



# Community and Economic Development Planning Division

18204 59<sup>th</sup> Avenue NE, Arlington, WA 98223

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## **Notice of Decision Centennial Park - PLN #543**

### **To all parties of record:**

The request for a conditional use permit for the development of a 157-unit, multi-family housing and commercial mixed-use development, known as "Centennial Park," on 8.81 acres at the northeast corner of 172nd Street NE and 67th Avenue NE has been **APPROVED** by the City of Arlington on **August 21, 2019**. This approval was based on the Recommended Findings of Fact, Conclusions of Law, and Decision by City of Arlington Hearing Examiner Theodore Hunter, issued August 16, 2019.

This decision will become final and effective on **September 11, 2019** (at 5:00 pm) unless an appeal is filed.

The City's Decision may be appealed to the Superior Court of Snohomish County by the applicant or any Party of Record. A party of record includes the applicant and any individual who submitted written testimony during the comment period or presented oral or written testimony at the hearing.

### **Appeal Closing Deadline: September 11, 2019**

An appellant must submit an appeal to the Superior Court of Snohomish County with 21 calendar days after the decision. Appeals are subject to AMC 20.24.

**Application Submittal Date:** April 16, 2019

**Fully Complete Date:** July 8, 2019

**Days to Hearing:** 28

**Days to Decision:** 44

**Threshold Determination:** MDNS issued July 12, 2019

**Date of this Notice:** August 21, 2019

### **Attachments**

- Hearing Examiner Recommended Findings of Fact, Conclusions of Law, and Decision, issued August 16, 2019

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF ARLINGTON**

In the Matter of the Application of	)	No. PLN#543
	)	
<b>Williams Investments</b>	)	<b>Centennial Park CUP</b>
	)	
	)	FINDINGS, CONCLUSIONS,
<u>For a Conditional Use Permit</u>	)	AND DECISION

**SUMMARY OF DECISION**

The request for a conditional use permit for the development of a 157-unit, multi-family housing and commercial mixed-use development, known as “Centennial Park,” on 8.81 acres at the northeast corner of 172nd Street NE and 67th Avenue NE is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed use.

**SUMMARY OF RECORD**

Hearing Date:

The Hearing Examiner held an open record hearing on the request on August 5, 2019.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Josh Grandlienard, City Planner  
Marc Hayes, City Community & Economic Development Director  
Michael Stephens, Applicant Architect  
Stephen Glen Tenison  
Susan Edgerton  
Peggy Jankovic

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report
2. Parties of Record
3. Certification of Public Notice, dated July 24, 2019
4. Land Use Application – Conditional Use Permit, received March 19, 2019
5. Schematic Design Narrative, Dykeman, received March 19, 2019
6. Vicinity Map, undated
7. Water and Sewer Availability, City of Arlington, dated February 20, 2019
8. Traffic Impact Analysis, Gibson Traffic Consultants, Inc., dated March 2019
9. Preliminary Drainage Report, CG Engineering, dated February 21, 2019; Geotechnical Engineering Report, GeoTest Services, Inc., dated August 2, 2018; Wetland Delineation

*Findings, Conclusions, and Decision  
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Centennial Park, Conditional Use Permit No. PLN#543*

- and Fish and Wildlife Habitat Assessment Report and Buffer Enhancement Plan, Soundview Consultants, dated February 10, 2019
10. Drainage Report, CG Engineering, dated July 8, 2019
  11. Geotechnical Report, GeoTest Services, Inc., dated August 2, 2018
  12. Wetland Delineation and Fish and Wildlife Habitat Assessment Report and Buffer Enhancement Plan, Soundview Consultants, dated June 2019
  13. Snohomish County Tax Parcels, 500' Radius Map, dated February 28, 2019
  14. Centennial Park Mailing List
  15. SEPA Environmental Checklist, dated July 8, 2019
  16. Cover Sheet (Sheet No. G01), revised July 8, 2019
  17. Code Analysis and Building Information (Sheet No. G03), revised July 8, 2019
  18. Site Plan (Sheet No. SD1.0), revised July 8, 2019
  19. Street and Interior Tree Plan (Sheet No. L1.1), dated July 8, 2019
  20. Park Enlargement Plans (Sheet No. L1.2), dated July 8, 2019
  21. Building A Elevations (Sheet No. A2.10), revised July 8, 2019
  22. Building B Elevations (Sheet No. A2.11), revised July 8, 2019
  23. Building C\_D Elevations (Sheet No. A2.12), revised July 8, 2019
  24. Building E\_E.2 Elevations (Sheet No. A2.13), revised July 8, 2019
  25. Building F\_G Elevations (Sheet No. A2.14), revised July 8, 2019
  26. Building H Elevations (Sheet No. A2.15), revised July 8, 2019
  27. Building I\_J\_N Elevations (Sheet No. A2.16), revised July 8, 2019
  28. Building K\_L\_M Elevations (Sheet No. A2.17), revised July 8, 2019
  29. Building K\_L\_M Elevations (Sheet No. A2.18), revised July 8, 2019
  30. Notice of Neighborhood Meeting, undated
  31. Neighborhood Meeting Minutes for April 16, 2019, undated
  32. Notice of Complete Application, dated April 16, 2019
  33. SEPA Threshold Determination – Mitigated Determination of Nonsignificance, dated July 10, 2019
  34. SEPA Distribution List
  35. Email from Kerry Lyste, Stillaguamish Tribe, to Kristin Foster, dated July 17, 2019, with email string
  36. Email from Elbert Esparza, Snohomish County Department of Public Works, to Kristin Foster, dated July 12, 2019, with email string
  37. Email from Cindy Vick to Josh Grandlienard, dated July 24, 2019
  38. Notice of Application, dated July 12, 2019
  39. Notice of Public Hearing, undated
  40. Centennial Park – Exterior Color and Material Concept, dated August 5, 2019
  41. Email from Department of Archaeology & Historic Preservation to Josh Grandlienard, dated July 25, 2019, with email string, and letter from Stephanie Jolivet, Department of Archaeology & Historic Preservation to Josh Grandlienard, dated July 25, 2019

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

*Findings, Conclusions, and Decision*  
*City of Arlington Hearing Examiner*  
*Centennial Park, Conditional Use Permit No. PLN#543*

## **FINDINGS**

### Background

1. Williams Investments (Applicant),<sup>1</sup> request approval of a conditional use permit (CUP) for the development of a 206-unit, multi-family housing (18 buildings) and 6,300 square feet of commercial mixed-use development, known as “Centennial Park.” The 8.81-acre property is located at the northeast corner of 172nd Street NE (SR-531) and 67th Avenue NE.<sup>2</sup>

As part of the application, Soundview Consultants prepared a Wetland Delineation and Fish and Wildlife Habitat Assessment Report and Buffer Enhancement Plan (WD/AR/BEP) for the Applicant, dated June 28, 2019. The site assessment identified a relict (or former) stream channel of Edgecomb Creek<sup>3</sup> in the southern portion of the site, which remained after Edgecomb Creek was relocated off-site as part of a Washington State Department of Transportation (WSDOT) restoration project. At the time of the hearing, the Applicant had requested that the Washington Department of Natural Resources (DNR) declassify the relict stream. *WAC 222-16-030*. A determination on that request has not yet been made. Until such a determination is made by DNR, the relict stream is subject to a 100-foot native growth protection easement and an additional 50-foot management zone. *AMC 20.93.440(a)*. Therefore, the Applicant seeks a two-phase development project, with Phase 1 consisting of 157 units and commercial mixed-use development, and Phase 2 consisting of filling the relict stream channel and building additional housing units for a total of 206 units should the request for declassification be approved. *Exhibit 4; Exhibit 5; Exhibit 12*.

### Application and Notice

2. The City of Arlington (City) determined that a CUP request for 157-unit, multi-family housing and 2,987 square feet of commercial mixed-use development should be subject to a SEPA threshold evaluation. The 157 units would consist of 14 three-story buildings with 87 one-bedroom units, 40 two-bedroom units, and 30 three-bedroom units. All units would be offered at market rates. The property is bordered by 172nd Street NE (SR-531) to the south, and 67th Avenue NE and Centennial Trail to the west. Ground level units along 67th Avenue NE would be designed to be converted to commercial/retail space as

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<sup>1</sup> The Notice of Application and Notice of Public Hearing list the Applicant as Jari Williams and Ryan Kilby of Williams Investments. *Exhibits 38 and 39*. The application lists the owner as Edgecomb Station 5J, LLC and the Applicant as Jari Williams and Ryan Kilby. *Exhibit 4*. The staff report identifies the Applicant as Centennial Park 5J, LLC. *Exhibit 1, Staff Report, page 1*. The Water & Sewer Availability letter identifies the owner as Edgecomb Station 5J, LLC and the owner’s agent as Michael Stevens, Dykeman Architects. *Exhibit 7*. The Hearing Examiner relies upon the public notice for identification of the applicant, unless other evidence clearly indicates otherwise.

<sup>2</sup> The property is identified by the following tax identification number: 31052300300800. An abbreviated legal description is provided with the staff report. *Exhibit 1, Staff Report, page 3*.

<sup>3</sup> Edgecomb Creek is also identified as Quilceda Creek in the Drainage Report. *Exhibit 10*.

the market dictates. *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 4; Exhibit 5; Exhibit 12; Exhibits 17 through 29.*

3. The City determined that the CUP application was complete on April 16, 2019. On March 29, 2019, the City mailed notice of an April 16, 2019, neighborhood meeting to property owners within 500 feet of the property. On July 12, 2019, the City provided notice of the application by publishing notice in *The Herald*, mailing notice to property owners within 500 feet of the property, and posting notice on-site and at designated City locations. The notice provided a comment deadline of July 26, 2019. On July 19, 2019, the City provided notice of the open record hearing associated with the application by mailing notice to parties of record, affected agencies, and property owners within 500 feet of the property; by posting notice at designated City locations; and by publishing notice of the hearing in *The Herald*. The City did not receive any public comment or comments from affected agencies. The City received one public comment from Cindy Vick, dated July 24, 2019, concerning traffic congestion. *Exhibit 1, Staff Report, pages 5 and 6; Exhibit 3; Exhibit 13; Exhibit 14; Exhibit 30; Exhibit 31; Exhibit 32; Exhibit 37; Exhibit 38; Exhibit 39.*

#### State Environmental Policy Act

4. The City Department of Community and Economic Development (DCED) acted as lead agency and analyzed the environmental impact of the construction of 157 residential units, 2,890 square feet of retail, 197 parking stalls, and associated features, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW. DCED reviewed the Applicant's Environmental Checklist and other information on file with the City. The Environmental Checklist listed songbirds as observed or known to be on or near the site. No threatened or endangered species were identified on or near the site. The Environmental Checklist did not identify any wetlands, streams, steep slopes, or other critical areas on the property.

The City's SEPA Responsible Official, Marc Hayes, determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. The MDNS included mitigation measures to address impacts on earth, air, groundwater, water runoff, plants, energy, environmental health, aesthetics, light and glare, recreation, historic and cultural preservation, transportation, and utilities. Mr. Hayes issued a Mitigated Determination of Nonsignificance (MDNS) on July 10, 2019, with a July 26, 2019, comment period deadline. The City provided notice of the SEPA threshold determination by mailing notice to property owners within 500 feet of the property, by posting notice on-site and at designated city locations, and by publishing notice in *The Herald* on July 12, 2019. The Stillaguamish Tribe and the Snohomish County Archaeologist submitted comments recommending a professional archaeological survey for the project site prior to development. Snohomish County Public Works commented that no mitigation fees would be required. City Planner Josh Grandlienard testified that the SEPA MDNS was not appealed. *Exhibit 1, Staff Report, pages 5, 6, 10,*

*and 14; Exhibit 3; Exhibit 15; Exhibit 33; Exhibit 34; Exhibit 35; Exhibit 36; Exhibit 41; Testimony of Mr. Grandlienard.*

#### Comprehensive Plan and Zoning

5. The property is designated Neighborhood Commercial under the City Comprehensive Plan. The Neighborhood Commercial designation consists primarily of a compact commercial urban fabric with small-scaled commercial retail and professional services. It is generally characterized as an active pedestrian environment with commercial buildings situated at the intersection of moderate to high-volume thoroughfares. Lots are served by City water and sewer. Developments in this designation are subject to design review. The purpose of the Neighborhood Commercial designation is to provide commercial amenities and professional services within geographic areas that are generally zoned for residential or industrial uses in order help ensure that the daily convenience needs of the nearby residences and employees can be met. Mixed uses with a residential or lodging component may be acceptable. *City Comprehensive Plan, Sec. 5.3.*

City Planner Josh Grandlienard testified that relevant Comprehensive Plan goals and policies include diverse housing and low-income housing spread through the city. The City has adopted a Mixed Use Overlay (MU) designation that is applicable to the subject property. The MU designation allows a blend of residential high-density and commercial uses subject to a regulating plan, administrative site plan review, and design review. *City Comprehensive Plan, Sec. 5.6.* The purpose of the MU designation is to foster development of pedestrian-oriented, mixed uses where residences are located in close proximity to retail and office facilities. The City intends the MU designation to: (a) enhance the pedestrian environment, (b) increase additional street level activity, (c) reduce automobile trips, (d) create a “sense of place,” (e) allow for the efficient use of land and resources, (f) promote economic vitality and provide for diverse housing opportunities, and (g) provide a transition between adjacent neighborhoods and commercial areas. *City Comprehensive Plan, Sec. 5.6. Exhibit 1, Staff Report, pages 2 and 3; Testimony of Mr. Grandlienard.*

6. The property is located in the City’s Neighborhood Commercial (NC) zoning district. The NC zone is designed “to accommodate commercial activities that would meet the daily convenience needs of people residing or working in the environs.” *Arlington Municipal Code (AMC) 20.36.020(b).* As with the Comprehensive Plan, the City has adopted a Mixed Use Overlay District (MU) in its zoning ordinances that is applicable to the site. The MU zone allows “for a mix of diversified residential development to co-exist within a proportionate share of the commercially zoned areas” of the city, including the NC zoning district, “where typical retail and other support services would be located, thus creating a walkable neighborhood concept.” *AMC 20.36.080.* As discussed in detail below, the City has adopted separate development regulations, Chapter 20.110 AMC, governing mixed-use proposals in the MU overlay district. The City determined that the proposed project would constitute a multiple family residential use compatible with the MU overlay district.

Surrounding property to the north is designated Residential Moderate Density and zoned RMD with residential uses. Property to the east, containing a church, is also designated and zoned RMD. Vacant property to the south is located in Snohomish County and zoned R-5. Commercial uses are located on property to the west, which is designated and zoned General Industrial. *Exhibit 1, Staff Report, pages 1 through 4, and 7.*

7. The City adopted new mixed-use development regulations to “establish clear policies, implementation strategies, and design standards to guide public and private investment in a coordinated manner.” *AMC 20.110.012(a)*. In doing this, the City has adopted an “alternative approach to conventional zoning called ‘Form Based Code,’” a concept that reinforces “walkable, sustainable mixed-use environments and development that builds upon community character.” *AMC 20.110.012(b)*. The purpose of form-based codes is to “foster predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code.” *AMC 20.110.012(b)*. Under Chapter 20.110 AMC, the project site is located within a “Place Type” that is designated “Mixed Use Community Center.” Under the form-based code, Place Types are further categorized by “Use Intensity Transects.” The subject project, classified as “multi-family residential housing,” is located within the Transect 4 Neighborhood, Medium Volume (T4N-MV). *AMC 20.110.014(c)(2)*. The purpose of the T4N-MV transect area is to “provide an appropriate transition from a neighborhood main street environment into the residential areas, and to provide flexible buildings in a residential form that can allow a mix of residential and walkable local serving commercial and service uses.” *AMC 20.110.014(c)(2)*. The City determined that multi-family apartments are allowed within the T4N-MV transect designation and are compatible with the NC zoning district with a CUP. *AMC 20.110.014(c)(2)*. *Exhibit 1, Staff Report, pages 2, 3, 6, and 7; Exhibit 5; Exhibits 18 through 29.*
8. The mixed-use development regulations (AMC 20.110.014) provide specific guidelines on appropriate building types and frontages, with specific standards related to: blocks, rights-of-way, thoroughfares, civic and open spaces, landscaping and screening, low-impact design (LID) for stormwater management, outdoor lighting, and architecture. City staff analyzed the proposal and determined that these requirements would be met, noting:
  - The proposed project would be located in T4N-MV, which allows for a mix of medium density building types with a variety of forms that decrease in size and intensity toward the outer boundary of the center.
  - The proposed project would provide an appropriate transition from a neighborhood main street environment into the residential areas.
  - The proposed project would be located in a “Mixed Use Village Center,” which also allows more intense uses and large scale buildings to be constructed.
  - As set out in AMC 110.110.014(c) the Transect Matrix allows for fairly intense uses and for large scale buildings to be constructed.

- The Transect Matrix allows multiple family Large to Mid-Rise structures, with “residential uses on any floor.”
- The “Characteristics” sought for the T4-F Place included buildings up to three stories.
- The Applicant would construct full frontage improvements along 67th Avenue NE. New sidewalks and frontage improvements would also be provided along 172nd Street NE, as part of Phase 2 work. New sidewalks, walking trails, and bike paths would be provided on-site. A portion of the Centennial Trail located along the site on 67th Avenue NE would be reconstructed.
- The proposed apartment building is similar in character to a building form that is acceptable in T4N-MV areas. A Stacked Flat is a medium-to-large sized structure consisting of multiple dwelling units accessed from a courtyard or series of courtyards with either individual or common entries. It is appropriately scaled to fit adjacent to neighborhoods serving main streets and walkable urban neighborhoods. The Centennial Park project would utilize a Stacked-Flat building type.
- Right-of-way standards were reviewed and meet the criteria of AMC 20.110.014(f)(2).
- No minimum number of parking spaces is required for residential uses in the T4N-MV area.<sup>4</sup>
- No public civic spaces are proposed, but several outdoor amenities including a courtyard would be provided to residents.
- The Applicant would provide a landscape buffer on the north and east property lines to meet screening requirements.
- The Applicant has submitted stormwater plans that indicate that LID techniques would be employed to treat and disperse stormwater.
- The project would comply with outdoor lighting standards.
- Consistency and compatibility of design would be required, including four-sided design, shielding of roof top mechanical structures, and compatible materials.

*Exhibit 1, Staff Report, pages 10 through 12.*

#### Conditional Use Permit

9. The eastern portion of the vacant square site slopes down approximately 20 feet to the center then remains flat to the western property boundary. Vegetation consists of upland grasses and forbs, with forested cover present through the center and southern site boundary following the relict stream channel. Dominant forest vegetation includes western red cedar, Douglas fir, and red alder, with an understory of red-osier dogwood, salmonberry, salal, and western sword fern. Two soil series were identified on the property: Everett gravelly sandy loam (8 to 15 percent slopes), and Norma Loam. As noted above, the Applicant seeks a CUP to allow development of multi-family housing and commercial mixed-use development. Specifically, the staff report reviewed a proposal for

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<sup>4</sup> The Applicant’s Environmental Checklist lists 303 parking spaces for the project. *Exhibit 15.*

14 three-story buildings, with 157 housing units and 2,987 square feet of retail use. The residential units would provide 87 one-bedroom units, 40 two-bedroom units, and 30 three-bedroom units at market rates. On-site amenities include mini parks, walking trails, community room, pool, and a dog park. *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 5; Exhibit 12; Exhibit 20.*

10. The property is located within Snohomish River Watershed Resource Inventory Area (WRIA #7). The Applicant submitted a Drainage Report (DR), prepared by CG Engineering, dated July 8, 2019, for the development of 19 buildings on-site. The DR determined that the proposed project would meet the Low Impact Development Standard using gravel infiltration trenches designed to infiltrate 100 percent of site runoff and best management practices (BMPs). The infiltration trenches would include overflow discharge pipes connecting to city infrastructure in 67th Avenue NE. The project would comply with the 2014 Stormwater Management Manual for Western Washington. The Applicant would also submit a Construction Stormwater General Permit to the Washington State Department of Ecology.

GeoTest Services, Inc., prepared a Geotechnical Engineering Report (GER), dated August 2, 2018. The study determined that the United States Geological Survey mapping of the site shows four geologic units present: Older Alluvium, Recessional Outwash, Advance Outwash, and Transitional Beds. Groundwater was encountered during a June 7, 2018, investigation, with groundwater elevations ranging from 6 to 13 feet below ground surface. The study determined that the site has a moderate potential for erosion and a high liquefaction susceptibility from seismic events on the downslope portion of the site. The site is not located within a Landslide Hazard Area as defined by the City. The GER determined that the site is suitable for the proposed development, provided that recommendations are followed for site preparation and earthwork, structural fill and compaction, wet weather earthwork, seismic design considerations, conventional foundations, mat foundation, floor support, resistance to lateral loads, foundation and site drainage, temporary and permanent slopes, utilities, stormwater infiltration potential, stormwater pollutant treatment, and geotechnical consultation and construction monitoring. *Exhibit 1; Staff Report, pages 12 through 14; Exhibit 10; Exhibit 11; Exhibit 18.*

11. Soundview Consultants, LLC, prepared a Wetland Delineation & Habitat Assessment Report & Buffer Enhancement Plan (“site assessment”) for the Applicant, dated June 28, 2019. The site assessment addresses Phase 1 of the development (approximately 152 residential units, approximately 8,000 square feet of retail area and parking, and a recreational park, garden, and open space) on the 8.81-acre site. The site assessment identified one potentially regulated one-half acre Category IV depressional wetland (Wetland A) with a standard 40-foot buffer. *AMC 20.93.800 to 830(b).* A 15-foot building setback is also required from the edge of all critical areas buffers. *AMC 20.93.340.*

The site assessment also identified a relict stream channel, Edgecomb Creek, along the southern boundary of the property. The Washington State Department of Transportation (WSDOT) relocated Edgecomb Creek off-site, 225 feet to the south, as part of a WSDOT restoration project.<sup>5</sup> Edgecomb Creek is considered a Type F-ESA water with an associated 150-foot buffer. *AMC Table 20.93-3*. The Washington Department of Fish and Wildlife documented the presence of coho and chum salmon in Edgecomb Creek. The Applicant intends to construct 36 additional residential units and associated parking by filling the relict stream channel, as Phase 2 of the project. Therefore, the Applicant has submitted an application to the Washington Department of Natural Resources to declassify the relict stream, but until such a decision is made, the relict stream is subject to a 100-foot native growth protection easement and an additional 50-foot management zone. *AMC 20.93.440(a)*. The site assessment also identified three on-site linear ditches that appear to have been excavated from non-hydric soils. The proposed project would not directly impact Wetland A during either Phase 1 or 2. Minor work within the outer 25 percent of the wetland buffer, however, is proposed for a recreational path. Walking trails are allowed in this portion of a wetland buffer if they avoid the removal of significant trees, utilize pervious surfaces, are no more than five feet in width, and are limited to pedestrian use. *AMC 20.93.820(3)(A)*. *Exhibit 1, Staff Report, page 10; Exhibit 12; Exhibit 20*.

12. Chapter 20.56 AMC provides various requirements related to streets and sidewalks. The property would be accessed from 67th Avenue NE, a local collector street. This would provide adequate ingress and egress for emergency vehicles and vehicular, pedestrian, and bicycle access from 67th Avenue NE, as required by AMC 20.56.030. Under AMC 20.56.070, streets must be related appropriately to existing topography and designed to facilitate the drainage and stormwater runoff objectives of Chapter 20.64 AMC. The private internal driveways and access lanes, as proposed, would satisfy this requirement. In addition, the site is essentially flat. The driveways to the site would meet the requirements of AMC 20.56.120. The proposed development would include full frontage improvements along 67th Avenue NE. New sidewalks, walking trails, and bike paths would be provided on-site. A portion of Centennial Trail is located along the site on 67th Avenue NE and would be reconstructed. New sidewalks and frontage improvements would be provided along 172nd Street NE, as part of any Phase 2 work. *Exhibit 1, Staff Report, pages 7 and 8; Exhibit 18*.

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<sup>5</sup> According to the site assessment:

Until recently, Edgecomb Creek entered the subject property through a culvert (barrier 99058) in the southeastern portion of the subject property, flowing north under SR 531. The stream flowed west along the southern border of the subject property, and then continued offsite through an additional culvert (barrier 99059) . . . Both culverts are identifies as barriers to fish passage . . . The upstream barrier was removed . . . but the downstream fish passage barrier remains. *Exhibit 12*.

13. AMC 20.90.040 requires all developments to pay a traffic impact fee. Gibson Traffic Consultants, Inc., prepared a Traffic Impact Analysis (TIA) for the Applicant, dated March 2019. The TIA evaluated traffic impacts from a combination of 206 multi-family housing units (20 units low-rise and 186 units mid-rise) and 7,665 square feet of retail space and completed before the year 2025. The TIA estimates the 206 units would generate 1,349 new average daily trips, with approximately 81 new AM peak hour trips and approximately 112 new PM peak hour trips. The TIA estimated that surrounding intersections, in 2025, would operate at LOS D or better, except for the intersection of 59th Avenue NE at SR-531/172nd Street NE, which currently operates at LOS E. Funding is available to improve SR-531/172nd Street NE, which includes improvements at the 59th Avenue NE and 67th Avenue NE intersections.<sup>6</sup> The City requires a fee of \$3,355 per new PM peak hour trip, or a total of \$375,760 for the proposed project. The Applicant would pay any additional traffic impact fee required by Snohomish County or WSDOT. *Exhibit 1, Staff Report, pages 9 and 14; Exhibit 8.*
14. To ensure the security of the property and the residents using the facility, the proposed project would sufficiently illuminate the parking lot and common areas, while not unnecessarily illuminating any other lot or public right-of-way. All outdoor lights would be low sodium or similar lamp type and be down-shielded to prevent off-site light pollution. *AMC 20.60.400 to .410. Exhibit 1, Staff Report, page 8.*
15. AMC 20.60.100 and AMC 20.60.300 require that every unit within the development be served by a sewage disposal system and water supply system. The City verified in a March 15, 2019, signed “Water & Sewer Availability” form submitted by the Applicant that the site is serviceable by the City of Arlington. *Exhibit 1, Staff Report, page 8; Exhibit 7.*
16. The City would provide police and fire protection, Waste Management NW would provide garbage service, Cascade Natural Gas would provide gas service, and Snohomish County PUD #1 would provide electricity. The Applicant would underground all existing, extended, and new electrical power lines. *Exhibit 1, Staff Report, pages 4 and 8.*
17. The Applicant would comply with the AMC 20.40.44 Part III performance/operation standards for noise, vibration, odors, smoke, and air pollution; disposal of liquid and hazardous wastes; water consumption; electrical disturbance or interference; lighting; and site building and maintenance. *Exhibit 1, Staff Report, page 7.*
18. The site is located within the City’s Airport Protection Subdistrict C. *AMC 20.38.060.* The purpose of the airport protection (AP) district is to protect the viability of the Arlington Municipal Airport as a significant resource to the community by encouraging

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<sup>6</sup> LOS is measured by the average delay on the worst-movement of stop-controlled intersections (LOS A through LOS F), with LOS A indicated free-flowing traffic and LOS F indicating extreme congestion and long vehicle delays. *Exhibit 8.*

compatible land uses and densities, reducing hazards to lives and properties, and ensuring a safe and secure flying environment. *AMC 20.38.010(a)*. The Applicant would provide all disclosures required for owners within Airport Protection Sub-District C, including an avigation easement or disclosure and FAA form 7460. *Exhibit 1, Staff Report, pages 6 and 13.*

19. AMC 20.76.050 requires the development to have Type A screening (at a five-foot depth) bordering the northern and easterly boundaries. The City determined that the Applicant's site plan meets these requirements. The Applicant's landscaping plan shows proposed trees located in the parking areas to provide the required 20 percent shading. Street trees would be installed along all new and improved streets under AMC 20.76.110. In addition, under AMC 20.60.490, screening would be provided to prevent solid waste collection dumpsters from being viewed from public streets, sidewalks, or rights-of-way. Refuse containers and a trash compactor would be located inside. *Exhibit 1, Staff Report, pages 9 and 14; Exhibit 18; Exhibit 19.*
20. City staff determined that the Applicant would meet the Chapter 20.52 AMC recreational facility and open space requirements by providing 19,877 square feet of recreational facilities and 34,409 square feet of open space. The City agrees that this would meet the requirement for recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to reside in the development. *AMC 20.52.020(b)*. In addition, the Applicant would pay a community parks impact fee of \$235,029. No school impact fees are required. *Exhibit 1, Staff Report, page 9; Exhibit 18.*

#### Testimony

21. City Planner Josh Grandlienard testified generally about the application, the proposed development, and the CUP criteria, including the City's Mixed Use regulations. He explained that, in order to construct additional units on the southern portion of the site as Phase 2, a U.S. Army Corps of Engineers permit is needed to fill the relict stream. If filling is not allowed, the area would become a critical area. He noted that there was no time-frame for this determination. City Community and Economic Development Director Mark Hayes testified that, in his view, this is one project; with Phase 2 allowed if there is a determination that the relict stream is no longer fish bearing. *Testimony of Mr. Grandlienard and Mr. Hayes.*
22. Stephen Glen Tenison testified that he lives at the crossing of Edgecomb Creek. He raised concerns about lack of mailed notice. He is concerned about traffic in the area and that it is unsafe to drive. He noted that a train crosses through 67th and 172nd and then stops, which backs up traffic. He also spoke about traffic impacts on 172nd and SR-531 and noted that there are more projects along this route. He asked that infrastructure to address traffic should be put in place first, as well as parking.

Mr. Grandlienard testified in response that mailed notice was provided to property owners within 500 feet of the proposed project, as well as posted on-site and on the City's website. He referred to Exhibit 8, the Traffic Impact Analysis, which identified 112 additional PM peak hour trips. The Applicant would pay the City \$375,760 as traffic impact fee mitigation to be used on the City's traffic improvement program. He also testified that the City code does not required parking for this type of development, but that the developer would provide adequate parking. Mr. Hayes testifies that the proposed project is within the concurrency of a state-funded project to improve SR-531 by placing roundabouts, including at 67th, beginning in 2022 or 2023. He also noted that there is a local freight train through this area three times a week over which the City has no control. *Testimony of Mr. Tenison, Mr. Grandlienard, and Mr. Hayes.*

23. Susan Edgerton testified that public notice was insufficient. She testified that the notice was posted on-site, but there was no place to stop and read it and that the on-line notices had varying numbers of apartments proposed. She also noted traffic concerns and that driving from I-5 to 67th Avenue NE can take as much 45 minutes, which gets longer each year. She does not oppose the design of the project but also expressed concerns about parking and where drivers would exit from the development.

Mr. Hayes responded for the City that notice was posted at city hall, the post office and library, and on the City's website. He also noted that a neighborhood meeting was held on April 16, 2019, in the evening. He explained that the City reviewed the reduced Phase 1 proposal and that additional development on the property could occur later, after resolution of whether development on the relict stream could go forward. The proposed development agreement would address exactly how commercial development may occur on the property. He explained that one access to the project would be off of 172nd Street NE and two would be off of 67th Avenue NE. *Exhibit 18; Testimony of Ms. Edgerton and Mr. Hayes.*

24. Peggy Jankovic testified and read a prepared statement. She is against this project but would support single-family housing. She also raised concerns about notice for the neighborhood meeting. Mr. Grandlienard testified for the City that the April 16, 2019, neighborhood meeting was published, posted on-site, and mailed on March 29, 2019. *Testimony of Ms. Jankovic and Mr. Grandlienard.*
25. Applicant's Architect Michael Stephens testified that the project would not include low-income apartments and that no commercial strip mall or restaurant is proposed as retail use. Rather, there may be a bicycle repair or sandwich or ice cream shop as possible retail uses. He noted that the proposed apartments would help screen the single-family residential neighborhood from the airport and manufacturing industrial center. He clarified that 172nd Street NE (SR-531) access would be developed as a right-in/right-out if Phase 2 is developed. Two access points would be provided off of 67th Avenue NE, along with realignment of Centennial Trail. He testified that 192 parking spaces would be

provided for Phase 1 development, with a total of 273 parking spaces with Phase 2. He agreed that a condition should be added to respond to the Stillaguamish Tribe and the Snohomish County Archaeologist request (Exhibit 41) for a professional archaeological survey for the project site prior to development. He provided Exhibit 40, an exterior color and material concept drawing. *Exhibit 40; Exhibit 41; Testimony of Mr. Stephens.*

#### Staff Recommendation

26. City staff determined that the proposed development would comply with the Mixed Use regulations of Chapter 20.110 AMC and with the criteria for CUP approval, and recommended approval with conditions. *Exhibit 1, Staff Report, pages 13 and 14.*

### **CONCLUSIONS**

#### Jurisdiction

The Hearing Examiner is granted the authority to hear and decide the application for a conditional use permit. *RCW 36.70.970; AMC 20.12.230(a)(2); AMC 20.16.170.*

#### Criteria for Review

In considering whether to approve an application for a conditional use permit, the City Council mandates that the Hearing Examiner proceed according to the following format:

- (1) The hearing examiner shall consider whether the application is complete. If no evidence is presented that the application is incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the hearing examiner that the application is complete.
- (2) The hearing examiner shall consider whether the application complies with all of the applicable requirements of this title. If a finding to this effect can be made, the hearing examiner need not make further findings concerning such requirements. If such a finding cannot be made then a finding shall be made that the application be found not in compliance with one or more of the requirements of this title. Such a finding shall specify the particular requirements the application fails to meet. Separate findings may be made with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the hearing examiner to be unsatisfied through this process.
- (3) If the hearing examiner concludes that the application fails to comply with one or more requirements of this title, the application shall be denied. If the hearing examiner concludes that all such requirements are met, he shall issue the permit unless he denies the application for one or more of the reasons set forth in Section 20.16.140 (Special Use Permits and Conditional Use Permits). Specific findings for such a denial must be made, based upon the evidence submitted, justifying such a conclusion.

*AMC 20.16.170(e)*

In addition to the guidance offered by the City Council detailed above, the City Council also directs that the Hearing Examiner shall issue the requested permit unless he concludes, based upon the information submitted at a hearing, that:

- (1) The requested permit is not within its jurisdiction according to the table of permissible uses, or
- (2) The application is incomplete, or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this title (not including those the applicant is not required to comply with under the circumstances specified in Chapter 20.32, Nonconforming Situations), or
- (4) The proposed project has not complied with SEPA, or
- (5) The proposed project is not in conformance with the comprehensive plan, transportation plan, or other adopted plans, regulations, or policies.

*AMC 20.16.140(c).*

Finally, the City Council gives the following direction to the Hearing Examiner:

Even if the (hearing examiner) finds that the application complies with all other provisions of this title, he may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially endanger the public health or safety, or
- (2) Will materially harm adjoining or abutting property,
- (3) In terms of design and use will not be compatible with the area in which it is located.

*AMC 20.16.140(d).*

The criteria for review adopted by the Arlington City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

- 1. The requested CUP would involve a use that is permissible under the City's adopted regulations.** The City staff report and MDNS identified a 157-unit, multi-family housing and commercial mixed-use development. Multi-family housing units are a permitted use with a conditional use permit in the T4N-MV transect designation within the Mixed Use Overlay to the Neighborhood Commercial zoning district. *Findings 1, 2, and 6.*
- 2. The application is complete.** The elements necessary for a complete application are defined by the City, and the City has discretion to suit the requirements to the specific

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project. *AMC 20.16.040*. This application was deemed complete by the City on April 16, 2019. *Finding 3*.

- 3. With conditions, the proposed development would comply with identified zoning requirements.** The proposed 157-unit, multi-family housing and commercial mixed-use development is an appropriate use within the T4N-MV transect designation within the Mixed Use Overlay to the Neighborhood Commercial zoning district. The proposed use would meet all required design and performance guidelines under the City's adopted mixed-use regulations (Chapter 20.110 AMC). Conditions are necessary to ensure that the proposal complies with municipal code requirements and with all requirements of the MDNS, and to ensure the development substantially conforms to the submitted plans, appropriate water and sewer connections are implemented, and that the proposal is constructed in a timely manner. *Findings 1, 2, 4 – 25*.
- 4. With mitigation measures, the proposed development would comply with the State Environmental Policy Act.** The City evaluated the environmental impact of the proposed development as required by SEPA and issued a Mitigated Determination of Nonsignificance (MDNS). The MDNS was not appealed. Compliance with the MDNS conditions has been made a condition of issuance of the CUP. *Findings 2 and 4*.
- 5. With conditions, the proposed development conforms to the City Comprehensive Plan and all other applicable regulations.** The City gave reasonable notice of the application and associated open record hearing. The proposed use is permitted within the Mixed Use designation under the Comprehensive Plan and within the MU Overlay zoning with a conditional use permit. The proposed 157-unit, multi-family housing and commercial mixed-use development complex would meet the City's criteria for building design, density and dimensional standards, recreational facilities and open space, streets and sidewalks, utilities, parking, and screening. As detailed in Conclusion 3, conditions are necessary to ensure that the proposal complies with code requirements. *Findings 1 – 25*.
- 6. With conditions, the proposed development would not endanger the public health or safety, would not adversely affect adjoining or abutting property, and would be compatible with the design and use of the area where it is located.** The City evaluated the environmental impact of the proposed development as required by SEPA and issued a Mitigated Determination of Nonsignificance (MDNS). The MDNS was not appealed. Compliance with the MDNS conditions has been made a condition of issuance of the CUP. As stated above in Conclusion 5, the proposed 157-unit, multi-family housing and commercial mixed-use development would meet the City's standards. The development would not endanger the public health or safety, or adversely affect abutting properties. As detailed in Conclusion 3, conditions are necessary to ensure that the proposal complies with code requirements. *Findings 1, 2, 4 – 25*.

## DECISION

Based upon the preceding findings and conclusions, the request for a conditional use permit for the development of a 157-unit, multi-family housing and commercial mixed-use development, known as “Centennial Park,” on 8.81 acres at the northeast corner of 172nd Street NE and 67th Avenue NE is **APPROVED**, subject to the following conditions:<sup>7</sup>

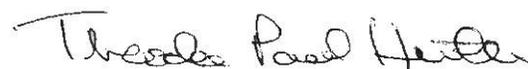
1. All development shall be in substantial conformance with the revised site plan received July 8, 2019, subject to any conditions or modifications that may be required as part of the permit and construction plan review.
2. The development shall be required to have commercial uses on-site as a part of the mixed use overlay, which will be a requirement of a development agreement for this site (RCW 36.70B.170). The development agreement shall guarantee the commercial use for perpetuity, as well as including a timeline for the flex use conversion from residential to commercial use.
3. An on-site water main shall be 12” Ductile Iron and extend to the property corners and looped around the buildings.
4. The development shall meet all Title 20 AMC regulation requirements.
5. The developer shall comply with all conditions of the SEPA MDNS issued on July 12, 2019.
  - a. In order to mitigate for potential earth impacts, the Applicant shall implement Best Management Practices per Department of Ecology for Stormwater Pollution Prevention.
  - b. In order to mitigate for potential air impacts, the Applicant shall implement dust control measures to reduce fugitive dust emissions during construction.
  - c. Construction shall occur in accordance with the stormwater plan prepared by CG Engineering, July 8, 2019, including Low Impact Development, Performance Standard and BMP T5.13 of the 2014 Western Washington Stormwater Manual.
  - d. All stormwater shall remain on-site. In order to mitigate for potential impacts to ground water the Applicant shall utilize Low-Impact Design techniques to manage stormwater on-site.
  - e. The project will route all on-site stormwater to infiltration trenches to meet DOE requirements for flow control (up to 50 year storm, with an overflow outlet for up to the 100 year storm).
  - f. Pollution generating stormwater shall be treated prior to infiltration
  - g. City of Arlington noise standards found in AMC 9.20.060 shall be complied with. Specifically, in section 9.20.060(8) noises resulting from any construction or development activity or the operation of heavy equipment from 7:00pm to 7:00am

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<sup>7</sup> Conditions include those required to reduce project impacts as well as those required to meet City codes.

- Monday through Saturday shall be prohibited UNLESS specifically permitted by the city's building official.
- h. The Applicant will provide all instruments required of owners within Airport Protection Sub-District C, including an avigation easement or disclosure and FAA form 7460.
  - i. Design standards for the proposed development will meet the criteria for sector T4N-MV in the City's Mixed Use Development Regulations.
  - j. Street trees shall be installed along all new and improved streets associated with the project in accordance with AMC 20.76.110.
  - k. In order to mitigate for potential impacts to cultural resources that may exist on-site, the Applicant shall submit an *Unanticipated Discovery Plan* (UDP) to the City prior to any construction activities, and shall coordinate with the Stillaguamish Tribe to allow Tribal Monitors on-site during grading and excavation activities associated with this project.
  - l. Payment of a traffic impact fee according to the City's traffic mitigation formula, estimated in March 2019 as \$375,760.00, but due and payable based on the current rate at the time of building permit issuance.
  - m. The developers may be obligated to pay their proportionate share for certain State projects for those average daily trips from this development. Traffic mitigation fees, if any, shall be paid to the Washington State Department of Transportation (WSDOT), and the developers shall provide the City of Arlington with documentation of compliance with this state requirement prior to issuance of the Building Permit.
  - n. Consistent with the terms of the Snohomish County Interlocal Agreement with the City of Arlington, the developers shall mitigate impacts on the capacity of the County road system by making a proportionate share mitigation payment, if any. Traffic mitigation shall be paid to the Snohomish County Department of Planning and Development Services (PDS), and the developers shall provide the City of Arlington with documentation of compliance prior to issuance of the Building Permit.
6. The Applicant shall submit an archaeological survey and notification of field work to the Stillaguamish Tribe for the project area.
7. This CUP shall expire if less than ten percent of the total costs of the development have not been completed on-site within two years. *AMC 20.16.220.*

DECIDED this 16<sup>th</sup> day of August 2019.



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THEODORE PAUL HUNTER

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