stormwater Official, and implemented during site preparation activities.
13. A street work permit shall be required for all construction activities impacting the right-of-way. A traffic control plan for the construction phase may be required to be submitted to minimize disturbances to the traffic flow on 19<sup>th</sup> Ave.
14. After installation of all improvements, a night time lighting test shall be performed. All lights shall be tuned such that they do not spill light onto neighboring streets properties. A report completed by a qualified professional shall be submitted to the City certifying that all lights have been tuned to avoid light spillage. If tuning of the lights cannot reduce all lights spillage, additional landscaping or buffering considerations shall be considered and implemented at that time.
15. The applicant shall plant required to submit a landscape plan prior to final plat approval. A deviation request may also be required to deviate from the required number of replacement trees, per MMC 17.44.110.N. All landscaped areas shall be planted at the next planting season. The public works director may require a bond to ensure planting materials are established in accordance with the approved landscape plan.
16. Trees to be saved, including off-site trees, must be protected during construction by a six foot high chain link fencing, located 5 feet outside of the drip line of the trees. Placards shall be placed on the fencing every 50 feet indicating the words, "NO TRESPASSING - Protected Trees". The individual CRZ are a radius of one foot for each one inch of DBH (6 feet minimum), unless otherwise delineated.
17. There should be no equipment activity (including rototilling) within the critical root zone. No irrigation lines, trenches, or other utilities should be installed within the CRZ. Cuts or fills should impact no more than 25% of a tree's root system. If topsoil is added to the root zone of a protected tree, the depth should not exceed 2 inches of a sandy loam or loamy fine sand topsoil and should not cover more than 25% of the root system.

18. If roots are encountered outside the CRZ during construction, they should be cut cleanly with a saw and covered immediately with moist soil. Noxious vegetation within the critical root zone should be removed by hand. If a proposed save tree must be impacting by grading or fills, then the tree should be re-evaluated by a licensed arborist to determine if the tree can be saved with mitigating measures, or if the tree should be removed.
19. The applicant must provide recorded access and maintenance easements to the City prior to Final Plat approval.
20. A note on the face of the plat shall be included requiring maintenance of the stormwater vault by the owners of all six (6) lots. A maintenance covenant shall be provided to the City for review prior to final plat approval that will be included in CC&Rs for the development.
21. A note on the face of the plat shall be included specifying that parking within the access tract is prohibited.
22. All impact fees, including transportation, shall be paid prior to issuance of a building permit.

### **XIII. APPEAL**

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The applicant or any party of record may choose to appeal this recommendation or the conditions of approval to the Milton City Council at the closed public hearing. Parties wishing to file appeals from decisions or rulings must do so within 14 days of the date of issuance of the decision.

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