

**DATE:** December 16, 2015

**TO:** Mayor Boudreau and City Council

**FROM:** Rebecca Lowell, Senior Planner

**SUBJECT:** PRELIMINARY PLAT APPROVAL EXTENSION REQUEST – LAND USE NO. PL15-107

**RECOMMENDED ACTION:**

Staff recommends that Council make a motion to authorize the Mayor to sign the accompanying Resolution regarding the Montreaux Division 2 preliminary plat three (3) year extension.

**INTRODUCTION/BACKGROUND:**

Preliminary plat approval for the Montreaux Plat/PUD was originally granted in April of 2006 with Resolution No. 711 which expires in April of 2016. The development was approved for 120 dwelling units on approximately 33.9 acres. It is being developed as two divisions. Montreaux Division 1 was completed in July 2007 and includes 78 lots. Montreaux Division 2 includes the remaining 42 lots and is the subject of this request. Montreaux Division 2 is located on the west side of South Waugh Roads and south to East Broadway Street. Please see the vicinity map below.



The following table summarizes the physical characteristics of the roads, critical areas, and stormwater facilities that the applicant has, or plans to, install/construct and compares these facilities to what would be required with currently adopted codes.

**TABLE 1.1:**

	<b>EXISTING INFRASTRUCTURE CONSTRUCTED/INSTALLED AND BUFFERS OBSERVED</b>	<b>CURRENT CODE REQUIREMENTS</b>
<p><b>Interior Plat Roads – Montreaux Loop, Montreaux Court, Montreaux Way:</b></p>	<p>The public interior plat roads (approximately 1,800 linear feet – or .34 miles - in total) will be 28 feet in width with 4-foot planting strips and five-foot sidewalks on both sides.</p> <p>These roads will be located within a 42-foot right-of-way which means that portions of the sidewalks will be in easements.</p> <p>Parking will be allowed on just one side of the street with these interior roads.</p>	<p>These street sections could only be approved through a street design standard modification process under the current code. It would be difficult for the applicant to show that that are “unique and unusual circumstances” that would warrant the approval of a modification to allow this road section.</p> <p>It is likely that all of these interior plat roads would be required to be 32 feet in width with 4-foot landscape strips and 5-foot sidewalks on both sides of these roads – all within a 51-foot wide right-of-way.</p> <p>This 32-foot wide road allows parking on both sides of the street.</p>
<p><b>Frontage Roads—East Broadway Street and South Waugh Road</b></p>	<p>With the exception of street trees along its west side, South Waugh Road has been improved as part of Division 1. Street trees on the west side will be included with Division 2.</p> <p>East Broadway street will be improved to complete the existing roadway section to a 44” travel width with standard curb, gutter and sidewalk.</p>	<p>The approved requirements are the same as current requirements.</p>
<p><b>Critical Areas – Stream:</b></p>	<p>A seasonal non-fish bearing stream bisects the southern portion of the property. A 50-foot buffer is being observed on each side of the stream.</p>	<p>The City’s current code would require a 35-foot on each side of the stream.</p>

<p><b>Stormwater Facilities:</b></p>	<p>The stormwater facilities proposed to serve the development consist of a vault located on off-site property that was purchased just to accommodate the proposed facilities. The stormwater facilities have yet to be constructed.</p>	<p>In 2010, the City adopted the DOE’s 2005 Stormwater Management Manual that requires different stormwater modeling processes and procedures that result in sizing stormwater facilities and their associated outlet control structures.</p> <p>The proposed stormwater vault would likely be larger and/or different methods would have to be employed to manage stormwater if the requirements of this newer DOE manual were used on this site. Since off site property has been purchased to accommodate the particular stormwater features that were originally proposed, it would likely be difficult to accommodate the new requirements.</p>
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The current owner, Windward Real Estate, Inc., purchased Montreaux Division 2 in 2011. Prior to 2011, the previous owner had completed the Montreaux Division 1 which is located on the east side of South Waugh Road immediately across from Division 2. Off-site property was purchased to accommodate the stormwater facilities approved for Montreaux Division 2 (a stormwater vault). The two divisions of Montreaux were closely innerconnected with the original approval including many complimentary conditions and mitigation measures applicable to both divisions.

Specifically, Division 2 includes wider buffers than are currently required on the on-site stream (50 feet versus 35 feet); a 30 foot buffer of trees is maintained on the western side of the proposal to separate it from the adjacent neighbors. The design of Division 2 is complementary to Division 1 and was done in such a way as to create an “entry” to the Eaglemont Community. Some of the specific features of the two divisions include complementary fencing and landscape treatments, and interconnected pedestrian ways. These features would not necessarily be able to be replicated if the preliminary plat were to expire and have to begin anew.

**FINDINGS:**

In June of 2015, City Council approved Ordinance 3651 that provides a way for preliminary plat approvals to be extended for either one or three years – with conditions. The part of Ordinance 3651 that allows Windward Real Estate Inc. to request a three-year preliminary plat extension reads as follows:

MVMC 16.08.060:

*C. If the developer fails to receive final approval within the timeframes outlined with the above listed subsections A or B the preliminary plat approval shall expire unless one of the following requests are submitted to the CEDD and approved by City Council through a Type V process.*

2. *An applicant who files a written request to the office of the Community & Economic Development Department may be granted no more than a three-year extension for preliminary plat approvals granted on or before December 31, 2010. There shall be allowed only one three year extension; and this extension shall not be combined with the one year extension allowed within sub-section (1), above. In granting this extension a development agreement consistent with the requirements of RCW 36.70B.170 shall be prepared and approved by the City Council. In granting this extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to.*

As outlined within Table 1.1 above, staff notes that the development regulations that this plat was vested to are different than the regulations in place in 2015. Staff is recommending that the Council not require this development to comply with development regulations that are different than the ones that this project was originally vested to for the following reasons:

1. Off-site property was purchased to accommodate the stormwater facilities to serve the property. Accommodating a larger or different stormwater system would be difficult or impossible within the property that is allotted for those facilities. It is unlikely that additional property would be available to accommodate the significant revisions that would likely result if different regulations were required.
2. The entire Montreaux development (Divisions 1 and 2) were designed to include complimentary features that would result in creating an "entry" to the Eaglemont Community. Some of the specific features of the two divisions include complementary fencing and landscape treatments, and interconnected pedestrian ways. These features would not necessarily be able to be replicated if the preliminary plat were to expire and have to begin anew.
3. The creek that flows through the property includes larger buffers than those that would be required under today's regulations.

**RECOMMENDATION:**

Council move to authorize the Mayor to sign the accompanying Resolution that will extend the preliminary plat expiration period for three (3) years (i.e., from April 26, 2016 to April 26, 2019) for the Montreaux Division 2 PUD/Plat, LU05-085.

**ATTACHED:**

- Proposed Resolution for Council Consideration
- Proposed Development Agreement
  - Exhibit A: Legal Description of the overall property
  - Exhibit B: Montreaux PUD/Plat map
  - Exhibit C: Preliminary Plat Resolution 711

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY OF MOUNT VERNON, WASHINGTON; ACCEPTING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MOUNT VERNON AND WINDWARD REAL ESTATE SERVICES, INC. TO EXTEND PRELIMINARY PLAT APPROVAL FOR THE MONTREAUX DIVISION 2 (LU05-085)**

**WHEREAS**, the Washington State Legislature has authorized the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170 (1)); and

**WHEREAS**, this Development Agreement by and between the City of Mount and the Developer (hereinafter the “Development Agreement”), relates to the development historically known as Montreaux Division, File No. LU05-085; and

**WHEREAS**, the City Council approved Ordinance 3651 in June of 2015 providing a mechanism for the possible extension of preliminary plat approvals such as the Montreaux Division 2 Plat; and

**WHEREAS**, the Developer has requested approval of a development agreement to extend the timeframe in which the development will have a valid preliminary plat approval consistent with MVMC 16.08.060(C) (2); and

**WHEREAS**, the City held a public hearing regarding the approval of this Development Agreement on December 16, 2015. Notice of the Public Hearing was published in the Skagit Valley Herald on December 5, 2015; and

**WHEREAS**, it is further deemed advisable to record the decisions reached by the Council through the adoption of this resolution; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNT VERNON:**

1. The Recitals and General Provisions found within the accompanying Development Agreement are hereby adopted by reference as if they were fully set forth herein; and,
2. That the City of Mount Vernon will accept the accompanying Development Agreement and its associated exhibits.

**ADOPTED by the City Council of the City of Mount Vernon, Washington, and APPROVED by its Mayor, following a public hearing on the 16<sup>th</sup> day of December, 2015.**

**SIGNED IN AUTHENTICATION** this \_\_\_\_ day of December, 2015.

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Alicia D. Huschka, Finance Director

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Jill Boudreau, Mayor

Approved as to form:

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Kevin Rogerson, City Attorney

Upon Recording Please Return To:  
City of Mount Vernon  
PO Box 809  
910 Cleveland Avenue  
Mount Vernon, WA 98273

**DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF MOUNT VERNON  
AND WINDWARD REAL ESTATE SERVICES, INC. TO EXTEND THE  
PRELIMINARY PLAT VALIDITY TIMEFRAME FOR THE MONTREUX DIVISION  
2 PRELIMINARY PLAT/PUD**

THIS DEVELOPMENT AGREEMENT is made and entered into this \_\_\_\_ day of December, 2015, by and between the City of Mount Vernon, a municipal corporation of Washington State, (the “City”) and Windward Real Estate Services, Inc. a Washington Corporation that is managed by James Tosti and is organized under the laws of the State of Washington hereinafter the “Developer.”

**RECITALS**

WHEREAS, the Chapter 36.70B RCW provides specific authority for development agreements between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern and vest a development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, for the purposes of this development agreement, “development standards” includes, but is not limited to, all of the standards listed in RCW 36.70B.170(3); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW (RCW 36.70B.170(1)); and

WHEREAS, development agreements can establish mitigation measures, development conditions, phasing, and other appropriate development requirements or procedures (RCW 36.70B.170(3)(c),(g),(h),(j)); and

WHEREAS, this Development Agreement by and between the City and the Developer (the “Development Agreement”), relates to the development previously known as Montreaux Division 2, File No. LU05-085; and

WHEREAS, the Montreaux Division 2 development is located on the west side of South Waugh Road south of East Broadway Street. The Skagit County Assessor identifies the site with the following parcel numbers: P27545 (hereinafter referred to as the "Property"); and

WHEREAS, the proposed Montreaux development received preliminary plat approval in April of 2006 with City Resolution 711 and consisted of 120 residential lots being created over the approximate 33.9 acre site. The development is being developed as two (2) divisions. Montreaux Division 1 was completed in July 2007 and included 78 lots. Montreaux Division 2 includes 42 lots and is the subject of this agreement; and

WHEREAS, the City Council approved Ordinance 3651 in June of 2015 providing a mechanism for the possible extension of preliminary plat approvals such as the Montreaux PUD; and

WHEREAS, the Developer requested to enter into a development agreement extending the time to submit a final plat meeting all requirements of the preliminary plat approved by the City through Resolution 711; and

WHEREAS, MVMC 16.08.060(C)(2) allows Developer to file a written request for one three year extension on preliminary plat approvals granted on or before December 21, 2010 and that the City may grant such a request through entering into a development agreement and may require Developer to comply with any changes of development regulations in effect at the time the extension is requested; and

WHEREAS, Developer has followed the necessary process required to seek an extension of preliminary plat approval granted by the City through Resolution 711; and

WHEREAS, a public hearing was held on \_\_\_\_\_ to consider approval of the Development Agreement after which the City Council approved the development agreement through Resolution \_\_\_\_.

NOW, THEREFORE, the parties hereto agree as follows:

## **GENERAL PROVISIONS**

**Section 1.** *The Development.* The development named Montreaux received preliminary plat approval in April of 2006 with City Resolution 711 and consisted of 120 residential lots being created over the approximate 33.9 acre site. The development is being developed as two (2) divisions. Montreaux Division 1 was completed in July 2007 and included 78 lots. Montreaux Division 2 includes 42 lots.

**Section 2.** *The Subject Property.* The Project site is legally described in Exhibit A, attached hereto and incorporated herein by this reference.

**Section 3.** *Definitions.* As used in this Development Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

A. “Adopting Resolution” means the Resolution which approves this Development Agreement, as required by RCW 36.70B.200.

B. “Council” means the duly elected legislative body governing the City of Mount Vernon.

C. “Director” means the City’s Community and Economic Development Director or Public Works Director.

D. “Effective Date” means the effective date of the Adopting Resolution.

E. “Existing Land Use Regulations” means the ordinances adopted by the City Council of Mount Vernon in effect on the Effective Date, unless otherwise provided herein, including the adopting ordinances that govern the permitted uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Subject Property, including, but not limited to the Comprehensive Plan, the City’s Official Zoning Map and development standards, the Design Manual, the Public Works Standards, SEPA, Concurrency Ordinance, and all other ordinances, codes, rules and regulations of the City establishing subdivision standards, park regulations, building standards. Existing Land Use Regulation does not include non-land use regulations, which includes taxes and impact fees. Existing land use regulations do not include environmental laws or changes to such laws adopted by the City when required to comply under any federal or state law or general permit including but not limited the National Pollution Discharge and Elimination municipal stormwater permits. Existing land use regulations do not include land use regulations governing other land development activities beyond the scope of the Project which require new applications and permits including but not limited to building permits, major modifications to the preliminary plat, and new preliminary plat applications.

F. “Landowner” means the party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement. The “Developer” is identified in Section 5 of this Agreement.

G. “Project” means the anticipated development of the Subject Property, as specified in Section 1 and as provided for in all associated permits/approvals, and all incorporated exhibits.

**Section 4.** *Exhibits.* Exhibits to this Agreement are as follows:

Exhibit A – Legal description of the Subject Property.

Exhibit B – Map showing the proposed Montreaux Division 2

Exhibit C – Resolution 711.

**Section 5.** *Parties to Development Agreement.* The parties to this Agreement are:

A. The “City” is the City of Mount Vernon, PO Box 809, 910 Cleveland Avenue, Mount Vernon, WA 98273.

B. The “Developer” or Owner is a private enterprise which owns the Subject Property in fee, and whose principal office is located at 335 Park Place Center, Suite G119, Kirkland, WA 98033 (425) 750-8400.

C. The “Landowner.” From time to time, as provided in this Agreement, the Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

**Section 6.** *Term of Agreement.* This Agreement shall commence upon the Effective Date and shall continue in force until April 26, 2019; or unless terminated as provided herein. Following termination or expiration, this Agreement shall have no force and effect subject however to any post-termination obligation of the parties.

**Section 7.** *Preliminary Plat Timeline Extension.*

A. **Preliminary Plat Time Limitations.** RCW 58.17.140(3) (b) states that: “a final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within ten years of the date of preliminary plat approval if the project is not subject to requirements adopted under chapter 90.58 RCW and the date of preliminary plat approval is on or before December 31, 2007 ...”. The development received preliminary plat approval on April 26, 2006. As such, this preliminary plat approval would expire on April 26, 2016.

B. **2015 MVMC Amendment Related to Preliminary Plat Timeframes.** In June of 2015, the Mount Vernon City Council approved amendments to Mount Vernon Municipal Code (MVMC) 16.08.060(C)(2) providing a way that preliminary plat approvals can be extended for three-years “upon a showing that they have attempted in good faith to submit the final plat within the required period...” In granting an extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to”.

C. **Considerations for Preliminary Plat Extension.**

- i. The City finds that Existing Land Use Regulations as defined herein vested when a complete application was submitted for preliminary plat approved through Resolution 711 shall not be modified.
- ii. The City finds that this Division 2 of the Montreaux PUD is closely interconnected with the Division 1 PUD and as it is currently designed provides complementary fencing and landscape treatments and interconnected pedestrian ways.

D. **Newly Authorized Preliminary Plat Expiration Date.** The City Council with the approval of Resolution \_\_\_\_\_ concurs with the staff findings and is extending the preliminary plat validity timeline **from** April 26, 2016 **to** April 26, 2019.

- E. All Other Requirements Not Modified. This development agreement does not change or alter any other approval that the development is subject to; including, but not limited to: the conditions of Resolution 711 or the mitigation measures imposed through the SEPA process.

**Section 8. Default.**

A. Subject to extensions of time by mutual consent in writing, failure or delay by either party or Landowner not released from this Agreement, to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner not less than thirty (30) days notice in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

B. After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce the City's Codes, and to obtain penalties and costs as provided in the Mount Vernon Municipal Code for violations of this Development Agreement and the Code.

**Section 9. Termination.** This Agreement shall expire and/or terminate and be of no further force at such time as the final plat of Montreux Division 2 is approved by City Council and recorded with the Skagit County Auditor or **April 26, 2019** whichever comes first.

**Section 10. Effect upon Termination on Developer Obligations.** Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the City Comprehensive Plan and the terms and conditions or any applicable zoning code(s) or subdivision map or other land use entitlements approved with respect to the Subject Property, any other conditions of any other development specified in the Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees or taxes.

**Section 11. Assignment and Assumption.** The Developer shall have the right to sell, assign or transfer this Agreement with all their rights, title and interests, and delegate its duties therein to any person, firm or corporation at any time during the term of this Agreement. Developer shall provide the City with written notice of any intent to sell, assign, or transfer all or a portion of the Subject Property, at least 30 days in advance of such action.

**Section 12. Covenants Running with the Land.** The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The Developer, Landowner and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser,

assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it.

**Section 13. Notices.** Notices, demands, correspondence to the City and Developer shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in Section 5. Notice to the City shall be to the attention of both the City Community & Economic Development Director and the City Attorney. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notice. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

**Section 14. Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue for any action shall lie in Skagit County Superior Court or the U.S. District Court for Western Washington.

**Section 15. Severability.** If any phrase, provision or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of the ordinance adopting this Development Agreement, and either party in good faith determines that such provision or provisions are material to its entering into this Agreement, that party may elect to terminate this Agreement as to all of its obligations remaining unperformed.

**IN WITNESS WHEREOF**, the parties hereto have caused this Development Agreement to be executed as of the dates set forth below:

**SIGNED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2015

**OWNER/DEVELOPER:**

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James Tosti,  
Manager of Windward Real Estate Services, Inc.,

**CITY OF MOUNT VERNON:**

By \_\_\_\_\_  
Jill Boudreau, Mayor

Attest:

\_\_\_\_\_  
Alicia D. Huschka, Finance Director

Approved as to form:

\_\_\_\_\_  
Kevin Rogerson, City Attorney

STATE OF WASHINGTON }  
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that **James Tosti** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Manager of Windward Real Estate Services, Inc.**, to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned.

Given under my hand and official seal this \_\_\_\_\_ day of December 2015.

(SEAL)

\_\_\_\_\_  
Notary Public  
Residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_

## EXHIBIT A

### Legal Description of Property

PARCEL "A":

THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-20-81, APPROVED OCTOBER 27, 1981 AND RECORDED OCTOBER 28, 1981 IN VOLUME 5 OF SHORT PLATS, PAGE 139, UNDER AUDITOR'S FILE NO. 8110280008, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-1-83, APPROVED APRIL 26, 1983, AND RECORDED APRIL 27, 1983, IN VOLUME 8 OF SHORT PLATS, PAGE 58, UNDER AUDITOR'S FILE NO. 8304270013, RECORDS OF SKAGIT COUNTY, WASHINGTON, LYING SOUTHERLY OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE M.R. NILSON CONSTRUCTION, INC., A WASHINGTON CORPORATION, BY DEED DATED APRIL 29, 1985, AND RECORDED MAY 1, 1985, UNDER AUDITOR'S FILE NO. 8505010024, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN VOLUME 600 OF OFFICIAL RECORDS, PAGE 365; AND LYING SOUTHERLY OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF TRACT "A" OF SHORT PLAT NO. MV-1-83; ALL OF SAID PORTIONS BEING IN THE SOUTHWEST ¼ OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M.;

EXCEPT EAST BROADWAY STREET;

AND EXCEPT SOUTH WAUGH ROAD;

AND ALSO EXCEPT A PORTION OF TRACT D OF SHORT PLAT NO. MV-20-81 AND A PORTION OF TRACT D OF SHORT PLAT NO. MV-1-83, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL "A":

THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-20-81, APPROVED OCTOBER 27, 1981 AND RECORDED OCTOBER 28, 1981 IN VOLUME 5 OF SHORT PLATS, PAGE 139, UNDER AUDITOR'S FILE NO. 8110280008, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-1-83, APPROVED APRIL 26, 1983, AND RECORDED APRIL 27, 1983, IN VOLUME 8 OF SHORT PLATS, PAGE 58, UNDER AUDITOR'S FILE NO. 8304270013, RECORDS OF SKAGIT COUNTY, WASHINGTON, LYING SOUTHERLY OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE M.R. NILSON CONSTRUCTION, INC., A WASHINGTON CORPORATION, BY DEED DATED APRIL 29, 1985, AND RECORDED MAY 1, 1985, UNDER AUDITOR'S FILE NO. 8505010024, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN VOLUME 600 OF OFFICIAL RECORDS, PAGE 365; AND LYING SOUTHERLY OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF TRACT "A" OF SHORT PLAT NO. MV-1-83; ALL OF SAID PORTIONS BEING IN THE SOUTHWEST ¼ OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M.;

EXCEPT EAST BROADWAY STREET;

AND EXCEPT SOUTH WAUGH ROAD;

AND ALSO EXCEPT A PORTION OF TRACT D OF SHORT PLAT NO. MV-20-81 AND A PORTION OF TRACT D OF SHORT PLAT NO. MV-1-83, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 8, "TIMBERLINE DIVISION NO. 1", ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 14 OF PLATS, PAGE 15, RECORDS OF SKAGIT COUNTY, WASHINGTON; THENCE SOUTH 89°12'57" EAST, ALONG THE SOUTH LINE OF SAID PLAT AND ALONG THE SOUTH LINE OF THE PLAT OF TIMBERLINE DIVISION 3, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 13 OF PLATS, PAGE 79, AND ALONG THE SOUTH LINE OF TRACT C OF SAID SHORT PLAT NO. MV-1-83, A DISTANCE OF 1,015.29 FEET TO THE SOUTHEAST CORNER OF SAID TRACT C; THENCE SOUTH 0°22'09" WEST ALONG THE EAST LINE OF TRACT D OF SAID SHORT PLAT NO. MV-1-83 AND EAST LINE EXTENDED, A DISTANCE OF 925.77 FEET; THENCE SOUTH 0°54'14" WEST, A DISTANCE OF 30.00 FEET TO A POINT ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF NORTH 89°05'46" WEST, AND A RADIUS OF 400.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20°24'19" AND AN ARC LENGTH OF 142.46 FEET TO A POINT OF TANGENCY; THENCE SOUTH 70°29'55" WEST, A DISTANCE OF 145.36 FEET; THENCE SOUTH 19°30'05" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF SOUTH 70°29'55" WEST AND A RADIUS OF 430.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°06'07" AND AN ARC LENGTH OF 120.84 FEET TO A POINT OF TANGENCY; THENCE SOUTH 86°36'02" WEST, A DISTANCE OF 15.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AND AN ARC LENGTH OF 39.27 FEET; THENCE SOUTH 86°36'02" WEST, A DISTANCE OF 60.00 FEET TO A POINT ON A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET AND AN INITIAL TANGENT BEARING OF NORTH 3°23'58" WEST; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AND AN ARC LENGTH OF 39.27 FEET TO ITS POINT OF TANGENCY; THENCE SOUTH 86°36'02" WEST, A DISTANCE OF 15.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 680.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 6°01'04" AND AN ARC LENGTH OF 71.42 FEET; THENCE NORTH 2°37'06" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 650.00 FEET AND AN INITIAL TANGENT BEARING OF NORTH 87°22'54" EAST; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°20'42" AND AN ARC LENGTH OF 140.05 FEET TO ITS POINT

OF TANGENCY; THENCE NORTH 75°02'12" WEST, A DISTANCE OF 155.91 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 300 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°38'57" AND AN ARC LENGTH OF 76.70 FEET; THENCE NORTH 89°41'09" WEST, A DISTANCE OF 55.00 FEET; THENCE NORTH 0°18'51" EAST, A DISTANCE OF 1,000.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

AND FURTHER EXCEPT THAT PORTION THEREOF PLATTED AS "MONTREUX PHASE 1", BY PLAT RECORDED AS AUDITOR'S FILE NO. 200707230124.

PARCEL "B":

TRACT 302, "EAGLEMONT PHASE 1C", ACCORDING TO THE PLAT THEREOF RECORDED IN FEBRUARY 1, 2000, UNDER AUDITOR'S FILE NO. 200002010036, RECORDS OF SKAGIT COUNTY, WASHINGTON.

## EXHIBIT B

Maps showing the proposed Montreaux Division 2 residential development  
(for illustrative purposes only)



**EXHIBIT C**  
Resolution 711

## EXHIBIT A

### Legal Description of Property

PARCEL "A":

THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-20-81, APPROVED OCTOBER 27, 1981 AND RECORDED OCTOBER 28, 1981 IN VOLUME 5 OF SHORT PLATS, PAGE 139, UNDER AUDITOR'S FILE NO. 8110280008, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-1-83, APPROVED APRIL 26, 1983, AND RECORDED APRIL 27, 1983, IN VOLUME 8 OF SHORT PLATS, PAGE 58, UNDER AUDITOR'S FILE NO. 8304270013, RECORDS OF SKAGIT COUNTY, WASHINGTON, LYING SOUTHERLY OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE M.R. NILSON CONSTRUCTION, INC., A WASHINGTON CORPORATION, BY DEED DATED APRIL 29, 1985, AND RECORDED MAY 1, 1985, UNDER AUDITOR'S FILE NO. 8505010024, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN VOLUME 600 OF OFFICIAL RECORDS, PAGE 365; AND LYING SOUTHERLY OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF TRACT "A" OF SHORT PLAT NO. MV-1-83; ALL OF SAID PORTIONS BEING IN THE SOUTHWEST ¼ OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M.;

EXCEPT EAST BROADWAY STREET;

AND EXCEPT SOUTH WAUGH ROAD;

AND ALSO EXCEPT A PORTION OF TRACT D OF SHORT PLAT NO. MV-20-81 AND A PORTION OF TRACT D OF SHORT PLAT NO. MV-1-83, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL "A":

THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-20-81, APPROVED OCTOBER 27, 1981 AND RECORDED OCTOBER 28, 1981 IN VOLUME 5 OF SHORT PLATS, PAGE 139, UNDER AUDITOR'S FILE NO. 8110280008, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-1-83, APPROVED APRIL 26, 1983, AND RECORDED APRIL 27, 1983, IN VOLUME 8 OF SHORT PLATS, PAGE 58, UNDER AUDITOR'S FILE NO. 8304270013, RECORDS OF SKAGIT COUNTY, WASHINGTON, LYING SOUTHERLY OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE M.R. NILSON CONSTRUCTION, INC., A WASHINGTON CORPORATION, BY DEED DATED APRIL 29, 1985, AND RECORDED MAY 1, 1985, UNDER AUDITOR'S FILE NO. 8505010024, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN VOLUME 600 OF OFFICIAL RECORDS, PAGE 365; AND LYING SOUTHERLY OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF TRACT "A" OF SHORT PLAT NO. MV-1-83; ALL OF SAID PORTIONS BEING IN THE SOUTHWEST ¼ OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M.;

EXCEPT EAST BROADWAY STREET;

AND EXCEPT SOUTH WAUGH ROAD;

AND ALSO EXCEPT A PORTION OF TRACT D OF SHORT PLAT NO. MV-20-81 AND A PORTION OF TRACT D OF SHORT PLAT NO. MV-1-83, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 8, "TIMBERLINE DIVISION NO. 1", ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 14 OF PLATS, PAGE 15, RECORDS OF SKAGIT COUNTY, WASHINGTON; THENCE SOUTH 89°12'57" EAST, ALONG THE SOUTH LINE OF SAID PLAT AND ALONG THE SOUTH LINE OF THE PLAT OF TIMBERLINE DIVISION 3, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 13 OF PLATS, PAGE 79, AND ALONG THE SOUTH LINE OF TRACT C OF SAID SHORT PLAT NO. MV-1-83, A DISTANCE OF 1,015.29 FEET TO THE SOUTHEAST CORNER OF SAID TRACT C; THENCE SOUTH 0°22'09" WEST ALONG THE EAST LINE OF TRACT D OF SAID SHORT PLAT NO. MV-1-83 AND EAST LINE EXTENDED, A DISTANCE OF 925.77 FEET; THENCE SOUTH 0°54'14" WEST, A DISTANCE OF 30.00 FEET TO A POINT ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF NORTH 89°05'46" WEST, AND A RADIUS OF 400.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20°24'19" AND AN ARC LENGTH OF 142.46 FEET TO A POINT OF TANGENCY; THENCE SOUTH 70°29'55" WEST, A DISTANCE OF 145.36 FEET; THENCE SOUTH 19°30'05" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF SOUTH 70°29'55" WEST AND A RADIUS OF 430.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°06'07" AND AN ARC LENGTH OF 120.84 FEET TO A POINT OF TANGENCY; THENCE SOUTH 86°36'02" WEST, A DISTANCE OF 15.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AND AN ARC LENGTH OF 39.27 FEET; THENCE SOUTH 86°36'02" WEST, A DISTANCE OF 60.00 FEET TO A POINT ON A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET AND AN INITIAL TANGENT BEARING OF NORTH 3°23'58" WEST; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AND AN ARC LENGTH OF 39.27 FEET TO ITS POINT OF TANGENCY; THENCE SOUTH 86°36'02" WEST, A DISTANCE OF 15.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 680.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 6°01'04" AND AN ARC LENGTH OF 71.42 FEET; THENCE NORTH 2°37'06" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 650.00 FEET AND AN INITIAL TANGENT BEARING OF NORTH 87°22'54" EAST; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°20'42" AND AN ARC LENGTH OF 140.05 FEET TO ITS POINT

OF TANGENCY; THENCE NORTH 75°02'12" WEST, A DISTANCE OF 155.91 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 300 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°38'57" AND AN ARC LENGTH OF 76.70 FEET; THENCE NORTH 89°41'09" WEST, A DISTANCE OF 55.00 FEET; THENCE NORTH 0°18'51" EAST, A DISTANCE OF 1,000.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

AND FURTHER EXCEPT THAT PORTION THEREOF PLATTED AS "MONTREUX PHASE 1", BY PLAT RECORDED AS AUDITOR'S FILE NO. 200707230124.

PARCEL "B":

TRACT 302, "EAGLEMONT PHASE 1C", ACCORDING TO THE PLAT THEREOF RECORDED IN FEBRUARY 1, 2000, UNDER AUDITOR'S FILE NO. 200002010036, RECORDS OF SKAGIT COUNTY, WASHINGTON.

## EXHIBIT B

Maps showing the proposed Montreaux Division 2 residential development  
(for illustrative purposes only)



**EXHIBIT C**  
Resolution 711

**RESOLUTION NO. 711**

**A RESOLUTION PERTAINING TO SUBDIVISION CONTROL AND ACCEPTING THE PRELIMINARY PLAT AND PLANNED UNIT DEVELOPMENT OF MONTREAUX PURSUANT TO CHAPTERS 16.08 AND 17.69 OF THE MOUNT VERNON MUNICIPAL CODE.**

**WHEREAS**, an application for approval of a Preliminary Plat and Preliminary Planned Unit Development (PUD) of a proposed 120-lot subdivision has been made pursuant to Chapters 16.08 and 17.69 of the Mount Vernon Municipal Code by the owner of the real property described in Exhibit "1" which comprises approximately 33.9 acres in Mount Vernon, Washington; and

**WHEREAS**, notices of the time, location and purpose of a public hearing for the purpose of giving approval, conditional approval or disapproval of the Preliminary Plat were sent pursuant to Chapters 16.08 and 17.69; and

**WHEREAS**, pursuant to Chapter 16.08 and 17.69 of the Mount Vernon Municipal Code, a public hearing was conducted before the Mount Vernon Hearing Examiner on March 07, 2006; and

**WHEREAS**, a Preliminary Plat map, Exhibit "1A", has been reviewed and approved by the Hearing Examiner; and

**WHEREAS**, the City of Mount Vernon issued a Mitigated Determination of Non-Significance (MDNS) on February 10, 2006; and

**WHEREAS**, the Hearing Examiner recommends, based on Findings of Fact, Conclusions of Law and Recommendations listed in File No. LU 05-085, Preliminary Plat and PUD approval with conditions and restrictions listed in Exhibit "2".

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON AS FOLLOWS:**

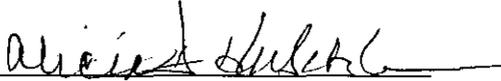
That said Preliminary Plat and PUD known and described as **MONTREAUX** has been presented for acceptance, approval and filing and is hereby accepted, approved and ordered filed subject to the restrictions and conditions listed in Exhibit "2", attached hereto and made a part hereof by reference as though fully set forth herein. The real property comprising such plat is hereby described in Exhibit "1", attached hereto and made a part hereof by reference as though fully set forth.

Dated this 26<sup>th</sup> day of April, 2006:



Bud Norris, Mayor

Attest:



Alicia D. Huschka, Finance Director

Approved as to form:



Kevin Rogerson, City Attorney

EXHIBIT "1":

**LEGAL DESCRIPTION**

THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-20-81, APPROVED OCTOBER 27, 1981 AND RECORDED OCTOBER 28, 1981 IN VOLUME 5 OF SHORT PLATS, PAGE 138, UNDER AUDITOR'S FILE NO. 8110280008, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND THAT PORTION OF TRACT D OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-1-83, APPROVED APRIL 28, 1983, AND RECORDED APRIL 27, 1983, IN VOLUME 6 OF SHORT PLATS, PAGE 58, UNDER AUDITOR'S FILE NO. 8304270013, RECORDS OF

**LEGAL DESCRIPTION CONT.**

SKAGIT COUNTY, WASHINGTON, LYING SOUTHERLY OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE M.R. NELSON CONSTRUCTION, INC., A WASHINGTON CORPORATION, BY DEED DATED APRIL 28, 1985, AND RECORDED MAY 1, 1985, UNDER AUDITOR'S FILE NO. 8505010024, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN VOLUME 800 OF OFFICIAL RECORDS, PAGE 383; AND LYING SOUTHERLY OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF TRACT "A" OF SHORT PLAT NO. MV-1-83, ALL OF SAID PORTIONS BEING IN THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 34, NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN;

EXCEPT EAST BROADWAY STREET;

AND EXCEPT SOUTH WAUGH ROAD;

AND ALSO EXCEPT A PORTION OF TRACT D OF SHORT PLAT NO. MV-20-81 AND A PORTION OF TRACT D OF SHORT PLAT NO. MV-1-83, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 6, TIMBERLINE DIVISION NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 14 OF PLATS, PAGE 15, RECORDS OF SKAGIT COUNTY, WASHINGTON;  
THENCE SOUTH 89°29'37" EAST, ALONG THE SOUTH LINE OF SAID PLAT AND ALONG THE SOUTH LINE OF TRACT "A" OF SHORT PLAT NO. MV-1-83, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 13 OF PLATS, PAGE 79 AND ALONG THE SOUTH LINE OF TRACT C

**LEGAL DESCRIPTION CONT.**

OF SAID SHORT PLAT NO. MV-1-83, A DISTANCE OF 1,015.29 FEET TO THE SOUTHEAST CORNER OF SAID TRACT C;  
THENCE SOUTH 0°22'09" WEST ALONG THE EAST LINE OF TRACT D OF SAID SHORT PLAT NO. MV-1-83 AND SAID EAST LINE EXTENDED, A DISTANCE OF 828.77 FEET;  
THENCE SOUTH 0°54'14" WEST, A DISTANCE OF 30.00 FEET TO A POINT ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF NORTH 89°05'48" WEST, AND A RADIUS OF 400.00 FEET;  
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20°24'19" AND AN ARC LENGTH OF 142.48 FEET TO A POINT OF TANGENCY;  
THENCE SOUTH 70°29'55" WEST, A DISTANCE OF 145.38 FEET;  
THENCE SOUTH 19°30'05" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF SOUTH 70°29'55" WEST AND A RADIUS OF 430.00 FEET;  
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°08'07" AND AN ARC LENGTH OF 120.84 FEET TO A POINT OF TANGENCY;  
THENCE SOUTH 88°38'02" WEST, A DISTANCE OF 15.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET;  
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AND AN ARC LENGTH OF 38.97 FEET;  
THENCE SOUTH 88°38'02" WEST, A DISTANCE OF 80.00 FEET TO A POINT ON A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET AND AN INITIAL TANGENT BEARING OF NORTH 3°23'38" WEST;

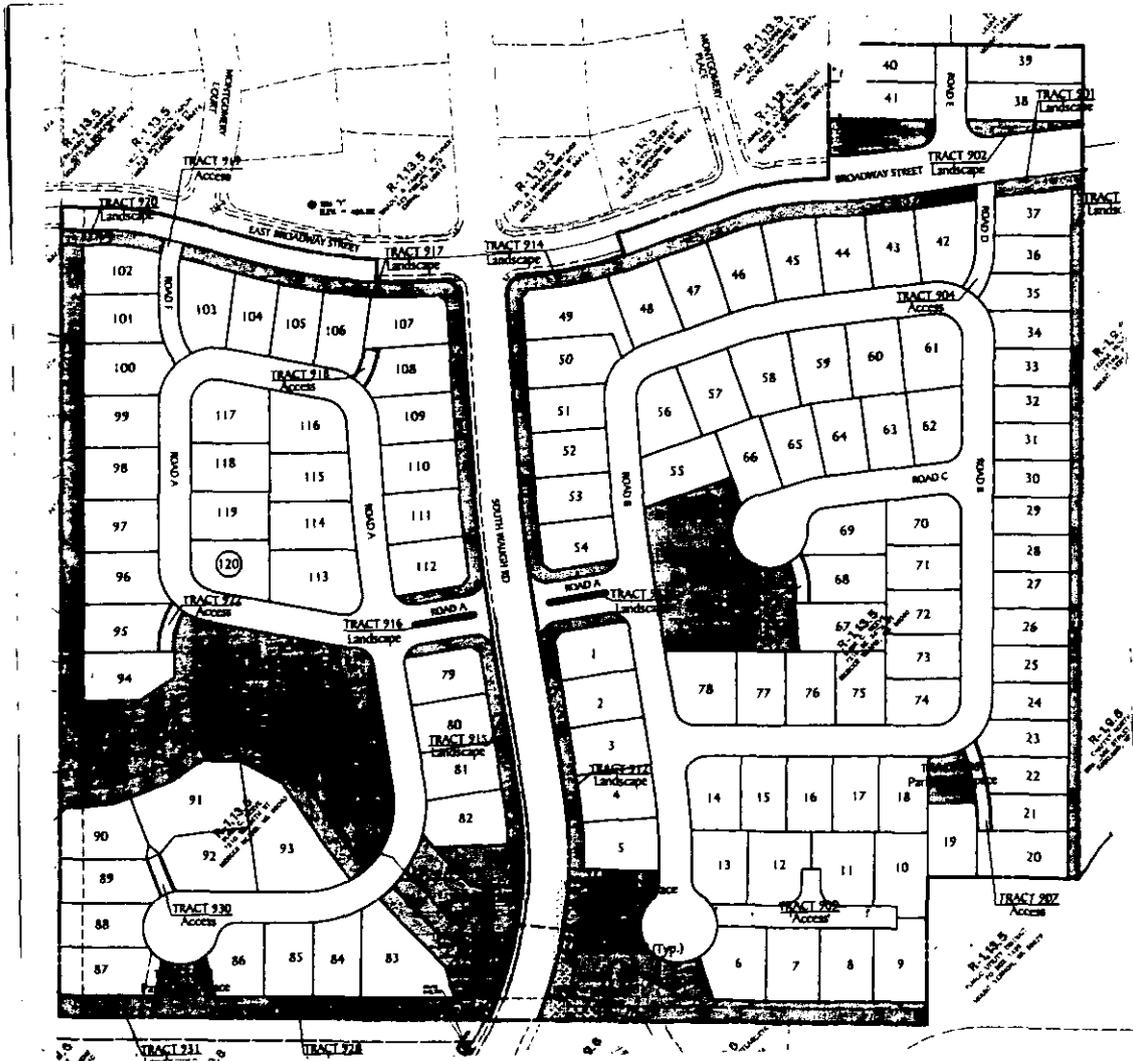
**LEGAL DESCRIPTION CONT.**

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AND AN ARC LENGTH OF 38.97 FEET TO ITS POINT OF TANGENCY;  
THENCE SOUTH 88°38'02" WEST, A DISTANCE OF 15.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 680.00 FEET;  
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°01'04" AND AN ARC LENGTH OF 71.42 FEET;  
THENCE NORTH 23°37'08" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 630.00 FEET AND AN INITIAL TANGENT BEARING OF NORTH 87°22'54" EAST;  
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°20'42" AND AN ARC LENGTH OF 140.05 FEET TO ITS POINT OF TANGENCY;  
THENCE NORTH 73°02'12" WEST, A DISTANCE OF 135.91 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 300 FEET;  
THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°38'57" AND AN ARC LENGTH OF 78.70 FEET;  
THENCE NORTH 88°41'08" WEST, A DISTANCE OF 55.00 FEET;  
THENCE NORTH 0°18'31" EAST, A DISTANCE OF 1,000.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

SITUATED IN SKAGIT COUNTY, WASHINGTON

EXHIBIT "1A"

MONTREAUX  
PRELIMINARY PLAT AND PUD MAP



## **EXHIBIT "2":**

### **CONDITIONS OF APPROVAL MONTREAUX PRELIMINARY PLAT & PUD**

1. The final Planned Unit Development plan must present all of the information required for the preliminary PUD plan in a finalized, detailed form. This includes: all PUD and supporting information, site plans sufficient for recording and engineering drawings. All preliminary plans submitted to-date, such as a landscape, park and open space plans, must be presented in their detailed form. To date, the applicant has provided preliminary plans with regard to landscaping, open space and architectural detail for the buildings. The final PUD and Plat plans must incorporate the conditions of approval listed below that the Hearing Examiner and/or City Council choose to adopt.
2. Compliance with City of Mount Vernon Design Review Guidelines is required for all lots within the proposed development. Following the approval of the final PUD and plat all of the Building Permit applications that are submitted shall demonstrate compliance with the Design Review Guidelines. All of the items that the applicant states in their Design Review compliance narrative document, contained in the staff report labeled as Exhibit 3, shall become conditions of approval.
3. The SEPA mitigation measures identified as 1 through 10 on the issued Mitigated Determination of Non-Significance (MDNS) shall become conditions of approval of both the PUD and Plat. These conditions are as follows:
  1. A truck route plan, indicating times of day and days of the week shall be submitted for review and approval by the City Engineer. Peak traffic hours during the A.M. (±7:00 – 9:00) and P.M. (±4:00 – 6:00) are to be avoided.
  2. A temporary storm drainage plan shall be approved by the City prior to commencing the land clearing process.
  3. A detailed erosion control plan is required. Specific emphasis shall be placed on the construction entrance and the protection of existing streets, drainage systems and adjacent properties.
  4. Applicant shall submit an inventory of dangerous trees to be removed as part of the development process. Said inventory shall be prepared by a qualified professional.
  5. A split rail fence shall be installed along all native growth and wetland/stream buffer boundaries and, in a prominent location, a wetland/stream identification sign shall be placed every 150 feet or every platted lot, as applicable. Any proposed alternative to the split rail fence requirement shall be approved by the Development Services Director.
  6. Wetland, stream and steep slope buffer boundaries must be flagged in the field and inspected by the City prior to construction activities. The flagged delineations must be maintained for the duration of the clearing and construction activities.
  7. Best Management Practices (BMPs) shall be employed. Mitigation and conservation measures shall be implemented.
  8. A copy of all permits required by agencies other than the City of Mount Vernon shall be submitted to the City prior to construction.
  9. The applicant shall be responsible for a portion of the cost of providing a traffic signal at the intersection of East Division Street and Waugh Road. The portion of the cost that the applicant shall pay will be based upon the proportionate number of residential units forecasted in the immediate area surrounding the project site. The City Engineer will review and approve the forecasted units in the immediate area and at least three (3) design and construction estimates for

the traffic signal. The applicant shall pay their calculated share of the cost prior, as determined by the City Engineer, to final plat approval.

10. At the discretion of the City Engineer, additional intersection stripping and signage may be required at the intersections of 15<sup>th</sup>, 18<sup>th</sup> and Cedardale Roads with Blackburn Road.
  
4. The applicant shall be given the two increases in density that are requested in their Project Narrative. Specifically, MVMC 17.69.120(A)(1)(a) states, in part, that a project may be granted a maximum of five percent (5%) increase in density if it serves the needs of the development's residents and includes facilities such as play areas with equipment, basketball courts, landscaping, open spaces, or pedestrian facilities and recreational areas in excess of those minimums required by the underlying zoning. The underlying zoning would not require the parks/open space areas that the development will provide or any of the amenities that are shown within these areas. In addition, MVMC 17.69.120(A)(1)(c)(v) states, in part, that if the proposed structures incorporate energy efficient design to at least a level of efficiency that exceeds the state standards by one base increment, or if the project incorporates the use of renewable energy sources in a majority of the development, another five percent (5%) increase in density can be earned. The five percent (5%) bonus in density for the energy efficient design will be evaluated with each building permit submitted to the City. If the criteria for this density bonus are not met the applicant shall lose a total of five (5) lots (which is the number of additional lots granted for this density bonus).
  
5. The items outlined in Dennis Carlson's 'SEPA Comments for Montreaux Plat/PUD' letter, shall become conditions of approval; and are as follows:

**STREETS**

- All lots shall be required to receive driveway access from the project's internal street system, except Lots located on the north side of Broadway Street.
- No lots shall receive direct access from Broadway Street.
- No lots shall receive direct access from Waugh Road.
- No lots shall receive direct access from the plats main entrance roads on either side of Waugh Road.
- Lots receiving access through Tracts 904, 905, 907, 918, 919, 921, & 929 shall be addressed from an interior public street.
- Tract 909 shall be re-designated as a public street meeting City Street Standard "Type Alternate A". The streets hammerhead turnaround shall meet fire / safety vehicle turning radius requirements (28' inside & 45' outside).

**Type 2**

- A 47' R/W with a 28' paved travel width, 0.5' concrete curbs, 4' planter strips, and 5' wide concrete sidewalks on both sides. Parking is not allowed on one side of the street.
- The project proposes that roads A, B, C, and E be constructed as this street type. A modification of the "Type 2" R/W width to 42' is approved by the Director of Development Services. Portions of the sidewalk constructed outside of the R/W must be within an easement.

**Type 1**

- A 45' R/W with a 26' paved travel width, 0.5' concrete curbs, 4' planter strips, and 5' wide concrete sidewalks on both sides. Parking is not allowed on this street type.
- The projects cul-de-sac streets qualify for a City Standard "Type 1" streets and may be revised to that design at the developer's option.

**Type Alternate "A"**

- A 30' R/W with a 24' paved travel width, standard or rolled curb and gutter on one side with no sidewalk. The opposite side requires rolled curb and gutter and 6" thick combined rolled curb and sidewalk extending 5' from the gutter line. Parking is not allowed on this street type.

**Broadway Street (west of Montgomery Place)**

- This portion of Broadway Street shall be constructed to complete the existing roadway section to a 44' travel width, with standard concrete curb and gutter and sidewalk (a meandering sidewalk is preferred for this roadway improvement).

**Broadway Street (east of Montgomery Place)**

- This portion of Broadway Street shall be constructed to complete the existing roadway and shall construct a complete roadway within the proposed plat that aligns the approved roadway design for the Cedar Heights development east of this project.
- The south lane of Broadway Street may taper from a 22' travel width to a 16' travel width, beginning at the centerline of Montgomery Place and extending east at a rate not less than 20:1. Standard concrete curb and gutter and a meandering sidewalk is preferred for this roadway improvement.
- The north lane of Broadway Street may taper from a 22' travel width to a 16' travel width, beginning at the west boundary of the proposed plat and extending east at a rate not less than 10:1. Standard concrete curb and gutter, a 4' (minimum) planter space and a 5' wide sidewalk are required for this roadway improvement.
- No parking will be allowed east of Montgomery Place.
- That portion of Broadway Street that is within the proposed plat will exceed a three quarter street construction section and will be eligible for "traffic impact fee credits".

**Waugh Road**

- Waugh Road shall be constructed to complete a 44' travel width from Broadway Street to The Eaglemont development, and shall match the existing roadway improvements. An overlay of the existing paved roadway is required as part of this project.
- A meandering sidewalk is preferred along the east side of Waugh Road.
- Sidewalk shall not be required on the east side of the street within approximately 200' of the Eaglemont development.
- This roadway section does not provide a three quarter street improvement and is not eligible for "traffic impact fee credits".

**Site Entrance Streets**

- The divided roadway section is appears to be acceptable as shown in the preliminary plan submittal.
- Provisions for left turn lanes entering on to Waugh Road may be omitted upon the recommendation of the projects traffic engineer.
- The divider planters shall not restrict emergency vehicle turning radii or impair sight distance.

**Emergency Access Roads**

- Tracts 904 & 919 serve as secondary access roads to the plats interior roads. The developer has submitted an acceptable design section for these roads. The developer shall submit a design feature for each of these roads that will discourage use by the plats home owners and the general public. The City approval of the design shall be required. No parking is allowed on these roads.

**Private Joint Use Driveways**

- These driveways in Tracts 905, 907, 918, 921, & 929 shall require approval by the City of Mount Vernon Fire Marshall.

**Pedestrian Facilities**

- Typical sections and details for each proposed facility shall require review and approval by the City.

- The pedestrian walkway proposed to be located in the easterly portion of Lot 87 shall be moved to be entirely within Tract 928.
- A 15' pedestrian access easement shall be provided from the east end of proposed Tract 909 to the east plat boundary.

**Concurrency**

- Traffic studies for projects in this area report that continued development will cause the E. Division Street, Waugh Road intersection to operate below City LOS standards. Based on the development impacts of this PUD and others in the near by area, a traffic signal shall be provided for this intersection. This development shall responsible for a share of the cost of providing that signalization, based on the proportionate number of residential units forecasted. The fair and reasonable cost of providing signalization shall be established by reviewing the design and construction estimates for the project. At least 3 estimates shall be submitted for review. The Montreaux developer shall deposit their calculated share of the cost, with the City, prior to final plat approval. The Montreaux developer shall be eligible for transportation fee credits in the amount of their calculated share.

**Sanitary Sewers**

- All sanitary sewers shall be pressure tested and TV inspected prior to acceptance by the City.
- Lots requiring connection to the future sanitary sewer system to the east may not be issued building permits until the offsite system is tested and approved by the City.

**Storm Drainage**

- This project shall comply with current City of Mount Vernon drainage construction and design requirements.
- This project proposes to access and modify an existing stormwater facility constructed as part of the Eaglemont development and now owned and maintained by the City. The developer shall demonstrate that use of the existing facility and modification of its design or shape shall not limit future expansion to accommodate development within the contributing Eaglemont drainage basin.

6. All of the roads, and access tracts that have sidewalks (which includes: South Waugh, East Broadway, Roads A, B, C, E, and Tract 909), with the exception of the west side of South Waugh Road (which is discussed in the following condition) and the east side of South Waugh Road south of Tract 91, no less than a 5 foot wide planting strip will be installed between the sidewalk and the roadway. Within this planting strip City approved street streets shall be installed no more than 30 feet on center. In addition, the planting strip shall be landscaped with shrubs and/or ground cover. Where Road "A" crosses the on-site drainage way no landscaping strip will be necessary.
7. The west side of South Waugh Road has an existing sidewalk; and as such, a landscaping strip between the roadway and the sidewalk will not be required. However, behind the existing sidewalk, in this location, City approved street trees shall be installed at a maximum spacing of 30 feet on center with shrubs and/or ground cover installed surrounding the trees.
8. Tract Roads D, F, 905, 907, 918, 922, 930, and the side of 909 that does not have a sidewalk, will provide City approved street trees along both sides of these tracts at a maximum spacing of 30 feet on center.
9. The east side of South Waugh Road shall have no less than a 10 foot wide sidewalk north of Tract 91. This section of road shall have no less than a 5 foot landscaping strip between the road and the sidewalk, and this area shall contain City approved street trees

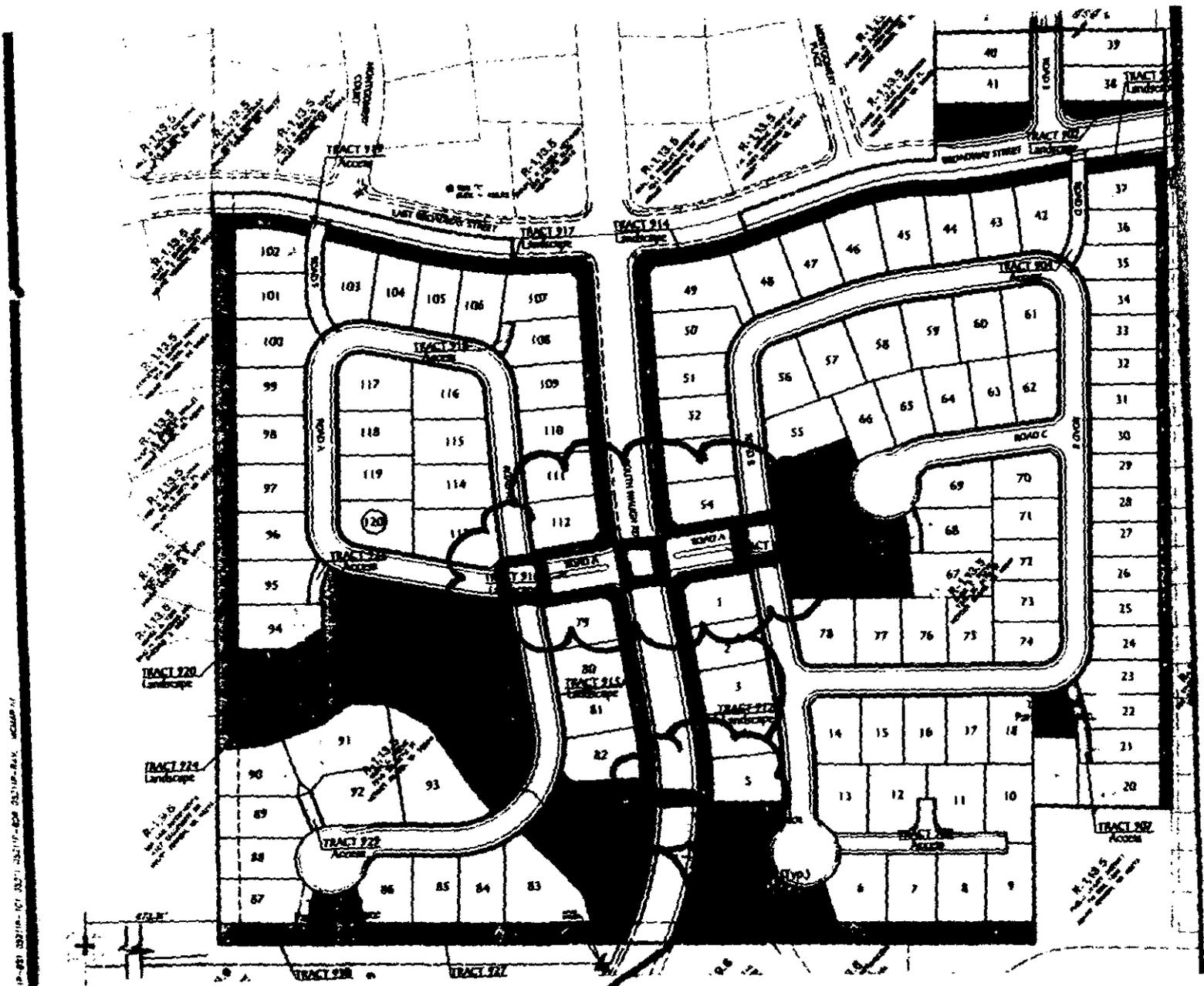
with a maximum spacing of 30 feet on center with shrubs and/or ground cover installed. On the east side of the 10-foot wide sidewalk another landscaping area shall be installed also with City approved trees, shrubs and groundcover. The approved trees shall also be installed at a maximum spacing of 30 feet on center.

10. The pedestrian trail that exists to the south of the Montreaux development shall be connected to the existing sidewalk near proposed Tract 927 and the proposed landscape buffer near this location. Pedestrians on this existing trail shall be able to access the existing sidewalk on the west side of South Waugh Road where they will travel north for approximately 200 feet. At this point a pedestrian crossing across South Waugh Road shall be installed. The pedestrian crossing shall be made of decorative pavers, stamped concrete or other similar material. Pedestrians shall then be able to access the 10 foot wide sidewalk on the east side of South Waugh Road up to and connecting with East Broadway Street.
11. A portion of the south boundary of Tract 929 shall be cleared and a decorative trail (made of pavers, stamped concrete or other similar material) that allows pedestrians on the abutting Eaglemont pedestrian trail to access and use this tract shall be installed. A public use easement shall be granted to the public from the applicant for Tract 929.
12. A public use easement shall also be granted by the applicant for the sidewalk on the east side of South Waugh Road and the trail that connects to Tract 911 and all of Tract 911.
13. Decorative pedestrian cross-walks made of pavers, stamped concrete or other similar material and ADA approved curb cuts shall be installed across both the entry points off of South Waugh Road and also across South Waugh Road to the north and south of the cross-walks on South Waugh Road. The same cross-walks shall also be installed across the four (4) road segments northeast of Tract 923 and across the three (3) road segments west of Tract 906. Please see the attached **Exhibit A** for a graphic depiction of where the decorative pedestrian cross-walks shall be located.
14. A 20-foot wide access and utility easement shall be granted to the Eaglemont development near proposed lot 87 to provide access to Eaglemont's Tract 302. If the applicant purchases Tract 302 from Eaglemont this condition can be removed.
15. A 20-foot wide access easement shall be granted to Public Utility District #1 (PUD) extending from either Tract 907 or 909 to the PUD property that abuts the southeast corner of the development.
16. The 30-foot wide landscape buffer located on the west side of the development abutting proposed lots 94 through 102 shall be installed to meet the definition of a 'forested buffer' per MVMC 17.06.345, and the decorative fence that is shown on the site plans on sheet 14 shall also be installed.
17. The amenities shown within all of the park/open space areas such as the sport court, tot-lot, benches, walkways, trellis structures, picnic tables and the decorative landscaping are

all mandatory elements that must be installed prior to final plat approval. All of the park/open space areas shall contain garbage cans, security lighting, and 6-foot tall decorative fencing shall be installed around each of these areas that abut proposed residential lots. Attached as **Exhibit B** is a list of the Mount Vernon Parks and Recreation Specifications that shall be followed for all of the above-listed park/open space amenities.

18. Roads adjacent to where garbage and recycling will be collected shall have parking restrictions that will be determined by the City Engineer. Road cross-sections may also need to be modified to ensure that they can accommodate these service vehicles.
19. Fencing will be required around the buffer areas of all identified protected critical areas. Decorative fencing other than split rail fences can be approved administratively by the Development Services Director.
20. Decorative fencing shall be installed between all park, open space, and landscape tracts that abut proposed residential lots. A detailed fencing plan shall be submitted for review and approval with the road and utility plans prior to final plat approval.
21. Setbacks for the proposed single-family residential structures shall be as follows as long as the building permit plans show that the requirements found in MVMC 17.70 are met:
  - Front yard: Not less than 10 feet from property line, except covered front porches may have a set back of not less than 5 feet. The front of garages shall maintain at least 20 feet measured from the back of sidewalk or property line or from the edge of pavement on private streets. Garages shall also be set-back at least 4 feet from the primary structure; or decorative features must be installed on the front of garages.
  - Rear yard: Not less than 10 feet.
  - Side yard: Not less than 5 feet, allowing, however, that the eaves of a dwelling or accessory structure may project 18 inches from the line of the setback toward a property line. In order to protect privacy, windows facing the side yard shall be off-set from the adjacent residence. The installation of fences, walls and hedges will be required. Garages may be built with zero lot line from side property lines subject to the provisions of the IRC.
22. All of the proposed single-family lots can have up to, but not more than forty percent (40%) lot coverage.
23. The restoration of the City owned protected critical area tract that is documented within the two letters, and the map, within the staff report labeled as Exhibit 15, shall occur to the satisfaction of the City prior to final approval of the plat and PUD.
24. Street lights, mailboxes and monument signs shall meet the City's Design Standards.

25. The homeowner's association that shall be created for the Montreaux development shall be responsible for the maintenance all landscape areas, tracts and sidewalks adjacent to all dedicated public and private roadways. The homeowners association shall also be responsible for the maintenance of all of the parks and open space areas.
26. Codes, Covenants & Restrictions (CC&Rs) for the Montreaux development shall be submitted to the Development Services Department for review and approval prior to final plat approval. The City approved CC&Rs shall be recorded with, and cross-referenced on, the face of the final plat.
27. If the Blackburn Road extension project has not started construction by the time the proposed residences within the Montreaux development are occupied the following modified mitigation measures shall be applied:
  - Re-stripping of the south leg of the 18<sup>th</sup> and Section Street intersection for an exclusive northbound right-turn lane plus a shared left/through lane at the discretion of the City Engineer;
  - Re-stripping of the east and west legs of the 18<sup>th</sup> Street and Blackburn Road intersection for exclusive left-turn lanes plus a shared through/right lane at the discretion of the City Engineer and no re-stripping would be needed on the north and south legs; and,
  - No improvements would be necessary at the intersection of Blackburn Road and 15<sup>th</sup> Street or the intersection of Blackburn and Cedardale Roads.
28. A 20-foot wide forested buffer shall be installed along the west side of proposed lots 40 and 41.



→ CROSS WALK LOCATIONS ↑ N

EXHIBIT A

## MOUNT VERNON PARKS AND RECREATION SPECIFICATIONS

	<b>Contact</b>	<b>Color</b>	<b>Model # or Description</b>
<b>Park Table</b>	Webcoat Products 1-800-505-5101	VIP Green	T46RCPEDS
<b>Park Bench</b>	Webcoat Products 1-800-505-5101	VIP Green Black frame	B6WBVILLAEXP
<b>Park Garbage Can Holder</b>	Webcoat Products 1-800-505-5101	VIP Green Black	TR32 Dome32 (dome top)
<b>Park or Trail Bollard</b>	Carlson Steel 360-734-1100	Green	MV Park Spec
<b>Basketball backboard/rim</b>	PW Athletic MFG 1-800-687-5768	white/orange	Aluminum backboard Break away rim

**Basketball courts** (half-court) shall be at least 40X40 in size. Concrete shall be at least 4" thick.

**Tot Lots:** All play equipment is to be IPEMA certified. Playground safety surfacing (rubber or manufactured wood chips must also be IPEMA Certified (American Society for Testing and Materials F1292).