



# CITY OF ARLINGTON NOTICE OF DECISION

## Ashford Place Conditional Use Permit

The City of Arlington has issued a Notice of Decision for a Conditional Use Permit as required by the Arlington Municipal Code. The following project has been **APPROVED**, with the conditions listed in the attached Hearing Examiner Decision.

**Project Name:** Ashford Place

**Proponent:** Grandview North, LLC

**Project Number:** PLN #1002

**Description of Proposal:** The applicant is proposing a mixed-use project with two buildings on the site consisting of 3,541 square feet of commercial space and 103 multi-family residential units. The residential units provided within the project include 61 studio units, 34 one-bedroom units, and 8 two-bedroom units. Building 1 is a three-story building along the Smokey Point Boulevard frontage that will consist of commercial retail space and covered parking stalls on the ground floor with residential units on the upper floors. Building 2 is a three-story building found towards the rear of the property and will consist of residential units on all floors.

The project improvements include 144 parking stalls, bike racks, pickleball court, sidewalks, open space, picnic tables, and landscaping. Frontage improvements along Smokey Point Boulevard will include a median, drive aisle, 12 angled parking spaces, curb, gutter, sidewalk, and street trees. Offsite improvements will connect the onsite drive aisle, west of Building 2, to the existing drive aisle on parcel 31052800201500 to the south. Stormwater runoff from the proposed development will be conveyed and managed on-site through detention facilities found under the parking area.

**Location:** 16517 and 16523 Smokey Point Boulevard

**Hearing Examiner Decision:** Approved, with Conditions

**Notice of Decision Date:** February 1, 2024

**End of Appeal Period:** February 22, 2024

**Conditional Use Permit Expiration Date:** February 1, 2026

**Appeals:** A Party of Record may file an appeal of this decision within twenty-one (21) calendar days from issuance of this Notice of Decision. Appeals shall be delivered to Snohomish County Superior Court at 3000 Rockefeller Avenue M/S 502, Everett, WA 98201, pursuant the Land Use Petition Act, Chapter 36.70 RCW, by **Thursday, February 22, 2024**.

**Staff Contact:** Amy Rusko, Planning Manager, [arusko@arlingtonwa.gov](mailto:arusko@arlingtonwa.gov), 360-403-3550

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

In the Matter of the Application of	)	PLN#1002
	)	
<b>Scott Wammack, on behalf of</b>	)	Ashford Place
<b>Grandview North, LLC</b>	)	Conditional Use Permit
	)	
	)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Conditional Use Permit</u>	)	AND DECISION

**SUMMARY OF DECISION**

The request for a conditional use permit, to develop a mixed-use project consisting of one mixed-use structure, with approximately 3,541 square feet of commercial space and 34 multi-family dwelling units, and a second residential-only structure with 69 multi-family dwelling units, for a total of 103 new dwelling units, with improvements that include 132 on-site parking spaces and 12 more parking spaces along the proposed frontage; approximately 21,000 square feet of on-site open space and mini-parks; 30 bike racks; frontage improvements along Smokey Point Boulevard; and a new drive aisle connection with the adjacent property to the south, is **APPROVED**. Conditions are necessary to mitigate specific impacts from the proposal.

**SUMMARY OF RECORD**

Hearing Date:

The Hearing Examiner held an open record hearing on the request on January 23, 2024 using remote access technology.

Testimony:

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

Amy Rusko, City Planning Manager  
Randy Devoir, Applicant Representative  
Scott Wammack, Owner and Applicant

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, undated
2. Conditional Use Permit Application, received October 14, 2022
3. Project Narrative, dated November 17, 2023
4. Legal Description, undated

*Findings, Conclusions, and Decision  
City of Arlington Hearing Examiner  
Ashford Place CUP, PLN#1002*

5. Site Plan, dated December 4, 2023
6. Lighting Plan & Cut Sheets, dated December 5, 2023
7. Landscape Plans, dated November 28, 2023
8. Building Elevations & Floor Plans, undated
9. Conceptual 3D Building Renderings, undated
10. Property Aerial Photo, dated August 30, 2022
11. Vicinity Map, dated September 27, 2022
12. SEPA Checklist, dated October 13, 2022
13. Complete Streets Checklist, undated
14. Critical Areas Evaluation, undated
15. Unanticipated Discovery Plan, undated
16. Preliminary Stormwater Drainage Report, prepared by Cascade Surveying and Engineering, Inc., dated September 2022
17. Geotechnical Report, prepared by Geotest, dated December 10, 2021
18. Traffic Impact Analysis, prepared by Kimley Horn, dated May 2022
19. Parking and Transportation Demand Management Memo, prepared by Kimley Horn, dated May 19, 2022
20. Smokey Point Substation Sound Analysis, prepared by BRC Acoustics & Audiovisual Design, dated June 20, 2016
21. Notice of Public Hearing Documents, published January 5, 2024
22. Neighborhood Meeting Notes, dated December 6, 2022
23. Stillaguamish Tribe of Indians Comments, dated November 9, 2022
24. City of Marysville Comments, dated November 16, 2022, and City of Arlington's Response, dated November 30, 2022
25. WSDOT Comments, dated November 9, 2022
26. Notice of Application, MDNS & Neighborhood Meeting Documents, dated November 9, 2022
27. Public Notice Materials, undated
28. Resubmittal Extension Letters, dated January 17, 2023
29. Notice of Complete Application, dated October 24, 2022
30. Ordinance No. 2022-026 (Parking Regulations), adopted October 17, 2022
31. Ordinance No. 2022-033 (Mixed-Use Regulations), adopted October 17, 2022
32. Ordinance No. 2023-038 (School Impact Fee Regulations), adopted November 7, 2022
33. City Clerk's Summary of Effective Dates of Ordinances, dated October 19, 2022
34. Correspondence with School District, dated January 23–25, 2024
35. Email from Amy Rusko with City and Applicant's Proposed Conditional Language, dated January 26, 2024

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

**FINDINGS**  
Application and Notice

*Findings, Conclusions, and Decision*  
*City of Arlington Hearing Examiner*  
*Ashford Place CUP, PLN#1002*

1. Scott Wammack, on behalf of Grandview North, LLC (Applicant), requests a conditional use permit to develop a mixed-use project known as Ashford Place on a 2.27-acre property located at 16517 and 16523 Smokey Point Boulevard. The proposal is for two buildings on the site, with approximately 3,541 square feet of commercial space and 103 multi-family residential units. The residential units provided within the project include 61 studio units, 34 one-bedroom units, and 8 two-bedroom units. Building 1 is a three-story building along the Smokey Point Boulevard frontage that would consist of commercial retail space and nine covered parking stalls on the ground floor with residential units on the upper floors. Building 2 is a three-story building located toward the rear of the property and would consist of residential units on all floors. The project improvements include 144 parking stalls (107 standard stalls, 20 compact stalls, five ADA stalls, and seven electric vehicle stalls), a pickleball court, sidewalks, open space, picnic tables, and landscaping. Frontage improvements along Smokey Point Boulevard would include a median, drive aisle, 12 angled parking spaces, curb, gutter, sidewalk, and street trees. Additional off-site improvements would connect the on-site drive aisle, west of Building 2, to the existing drive aisle on parcel 31052800201500 to the south. Stormwater runoff from the proposed development would be conveyed and managed on-site through detention facilities located under the parking area. *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 5; Exhibit 7; Testimony of Randy Devoir.*
2. The City issued a notice of complete application on October 22, 2022. The City issued the notice of application and a notice of neighborhood meeting on November 7, 2022. The notice was mailed to all property owners within 500 feet, posted online, posted on the subject property, and emailed to the City's agency list, and it was published in the *Everett Herald* newspaper on November 9, 2022. The notice of SEPA MDNS was issued on the same day and in the same manner. The notice of public hearing was issued on January 3, 2024, and, again, was mailed to all property owners within 500 feet, posted on-site, posted on the website, sent to parties of record, and published in the *Everett Herald* on January 5, 2024. *Exhibit 1, Staff Report, pages 2 and 3; Exhibit 21; Exhibit 22; Exhibit 26; Exhibit 27; Exhibit 29.*
3. The only comments on the proposal came from governmental agencies. The Stillaguamish Tribe of Indians requested notification prior to ground disturbance for the project. The City of Marysville commented that traffic impact fees may be required from the City of Marysville for impacts related to the Smokey Point Boulevard and 172nd Street intersection. The Washington State Department of Transportation (WSDOT) simply remarked that the agency had no comments. *Exhibit 23; Exhibit 24; Exhibit 25.*
4. In response to these comments, the City recommended a condition of approval to require the Applicant to notify the Tribe prior to ground-disturbing activity. The City responded to Marysville to the effect that WSDOT is responsible for the intersection and that WSDOT had had no comments on the proposal. The City did not offer to pay traffic

impact fees to Marysville. The Applicant prepared an inadvertent discovery plan. *Exhibit 1, Staff Report, page 27; Exhibit 15; Exhibit 24.*

#### State Environmental Policy Act

5. The City Department of Community and Economic Development (DCED) acted as lead agency and analyzed the environmental impacts of the proposal as required by the State Environmental Policy Act (SEPA), chapter 43.21C Revised Code of Washington (RCW). DCED reviewed the Applicant's environmental checklist and other information on file and determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. Accordingly, DCED issued a Mitigated Determination of Nonsignificance (MDNS) on November 7, 2022, and provided notice as described above. The City did not receive any comments on the MDNS in response to its notice materials. The MDNS was not appealed. The SEPA mitigation measures required in the MDNS are incorporated below, in the conditions of approval for the CUP. *Exhibit 1, Staff Report, pages 7, 27, 30, and 31; Exhibit 12; Exhibit 26.*

#### Comprehensive Plan and Zoning

6. The property is designated and zoned "Commercial Corridor" (CC) under the City Comprehensive Plan. "The commercial corridor (CC) zone is established to create pedestrian oriented, urbanized, mixed-use neighborhoods, along designated transit routes. Design elements to include widened sidewalks, drop lanes with on street parking, mid-block pedestrian crossings, planted medians and bike lanes. These zones are established to utilize the stringent use of the mixed-use development regulations/form based code, therefore negating the underlying zoning to accommodate mixed-use as the primary land use." *Arlington Municipal Code (AMC) 20.36.020(g)*. City staff identified the following Comprehensive Plan goals and policies as relevant to the proposal:
  - Ensure City Goals and Policies are consistent with the Growth Management Act. [GO-1]
  - Work towards promoting and maintaining an urban environment within the City that enhances livability for its residents. [GO-3]
  - Site design and building architecture in residential developments should be human scaled (pedestrian friendly) and conducive to social interaction. [PO-6.1]
  - Land use developments should be conducive to social interaction. [PO-6.4]
  - Public and private civic spaces should be included in both commercial and residential neighborhoods to ensure adequate gathering places. [PO-6.5]
  - Design Guidelines/Standards should be established, maintained, and enforced, in order to ensure that all new development both within the Private and Public Realms are in harmony with the desired character of each respective neighborhood subarea. [PO-6.6]
  - Multi-family housing should be located close to commercial centers. [PH-2.1]

- Utilize mixed-use mechanisms to incentivize housing within close proximity to commercial uses. [PH-2.3]
- Based upon the monitoring and evaluation results from Policy 4.B.1, the City should evaluate the effectiveness of its zoning regulations to produce housing developments that meet the diverse housing needs identified in the Housing Characteristics and Needs Report for the community. [PH-8.5]
- Higher density residential uses should be located around commercial areas. [PL-7.2]
- Vertical and Mixed-Use developments with a residential component should be permissible in designated zones within the City. [PL-7.3]
- Where commercial and residential areas abut, new development should include the design and construction of walkways, sidewalks, or other non-motorized features to integrate and link commercial activities to neighborhoods. [PT-9.1]
- Require developers to construct those streets directly serving new development and pay a fair-share fee for specific off-site improvements necessary to mitigate any adverse impacts. [PT-1.9]
- Require developers to construct those streets directly serving new development and pay a fair-share fee for specific off-site improvements necessary to mitigate any adverse impacts. [PT-4.1]
- All developments in all zoning districts shall provide sufficient parking spaces to accommodate the number of vehicles that are likely to be attracted to the development. [PT-4.8]
- Require new construction to construct sidewalks, bicycle storage/parking facilities, and access to mass transit where possible and in proportion to the proposal. [PT-4.10]
- All public streets shall be constructed with curb, gutter, sidewalk, landscape strips and street trees. [PT-4.13]
- Provide ramps and curb cuts that comply with the Americans with Disabilities Act. [PT-5.6]
- Provide street lighting along sidewalks to encourage nighttime use and for safety. [PT-5.7]
- New residential developments should be required to mitigate impacts to park, recreation, and open space through improvements to property. [PP-1.4]
- New residential developments should provide adequate on-site park space or pay a fee-in-lieu. [PP-1.12]
- The City should require new developments mitigate traffic impacts through at least two of the following methods as deemed acceptable by the City: dedication of right-of-way, frontage improvements, or traffic mitigation fees. [PD-1.7]

- Any infrastructure improvements needed to serve a proposed development should be installed prior to the issuance of any building permit. [PS-1.8] *Exhibit 1, Staff Report, pages 5 and 6.*

7. The property is zoned “CC.” City staff identified the following zoning regulations as relevant to the proposal: Multi-Family Use Above a Permitted Non-Residential Use (Mixed-Use) and Multi-Family Use Horizontal to a Permitted Non-Residential Use (Mixed-Use) are uses allowed outright. *AMC 20.40.010*. City staff determined that the proposal is a use allowed outright. *Exhibit 1, Staff Report, page 11.*

#### Existing Site, Surrounding Area, and Proposed Development

8. The 2.27-acre property is currently vacant. The two parcels that comprise the subject property are primarily flat. No critical areas exist on or near the site. To the north are properties zoned CC and Highway Commercial with Mixed-Use Overlay (HC/MXO). Existing uses are commercial businesses and a Snohomish County Public Utility District (PUD) substation. South of the site, properties are zoned CC. Uses include commercial businesses, one single-family residence, and a recovery center. East of the site, properties are zoned CC and HC/MXO. Uses include commercial businesses and a portion of the PUD substation. West of the site, properties are zoned CC. Uses are commercial businesses. Amy Rusko, City Planning Manager, testified in more detail, as noted in the section on testimony, below, about surrounding uses and the wider neighborhood. *Exhibit 1, Staff Report, page 3; Exhibit 10; Exhibit 11; Exhibit 14; Exhibit 17.*

#### *Soils and Stormwater*

9. Geotest Services, Inc., prepared a geotechnical engineering report. Geotest excavated 6 test pits across the site, to depths between 6 feet and 8.5 feet. The test pits in the western part of property encountered 0.5 to 2 feet of fill over a topsoil found to a depth of a 1 to 2.5 feet below grade. Native soils were then encountered consisting of medium dense, weathered tan to orange, moist to wet, slightly silty, poorly graded sands. These soils transition to saturated, gray, poorly graded sands with depth. The east portion of the property has similar native soils but is lacking the fill and topsoil layer. Groundwater was encountered between 2 feet to 5 feet below ground surface, and this concurs with Washington Department Ecology Well Log Viewer, which indicates a regional water table in the recessional outwash to be at a depth of 4 feet below ground surface in the vicinity of the site. The soils on-site are classified as Custer Fine Sandy Loam. Custer Fine Sandy Loam is very deep, poorly drained soil, the surface layer is dark grayish brown fine sandy loam approximately 9 inches thick, and the upper part of the subsoil is loamy fine sand approximately 7 inches thick. The substratum extends to a depth of 60 inches or more and is gravelly coarse sand. Custer Fine Sandy Loam is considered a hydraulic soil group C/D soil. Geotest did not identify any hazardous soil or slope conditions on the property. *Exhibit 16; Exhibit 17.*

10. Relying on the findings from the Geotest report, Cascade Surveying and Engineering submitted a preliminary stormwater drainage report on behalf of the Applicant, dated September 2022. Cascade determined that flow control would be provided through a detention system for all runoff on-site, using a StormTank Module detention system located beneath the parking area. Runoff treatment for the proposed pollution-generating surfaces would be provided through catch basin stormfilters designed by Contech Engineered Solutions or equivalent. The stormfilters would remove any pollutants from the surface runoff before conveying it to the detention system. The number of stormfilter cartridges required to treat the pollution-generating surfaces would be provided on the construction plans and would be calculated using the formula provided by Contech and the water quality flow rates determined using the Western Washington Hydrological Model. The stormwater runoff from the developed area would be discharged into the City of Arlington stormwater infrastructure on Smokey Point Boulevard, thus maintaining the natural drainage patterns. *Exhibit 16; Exhibit 17.*
11. City staff accepted the Applicant's preliminary stormwater plan, determining that it would be feasible to build and would likely result in compliance with the Department of Ecology Stormwater Manual. Final approval of the stormwater system would occur during the review process. *Exhibit 1, Staff Report, page 22.*

*Access, Traffic, and Parking*

12. Access to the property would be provided at four locations: Building 1 would be accessed from a driveway entrance along 166th Place NE, and by way of street parking along Smokey Point Boulevard. Building 2 would be accessed from the main driveway entrance along Smokey Point Boulevard and a secondary access through the recovery center drive aisle. Kimley Horn prepared a Traffic Impact Analysis (TIA) for the proposed development, dated May 2022. The TIA estimated that the proposed use would produce 64 new PM peak-hour trips to the site. On the basis of this estimate, City staff calculated a traffic impact fee of \$214,720 (\$3,355 per trip, times 64 trips). *Exhibit 1, Staff Report, pages 2 and 14; Exhibit 5; Exhibit 18.*
13. City staff determined that the means of ingress and egress for pedestrian and bicycle transportation to the site would be from 166th Place NE and Smokey Point Boulevard, which provides pedestrian and bicycle access. The frontage of 166th Place NE and Smokey Point Boulevard would provide accessible vehicular, pedestrian, and bicycle access. The project would have access from the north, south, and west through private drive aisles. City staff determined that the project complies with the complete street program and provides multiple modes of travel throughout the entire site. *Exhibit 1, Staff Report, page 20; Exhibit 5.*
14. City staff determined that the project vested under the version of the code in effect on October 24, 2022. That version of the code did not require parking for multifamily

developments.<sup>1</sup> Nevertheless, the Applicant proposed 144 parking spaces, including ADA and electric vehicle parking spaces. The City determined that the proposal is required, under Table 20.110-10, to provide 30 bicycle parking spaces. The Applicant had not proposed the required parking spaces on its site plans, but City staff believed they could be accommodated in the final plans during subsequent permitting. *Exhibit 1, Staff Report, page 20; Exhibit 5.*

#### *Frontage Improvements*

15. Frontage improvements along Smokey Point Boulevard would include a median, drive aisle, 12 angled parking spaces, curb, gutter, sidewalk, and street trees. Additional off-site improvements would connect the on-site drive aisle, west of Building 2, to the existing drive aisle on parcel 31052800201500 to the south. *Exhibit 1, Staff Report, page 2; Exhibit 5.*

#### *Utilities and Services*

16. The City of Marysville would provide water and wastewater systems, a requirement that City staff incorporated into the mitigation measures in the MDNS. Gas would be provided by Puget Sound Energy. Electricity would be provided by Snohomish County PUD. The construction of utilities would take place after Civil Permit approval and must meet all requirements of the Public Works Construction Standards and Specifications of both the City of Arlington and City of Marysville. *Exhibit 1, Staff Report, pages 4, 13, and 31; Exhibit 27.*
17. City staff identified a requirement in the code that “All existing, extended, new electrical power lines, telephone, gas distribution, cable television, and other communication and utility lines shall be placed underground in accordance with the specifications and policies of the respective utility service providers.” *AMC 20.60.450.* City staff made this a required mitigation measure of the MDNS and a recommended condition of approval. At the hearing, the Applicant raised a concern that this would require the Applicant to underground two existing large, metal towers with transmission lines belonging to the PUD. This issue is discussed further in the section below on testimony. *Exhibit 1, Staff Report, page 13.*
18. At the time the MDNS was issued, the City had a fee schedule for school impact fees. On the basis of the then-existing fee schedule, the City incorporated the following mitigation measure into the MDNS:  
The applicant shall pay Lakewood School District Mitigation Fees in the amount of \$445 per one-bedroom multi-family dwelling unit and \$1,641 per two/+ bedroom multi-family dwelling unit. The applicant shall provide proof of payment prior to building permit issuance.

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<sup>1</sup> One day later, on October 25, 2024, ordinances 2022-026 and 2022-033 went into effect, which would have required 164 parking spaces. *Testimony of Amy Rusko; Exhibit 30; Exhibit 31; Exhibit 33.*

*Exhibit 1, Staff Report, page 14; Exhibit 26.*

19. Following the issuance of the MDNS, the City reduced its school impact fee to \$0. The Applicant objected to the MDNS requirement to pay school impact fees, given the subsequent repeal of the fee. This issue is addressed in more detail in the section on testimony, below. *Exhibit 1, Staff Report, page 14; Exhibit 26.*

*Landscaping and Open Spaces*

20. City staff identified a requirement for mini-parks. Residential developments are required to provide 65 feet of recreational space in the form of mini-parks for every person expected to reside in the development. *AMC 20.52.010(a)*. City staff calculated that the proposed development would provide housing for 151 people, which would require 9,815 square feet of mini-park recreational space. A dispute exists between the City and the Applicant as to how much mini-park space the proposal includes. The City relied on the definition of mini-parks in *AMC 20.52.020(a)* to conclude that only the proposed pickleball court qualifies as a mini-park. The Applicant relied on the definition of open space in *AMC 20.52.030* to argue that all proposed open spaces, not just the proposed pickleball court, qualify as mini-parks. Under the City's calculation, only 2,248 square feet of mini-park space was proposed. Under the Applicant's calculation, 9,229 square feet of mini-park space was proposed. This issue is discussed in more detail in the section on testimony, below. *Exhibit 1, Staff Report, page 11; Exhibit 5.*
21. The City identified a requirement in the code to pay an impact fee for any shortfall in the amount of mini-park space required. *AMC 20.90.400(b)*. Based on its assumption that only the pickleball court qualified as mini-park space, the City calculated that there was a shortfall of 7,567 square feet in mini-park space. This was equivalent to a shortfall of 116 persons, or 83 units. Using the code-defined fee of \$436 per unit, the City calculated an impact fee of \$36,188. *Exhibit 1, Staff Report, page 15.*
22. In addition to the mini-park shortfall fee, the City also identified a code-based fee for community parks. *AMC 20.90.400(a)*. With 103 units at a rate of \$1,497 per unit, this fee would come to \$154,191. *Exhibit 1, Staff Report, page 14.*
23. In addition to the requirement for mini-parks, City staff also identified a requirement for five percent of the property area to be open space. *AMC 20.110.014(h)*. With an area of 89,845 square feet, this works out to a requirement for 4,492 square feet. The Applicant proposes 11,473 square feet, exceeding the requirement for open space. *Exhibit 1, Staff Report, page 21; Exhibit 5.*
24. The City identified requirements to landscape and screen the parking area. *AMC 20.110.014(g)*. The Applicant would meet this requirement by installing a concrete masonry unit wall and landscaping at the northwest portion of the project and solid landscape screening at the southwest portion of the project, as shown on the site plan.

The project has proposed more than 16 percent shading in the parking lot area. The total parking area is 18,336 square feet. The required 16 percent of the parking area would be 2,934 square feet. The total area of shading is 5,223 square feet. *Exhibit 1, Staff Report, page 20; Exhibit 5; Exhibit 7.*

25. City staff determined that the Applicant’s landscaping plan shows that all required landscaping components have been met. The interior shade trees between the buildings are proposed to be 1.5-inch caliper. The street frontage trees are proposed to have a 2-inch caliper and to be spaced every 30 feet on center. All trees would be planted with root barrier per the City of Arlington Standard R-260 along the public rights-of-way. All parking lot landscaping is proposed to be contained within planting beds with a minimum of 6-inch curbing that provides stormwater breaks. *Exhibit 1, Staff Report, page 21; Exhibit 5; Exhibit 7.*

#### *Lighting*

26. City staff determined that the proposed project would provide sufficient lighting throughout the site to illuminate the private drive, parking areas, and residences. The street lighting along Smokey Point Boulevard and 166th Place NE are required to comply with the Complete Streets Lighting Guide. The proposed project provides LED or similar lamp type outdoor lighting. The lighting is down shielded to prevent light pollution. City staff determined that project has proposed lighting that meets the requirements of the T5-F transect, AMC 20.110.014(k). *Exhibit 1, Staff Report, pages 13 and 22; Exhibit 5; Exhibit 6.*

#### Design Review

27. Mixed-use development is subject to a “form-based code.” *AMC 20.110.012(b)*. The subject property is subject to the “T-5 Flex” form. *AMC 20.110.012(e)*. The T-5 Flex form-based code provides the following guidance:
- Desired Form: Attached, Medium to Large Footprint, Simple Wall Plane along Street, Building in ROW, Small to No Side Setbacks, Diverse Mix of Frontages, First Floor Flush with Sidewalk, and Up to 4 stories.
  - General Use: Vertical and horizontal mixed use: retail, commercial, and residential uses on any floor. Ideal for live/work conditions.
  - Intent: To provide an urban form that can accommodate a very diverse range of uses, including some light industrial to reinforce walkable neighborhoods and to provide a mix of uses on the ground floor, including residential, thus enabling the retail and service sectors to mature over time, while still allowing occupancy.
- Exhibit 1, Staff Report, page 16.*

28. City staff reviewed the proposed design and made the following observations:  
The project provides a medium footprint 3-story building, a large footprint 3-story building, and provides a wall plane along Smokey Point Boulevard. Building 1 utilizes vertical mixed use with commercial and

retail uses located on the first floor and multi-family residential units on second and third floors. Building 2 utilizes horizontal mixed-use and is comprised of all multi-family residential units. The project provides a walkable neighborhood for future tenants with commercial uses within the building and provides access to nearby commercial areas and employment opportunities.

*Exhibit 1, Staff Report, page 16.*

29. In addition, the project is subject to the architectural requirements in AMC 20.110.014(L). City staff reviewed the Applicant's site plan, landscaping plan, and architectural renderings, and made the following observations:

- The proposed project complies with the parking space setbacks, as shown on the site plans: 40 feet from Smokey Point Boulevard in two locations and six feet from 166th Place NE.
- The proposed project has provided parking drive aisle widths of 24 feet throughout the site and 20 feet to the secondary access to the south, as shown on the site plan.
- The proposed project has not shown any encroachments of the building into the setbacks established from the public right of way.
- The Applicant has provided a widened sidewalk for access to the commercial or retail spaces.
- Building 1 has proposed a frontage type of shopfront and awning on the west and south sides of the building that front the public streets. The commercial or retail store fronts provide access from the sidewalk with large windows for the businesses.
- Building 2 has proposed a frontage type of porch on the east and west sides of the building that face the public street on the west and the parking area to the east to provide residents access to the building.
- The first floor of Building 1 allows for commercial, retail, or service uses and the second and third floors accommodate the multi-family residential use. The first floor through third floor of Building 2 allows for residential throughout.
- The proposed project is a medium to medium-large sized structure that incorporates structured parking in Building 2, utilizing the southern portion of the ground floor.
- The proposed development has met the compatibility of the surrounding developments:
  - Regional Compatibility: The design of the building has incorporated design features to address the local weather and compliment regional aesthetics. Every entry either has a roof overhang, awning, canopy or is recessed back to create cover from the elements.

- Neighborhood Compatibility: The design incorporates the craftsman style, though Building 1 is designed as a main street building with parapet roof and Building 2 is designed to resemble residential and has a pitched roof. The proposed buildings provide earth tone colors and natural materials, such as brick, board & batten siding, hardie plank and panel siding, and trim. This site is in a transitional district and creates a model for future projects in the immediate area and are compatible with existing neighboring buildings.
- The proposed project consists of two buildings on the site that both have the same craftsman design, with similar colors and materials. The buildings match siding designs with different roof structures due to the proximity to the main public street. Building 1 provides a parapet roof and Building 2 provides a pitched roof. This project is the first to develop in the neighborhood commercial mixed-use overlay transect.
- The proposed project has architectural design and details on all four sides of the buildings, providing consistent style, colors and materials. The HVAC equipment shall be screened and designed to blend in with the building.
- The proposed project does not have any dominate corporate or trademark architectural details. The project will provide signage for the name of the project. The individual commercial or retail businesses on the first floor of the building will submit proposed signage to the city for approval prior to installation. The signage shall meet all requirements of AMC 20.68 and blend in with the overall building.
- The project has proposed two three-story buildings. Building 1 has a height of 36'8" and Building 2 has a height of 40'4" to the peak of the roof. The design height of the building meets the requirements for the zone and there are no abrupt or severe differences in building scale or massing within the complex.
- The proposed buildings start with a brick and board & batten exterior surface surrounding the first floor. The color and material forms give the project a solid, recognizable base. The upper floors consist of hardie-plank and hardie-panel. Trim is provided around all windows and throughout the building facades. These materials and colors represent the middle of the building. The roof material on Building 2 is proposed to be architectural composition roofing with cornice features, which represents the top of the building. The combination of these colors and materials help define a distinctive bottom, middle, and top of the structure.
- The project has proposed many vertical and horizontal elements, including modulation and articulation on all sides of the building. The elevations show the building bump outs, gable roofs, parapet roof with cap, entry canopies, storefronts, and other modulation techniques. In addition, the

use of trellises and knee-braces throughout the project creates additional shadow lines and interest. All the wall planes are 30 feet or less in length with modulations that are 24” in depth. The building has a distinct bottom, middle, and top.

- The project proposes a pleasing pedestrian experience by breaking up the building elements and dividing the building into smaller proportions. The front (west elevation) incorporates canopies, trellises, windows, and vertical and horizontal modulations that cover 90% of the street elevation. The remaining elevations utilize the same elements and cover at least 60% of each elevation.
- The project proposes Building 1 with a low sloped roof with a parapet and an attractive cornice and Building 2 has a 4/12 sloped roof. The gable roofs break up the eave length a minimum of every 30 feet.
- The project proposes gutters across the face of the eaves. The downspout locations are shown on the elevations and are incorporated into the building design.
- The proposed project provides a customer and public entrance to the commercial retail space on the west side of Building 1. The entrance is visible through awning/canopy covers with recessed entrances. All entrances are clearly defined with both buildings.
- The project proposes first-floor storefront windows facing Smokey Point Boulevard and are of commercial material, vertically proportioned, and recessed into the brick veneer. The residential windows on all sides of both buildings are vertically proportioned and provide trim.
- The project has proposed many windows, especially with the commercial storefronts on the first floor. The commercial floor level is minimally transparent with storefront glazing with a pedestrian view of between 0 to 10 feet, as shown on the west side of Building 1.
- The first-floor glazing along the street provides 75% of the elevation, the upper floors will meet 25% - 60% of the frontage. The transparent glass will possess a minimum of 60% light transmittance factor. The project will meet a maximum reflectance factor of .20. No first-floor reflective coating is permitted.

*Exhibit 1, Staff Report, pages 17–27; Exhibit 5; Exhibit 6; Exhibit 7; Exhibit 8; Exhibit 9; Exhibit 10; Exhibit 11.*

#### Conditional Use Permit

30. City staff reviewed the proposal and determined that, with conditions, the proposal would comply with the specific criteria for a CUP under AMC 20.16.225, noting:
- The proposed mixed-use project complies with all required sections of AMC Title 20 per the staff analysis.
  - The City issued an MDNS on November 7, 2022. No parties appealed the MDNS.

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- The requested Conditional Use Permit, as conditioned, is consistent with all AMC Title 20 requirements: permit processing procedures, and all other applicable plans, regulations, and policies.
- The proposed development will not materially endanger the public health or safety of the City of Arlington. The proposed development has met the intent of the zoning and the mixed-use development regulations.
- The proposed development, as mitigated and conditioned, will not materially harm adjoining or abutting property.
- In terms of the site design/layout, building design and proposed commercial/retail and residential use, . . . the proposed development will be compatible with the surrounding land uses in the area in which it is located.

*Exhibit 1, Staff Report, pages 28 and 29.*

#### Testimony

31. City Planning Manager Amy Rusko testified generally about the proposal and how, with conditions, it would comply with the City Comprehensive Plan, zoning ordinances, and criteria of approval for a CUP. Ms. Rusko testified that the proposal was originally known as Grandview North but was now known as Ashford Place. She testified that the zoning is Transect T-5F, mixed-use urban center, chapter 20.110 AMC.

Ms. Rusko described the neighboring land uses. To the north is Les Schwab Tire Center. To the east is a PUD substation, and there is also a vacant property to the east. Farther to the east are storage units. To the north of the PUD substation is the Kids-N-Us daycare center. Farther northeast still are additional offices. To the south of the subject property are a single-family residence and the Holman Recovery Center, the latter owned by the Applicant. Farther south of the recovery center are more single-family residences. Car lots and RV lots for rental and sales lie to the west, across Smokey Point Boulevard.

There are not abutting multifamily mixed uses. The City's vision for Smokey Point Boulevard involves more mixed-use south of 172<sup>nd</sup> Street, of which this project is the first. Within a few blocks to the north, however, there are duplexes and large multifamily developments. There is also a mixed-use development north of 172<sup>nd</sup>. Given the surrounding and planned uses, Ms. Rusko testified that this proposal was consistent with the CUP approval criteria.

Ms. Rusko testified that impact fees had been calculated based on chapter 20.52 AMC and chapter 20.90 AMC for parks, traffic, and schools. At the time of the MDNS, school impact fees were required, but those fees had subsequently been repealed. Ms. Rusko had already put the fees into the MDNS, however, and did not believe she could change an MDNS once it had already been issued. Ms. Rusko agreed to hold the record open to contact the School District for an opinion on whether the fees were still needed.

Ms. Rusko testified that, for mini-parks, she relied on chapter 20.52 AMC. She concluded that, although the Applicant had supplied some mini-parks, it had not supplied enough. Most of the open space was not equipped with the kinds of facilities for “active recreational needs,” as called for in AMC 20.52.020(a). On the contrary, most of the open space appeared to be equipped with picnic tables and other passive recreational features of “usable open space,” as set forth in AMC 20.52.030(b)(3). Thus, while sufficient open space was provided, sufficient mini-parks were not.

Ms. Rusko testified that, at the time the permit application was submitted, no parking requirements existed. Under the current code, 164 spaces would have been required. With only 144 units proposed, the project would not have enough parking under the current code. Ms. Rusko believed the application was vested to the earlier version that did not require parking, except for the commercial space. Ms. Rusko testified that the new ordinance had come into effect after October 24, 2022, the date on which the Applicant’s CUP application was deemed complete. She offered to provide the parking ordinance following the hearing.

Ms. Rusko addressed the comments between herself and the City of Marysville, Exhibit 24. As Ms. Rusko explained it, Marysville and Arlington often disputed one another’s traffic impacts. Ms. Rusko did not believe Arlington was under any obligation to pay Marysville’s traffic impact fees. She believed Marysville provided most of the traffic along Smokey Point Boulevard, yet Marysville did not pay Arlington any impact fees for this traffic, nor for any development Marysville had made within its own borders. Ms. Rusko was confident in the analysis of the traffic impact memo, Exhibit 18, that there would not be any significant adverse traffic impacts, such as level of service failures. She did, however, believe that impact fees were necessary for the project’s contribution to Arlington’s traffic, and frontage improvements were necessary due to parking impacts.

Ms. Rusko acknowledged that there are discrepancies in the record regarding the amount of commercial floor space to be provided. For example, Exhibit 5 and Exhibit 8 give inconsistent numbers.

Ms. Rusko testified that design review, for this application, was within the Hearing Examiner’s jurisdiction. The Hearing Examiner should apply the design review criteria in AMC 20.110.014(L), which were addressed in the staff report. *Testimony of Amy Rusko.*

32. Applicant Representative Randy Devoir, of Cascade Surveying and Engineering, testified that he is the project manager. Mr. Devoir recalculated the commercial square footage using AutoCAD and came up with 3,541 square feet. His explanation for the discrepancy was that different reviewers might have different interpretations of what area constituted “commercial space.” For example, some might include stairs and entrances, others might not.

Similarly, Mr. Devoir acknowledged discrepancies in the count of parking spaces. He testified there should be 144 stalls of various kinds, notwithstanding some apparent miscounts in the site plan, Exhibit 5.

Mr. Devoir disagreed with Ms. Rusko about the adequacy of the mini-parks. Mr. Devoir argued that all open spaces should be counted as mini-parks. In his interpretation, the presence of picnic tables and open grass in the designated open spaces would serve as a park for recreational purposes. He saw unstructured, outdoor recreation—which could be done in the open spaces—as a component of the mini-parks. He did not see a difference between mini-parks and open space. He did not agree that formal recreational facilities were required for mini-parks under AMC 20.52.020(a). He cited AMC 20.52.030(b)(4) as the basis for his argument that lawns for soccer and picnic tables could qualify as mini-parks.

Mr. Devoir argued that the Applicant should not be required to place all electric lines underground. In particular, there are two large, metal poles belonging to the PUD. He did not believe those poles, and their associated transmission lines, could or should be put underground. It would be a massive undertaking, one that would have driven the Applicant not to undertake the project in the first place.

Mr. Devoir agreed with Ms. Rusko that the school impact fee ordinance had been repealed. He argued that no impact fees should be imposed. He was skeptical that the School District would write back to say that the money was no longer needed, even though the impact fee had been repealed. *Testimony of Randy Devoir.*

33. Scott Wammack, Owner and Applicant, testified that the correct count of parking spaces was 144. He testified that the commercial square footage was a “moving target,” depending on who was doing the reviewing. He confirmed that Exhibit 5 was the final version of the site plan that the Hearing Examiner was being asked to approve.

Mr. Wammack expressly overruled Mr. Devoir on the question of mini-parks. He agreed with the City’s calculation of mini-park area, not Mr. Devoir’s methodology (which included open space within the definition of mini-parks).

Mr. Wammack testified that he had talked to the PUD and that the PUD did not want the Applicant to touch the two tall, metal poles with transmission lines. Mr. Wammack asked that any conditions of approval be clarified to exclude those lines.

As for school impact fees, Mr. Wammack believed those fees would vest at the time of building permit application, which he had not yet submitted. Given that the school impact fees had subsequently been repealed, he expected that fee to be zero. But he admitted he was at a loss to explain why his application should vest for purposes of the

parking requirements but should not vest for purposes of school impact fees. *Testimony of Scott Wammack.*

34. In response to the testimonies of Mr. Devoir and Mr. Wammack, Ms. Rusko thought it made sense to require the Applicant to underground all existing lines, such as sewer and wastewater, as well as all electric lines except for the PUD transmission line. She agreed to work with the Applicant team on some proposed permit condition language to that effect. *Testimony of Amy Rusko.*

#### Post-Hearing Submittals

35. Following the hearing, the City submitted the school fee ordinance and two ordinances related to parking requirements, along with a note by the City Clerk about when each ordinance went into effect (which is based on the date of publication, not the date of enactment). The City also submitted post-hearing correspondence with the School District regarding the school impact fee, which was in effect at the time the CUP application was submitted and the time the MDNS was issued, but it is no longer in effect today. The School District's legal counsel commented that school impact fees were calculated at the time of permit *issuance*, not permit *application*. Therefore, the fee would only apply if the CUP had already been issued prior to the repeal of the school impact fee—not the case here. Finally, the City and Applicant submitted revised permit condition language to clarify that the large PUD transmission facilities do not need to go underground. *Exhibits 30–35.*

#### Staff Recommendation

36. City staff reviewed the application and recommended that the CUP be approved, with conditions, with the revised language in Exhibit 35 regarding the PUD transmission facilities. The Applicant agreed to all proposed conditions, except the school impact fee, which the School District waived in its Exhibit 34 correspondence. *Exhibit 1, Staff Report, pages 29–31; Exhibit 34; Exhibit 35; Testimony of Amy Rusko; Testimony of Scott Wammack.*

### **CONCLUSIONS**

#### Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide applications for a conditional use permit. *AMC 20.12.210(a); 20.12.230(2); 20.16.225(a).*

#### Criteria for Review

In considering whether to approve an application for a conditional use permit, the hearing examiner shall 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 20.16.255E.*

Subject to Subsection (d) [of AMC 20.16.225], the designated decision-maker shall issue the requested permit unless it concludes, based upon the information submitted at a hearing if there is a hearing or by signed letter if there is not, 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 20.16.225(c).*

Even if the permit-issuing authority finds that the application complies with all other provisions of this title, it 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,

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- (3) In terms of design and use will not be compatible with the area in which it is located.

*AMC 20.16.225(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

**With conditions, the proposal would satisfy the requirements for approval of a conditional use permit.** The Applicant submitted a complete application on October 24, 2022. The City provided reasonable notice of the application and opportunity to comment on the proposal. The City received comments on the proposal from the Stillaguamish Tribe, City of Marysville, and WSDOT. The Hearing Examiner agrees with the City that there is no source of authority for the City of Marysville to demand traffic impact fees from the City of Arlington.

The City Department of Community and Economic Development acted as lead agency, reviewing the proposal under SEPA, and determined that, with mitigation measures, the proposal would not have any probable significant adverse environmental impacts. The City issued an MDNS, and the MDNS was not appealed. The MDNS measures, which are incorporated as conditions of approval, below, would require the Applicant to implement best management practices that would prevent erosion, address stormwater runoff, and protect groundwater; implement dust control measures to reduce fugitive dust emissions; provide tree replacement at a three-to-one ratio; comply with noise restrictions during construction; obtain design review approval; install light fixtures that would prevent glare; construct frontage improvements and dedicate right-of-way; submit an unanticipated discovery plan; connect to City water and wastewater systems; and pay applicable traffic, school, park impact fees.

The Hearing Examiner agrees with the post-hearing analysis of the School District that school impact fees do not apply in this case. School impact fees are due upon the issuance of a land use permit. *AMC 20.90.280(a).* The MDNS is not a land use permit because it does not authorize the Applicant to develop the land. Therefore, school impact fees were not due upon issuance of the MDNS but only upon issuance of the CUP. Because the City has repealed the school impact fee, the Applicant is not required to pay it, notwithstanding language to the contrary in the MDNS.

The Hearing Examiner does agree with the City's other impact fee calculations, including the fee for the shortfall in the amount of mini-park space the Applicant has proposed. Under *AMC 20.52.020(a)*:

The following are illustrative of the types of facilities that shall be deemed to serve active recreational needs and therefore to count toward satisfaction of the

mini-park requirements of this chapter: tennis courts, racquetball courts, swimming pools, sauna and exercise rooms, meeting or activity rooms within clubhouses, basketball courts, sport fields, swings, slides, and play apparatus.

*AMC 20.52.020(a).*

The pickleball court meets this definition, but the other open space areas do not. The other open space areas feature grassy lawns and picnic tables, but these are the sorts of features that more closely match the definition of useable open space from AMC 20.52.030(b)(3): “an area that ... if not wooded at the time of development, is landscaped for ball fields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded area or other area.” *AMC 20.52.030(b)(3).*

Therefore, the Hearing Examiner agrees with the City staff’s calculation of a shortfall of 7,567 square feet in mini-park space, requiring an impact fee of \$36,188. During the hearing, Scott Wammack, Owner and Applicant, ultimately agreed with the City’s approach to mini-park in-lieu fees, explicitly overruling the contrary arguments of his representative, Randy Devoir. The Hearing Examiner concludes that the dispute over mini-park in-lieu fees has been resolved in the City’s favor, and correctly so.

The Hearing Examiner agrees that, as conditioned, adequate provisions have been made for stormwater, open space and landscaping, lighting, utilities, and access and parking. No critical areas or geologically hazardous areas are present. The Applicant’s Traffic Impact Analysis determined that all studied intersections would continue to operate at acceptable level of service during AM and PM peak hours following a full buildout of the proposed development. The City determined that the proposed development would generate 64 new PM peak-hour trips to the site. On the basis of this estimate, City staff calculated a traffic impact fee of \$214,720 (\$3,355 per trip, times 64 trips). The Hearing Examiner also concurs with the calculation of the park impact fee of \$445 per one-bedroom multi-family dwelling unit and \$1,641 per two/+ bedroom multi-family dwelling unit. The Hearing Examiner agrees that the proposed frontage improvements shown in the site plan should be made conditions of approval.

The Hearing Examiner concludes that, under AMC 20.110.014, the Hearing Examiner must make the determination as to whether the project complies with what the Hearing Examiner refers to in Findings 27–29 as the “design review” elements of the code. These requirements include many subjective elements related to the project’s architectural suitability with its surroundings. Having reviewed the same site plans, landscaping plans, architectural renderings, and aerial views as the City staff, and having considered the surrounding land uses as described in Ms. Rusko’s testimony, the Hearing Examiner agrees with the recommendations set forth in the staff report and summarized in Finding 29. The plans, drawing, and photos provide sufficient evidence to conclude that the proposal would comply with the design review requirements, and there is no evidence in the record to indicate otherwise.

The proposed use would be consistent with the Comprehensive Plan's Commercial Corridor land use designation for the property and would further several Comprehensive Plan goals and policies related to high-density multifamily housing and mixed uses, recreational facilities and open space, streets and sidewalks, utilities, parking, and screening. The development would be adequately screened from surrounding properties and would not endanger the public health or safety, or adversely affect abutting properties. As detailed below, conditions are necessary to ensure the proposal complies with all requirements associated with approval of a conditional use permit. *Findings 1–36.*

### DECISION

Based upon the preceding findings and conclusions, the request for a conditional use permit, to develop a mixed-use project consisting of one mixed-use structure, with approximately 3,541 square feet of commercial space and 34 multi-family dwelling units, and a second residential-only structure, with 69 multi-family dwelling units, for a total of 103 new dwelling units, with improvements that include 132 on-site parking spaces and 12 more parking spaces along the proposed frontage; approximately 21,000 square feet of on-site open space and mini-parks; 30 bike racks; frontage improvements along Smokey Point Boulevard; and a new drive aisle connection with the adjacent property to the south, is **APPROVED**, subject to the following conditions:<sup>2</sup>

1. All development shall be in substantial conformance with the Site Plan, Landscape Plans, and Architectural Plans received on December 5, 2023, subject to any conditions or modifications that may be required as part of the permit and construction plan review.
2. The developer is vested under the code in place at the time of complete application on October 24, 2022.
3. The approved Conditional Use Permit shall expire two years after the date of the Notice of Decision per AMC 20.16.220.
4. The development shall meet all Title 20 AMC regulation requirements.
5. The developer shall meet all local, state, or federal code requirements.
6. The developer shall clear any outstanding Planning Division permit-processing accounts with the City within 60 days of issuance of this permit.
7. No permits and/or construction pursuant to the Conditional Use Permit shall begin or be authorized until 21 days from the date of the decision.

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<sup>2</sup> Conditions include those required to reduce project impacts as well as those required to meet City codes.

8. The property owner is responsible for managing all parking for residents and commercial uses on the site with the proposed number of parking stalls. The City requires that the property owner establishes a parking permit system for tenants to show who is allowed to park in the private parking lot and to track compliance with parking. If parking issues arise it is the responsibility of the property owner to limit the number of cars a tenant can have on the site. Parking is not allowed off-site unless a parking agreement is reviewed and approved by the city and recorded with the Snohomish County Auditor's Office.
9. The Applicant shall notify the Stillaguamish Tribe of Indians prior to ground disturbance associated with the construction of this project.
10. The Applicant is required to pay a mini-park in-lieu fee in the amount of \$36,188.00 (83 x \$436.00).
11. At the time of complete application and SEPA determination, the Lakewood School District required school impact fees. At the time of this CUP decision, the School Impact Fees were removed through Lakewood School District's submittal of an updated Capital Improvement Plan that was approved through City of Arlington Ordinance No. 2022-029. Notwithstanding the statement to the contrary in the SEPA determination, there are no requirements at this time for the applicant to pay school impact fees. The fee that will be collected will be the fee in place at time of building permit issuance.
12. The Applicant is required to obtain an avigation easement with the Arlington Municipal Airport prior to project completion.
13. The Applicant is required to provide bicycle space locations and racks for 30 bicycles. This shall be shown on the civil plans.
14. In order to mitigate potential earth impacts, the Applicant shall implement Best Management Practices per Department of Ecology for Stormwater Pollution Prevention and TESC Controls to prevent erosion during and after construction.
15. In order to mitigate for potential air impacts, the Applicant shall implement dust control measures to reduce fugitive dust emissions during construction. A construction management plan shall be submitted to the City prior to commencement of construction to ensure these measures. Construction equipment emissions shall comply with all State and Federal regulations for emissions.
16. In order to mitigate potential impacts to ground water the Applicant shall employ best design practices meeting the current Department of Ecology's Stormwater Management Manual for Western Washington.

17. In order to mitigate for potential impacts to water runoff the Applicant shall follow the current edition of the Department of Ecology's Stormwater Management Manual for Western Washington and Best Management Practices used to protect groundwater.
18. The Applicant shall comply with current codes to reduce or control environmental health hazards. A spill prevention plan shall be in place according to local, state and federal policies.
19. The project is located next to a Snohomish County Public Utility District #1 substation. The applicant shall work with the City of Arlington and Snohomish County PUD to create a sound barrier between the existing substation and the proposed mixed-use development.
20. 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 Monday through Saturday shall be prohibited. The project will generate short term noise associated with construction activities. Construction hours will conform to City requirements. Noise from light vehicle traffic will be generated during business hours at project completion.
21. The proposal is required to meet the City of Arlington Development Design Standards of AMC 20.110, as part of this submittal.
22. To mitigate potential light pollution, the Applicant will be required to install light fixtures that are down shielded. The property is located within the Arlington Airport Protection District – Subdistrict C – that is comprised of the Federal Aviation Regulations (FAR) parts 77 Imaginary surfaces.
23. To mitigate the impacts on recreation, the applicant shall pay Community Park Impact Fees in the amount of \$445 per one-bedroom multi-family dwelling unit and \$1,641 per two/+ bedroom multi-family dwelling unit.
24. If historical, cultural, or archaeological sites or artifacts are discovered in the process of development, work on that portion of the site shall be stopped immediately, the site secured, and the find reported as soon as possible to the planning director. The property owner also shall notify the Washington State Department of Archaeology and Historic Preservation and affected tribes. The Applicant shall notify the Stillaguamish Tribe and submit an Unanticipated Discovery Plan prior to ground disturbance.
25. The Applicant is required to construct frontage improvements and dedicate right-of-way along Smokey Point Boulevard, as shown on the site plan.

26. Trip generation has been calculated by Gibson Traffic Consultants through a Traffic Impact Analysis. The report references land use code 220 for low rise multi-family and 822 for Retail Plaza per the ITE Trip Generation Manual, 10<sup>th</sup> Edition. The project proposes 103 multi-family units and approximately 3,541 square feet of commercial space, which results in 64 PM Peak Hour Trips. The Applicant is required to pay Traffic Mitigation fees in the amount of \$214,720.00 to the City of Arlington. City traffic mitigation fees shall be paid prior to building permit issuance and may be split between buildings.
27. The Applicant shall receive approval from and connect to the City of Marysville water and wastewater systems, extend utility lines as necessary and pay water and sewer connection fees. All improvements shall be installed during the Site Civil Construction phase of the project. The applicant shall provide proof of payment prior to building permit issuance. All utilities shall be installed underground.
28. Prior to any construction activities, the Applicant shall file and receive approval of civil construction plans which comply with all requirements of the Land Use Code, International Building Code, International Fire Code and Public Works Construction Standards and Specifications. Said plans shall address all site improvements, either required or voluntarily provided.
29. All stormwater is required to meet the 2019 Department of Ecology Stormwater Management Manual for Western Washington. The final drainage plan shall be approved with the civil permit.
30. The Applicant is required to provide an automatic irrigation system on the site. The proposed irrigation plan shall be submitted with the civil permit.
31. The Applicant shall construct all existing, extended, and new electrical power lines (not to include transformers or enclosures containing electrical equipment including but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, cable television, and other communication and utility lines in or adjacent to any land use or building permit approved after the effective date of this chapter shall be placed underground in accordance with the specifications and policies of the respective utility service providers and located in accordance with the administrative guideline entitled "Public Works Construction Standards and Specification." Even in the event the distribution line originates from a point opposite any public roadway from the new construction the service lines shall be placed beneath said roadway by means of boring or surface excavation across said roadway. The two large metal transmission poles located at the northwest corner of the property are exempted from this condition because they cannot be placed underground per Snohomish County PUD.

32. Prior to issuance of the building permit, the Applicant shall complete all required or voluntary improvements unless otherwise secured and authorized by the City Engineer.
33. The Applicant shall submit building plans meeting the architectural standards of AMC 20.110, as approved with this permit.
34. Business Licenses for all contractors working on the site shall be required to obtain a City of Arlington Business License.
35. Building signage is required to be permitted through a sign permit application. All signage requires city approval prior to installation. The signage shall meet all code requirements and blend in with the overall building design.

DECIDED this 1st day of February 2024.



ALEX SIDLES  
Hearing Examiner