



CITY OF ARLINGTON NOTICE OF DECISION

Lot 1 at The District Preliminary Unit Lot Subdivision – Conditional Use Permit

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

Project Name: Lot 1 at The District

Proponent: Grandview North LLC

Project Number: PLN #1207

Description of Proposal: The applicant is proposing to construct 23 townhome units on Lot 1 of the Zahradnik Binding Site Plan, as amended and recorded under AFN202303025002. The project consists of five 4-unit buildings and one 3-unit building, with 3 bedrooms each on 1.18 acres. The townhome buildings provide a garage and living area on the first floor, two bedrooms and an office area on the second floor, and one bedroom on the third floor. The onsite improvements include parking, open space, mini parks, landscaping and sidewalks throughout the site and are connected to the entire area of the Binding Site Plan.

Location: Northwest of the State Route 9 and 172nd Street Intersection

Parcel Number: 31052400303000

Hearing Examiner Decision: Approved, with Conditions

Notice of Decision Date: July 25, 2024

End of Appeal Period: August 15, 2024

Special Use Permit Site Plan Review Expiration Date: July 25, 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 to the Snohomish County Superior Court at 3000 Rockefeller Avenue M/S 502, Everett, WA 98201, pursuant the Land Use Petition Act, Chapter 36.70 RCW, and the City of Arlington Community and Development Department at 18204 59th Avenue NE, Arlington, WA, 98223 by close of business day on **Thursday, August 15, 2024**.

Staff Contact: Amy Rusko, Planning Manager, arusko@arlingtonwa.gov

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

| | | |
|-------------------------------------|---|--------------------------------------|
| In the Matter of the Application of |) | No. PLN#1207 |
| |) | |
| Scott Wammack, on behalf of |) | Lot 1 at The District ULS CUP |
| Grandview North, LLC |) | |
| |) | FINDINGS, CONCLUSIONS, |
| <u>For a Conditional Use Permit</u> |) | AND DECISION |

SUMMARY OF DECISION

The request for a conditional use permit to allow for a preliminary major unit lot subdivision that would accommodate the development of 23 townhome units on fee simple lots, within five 4-unit buildings and one 3-unit building, with associated improvements, on a 1.18-acre lot that was established as part of the previously approved and amended Zahradnik binding site plan, located to the northeast of the intersection of State Route 9 and 172nd Street 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 July 9, 2024.

Testimony:

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

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

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report
2. Land Division Permit Application, dated March 12, 2024
3. Design Review Application, dated March 12, 2024
4. Preliminary Unit Lot Subdivision Site Plan, dated May 23, 2024
5. Elevations and Floor Plans (18 Sheets), dated December 5, 2022
6. 3D Renderings (2 Sheets)
7. Landscaping Plans (3 Sheets)
8. Tree Survey, dated December 30, 2022
9. Amended Zahradnik Binding Site Plan, recorded March 2, 2023
10. Water and Sewer Availability Request, approved May 12, 2022
11. Property Legal Description

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12. Aerial Site Photograph, with overlay, dated October 11, 2023
13. Vicinity Maps, dated April 5, 2022, and September 19, 2023
14. Complete Streets Checklist
15. SEPA Environmental Checklist, dated September 29, 2022
16. Critical Areas Study and Mitigation Plan, Wetland Resources, Inc., revised July 26, 2022
17. Preliminary Drainage Report, Cascade Surveying and Engineering, Inc., dated May 22, 2023
18. Geotechnical Investigation and Engineering Report, Materials Testing and Consulting, Inc., dated June 3, 2020
19. Unanticipated Discovery Plan
20. Traffic Impact Analysis, Kimley Horn, dated November 22, 2022
21. Snohomish County Traffic Mitigation Offer, dated September 29, 2022
22. Public Notice Mailing Labels, Vicinity Map, and Mailing List
23. Comment from Becca Yadon, dated April 12, 2024
24. Comment from Eagle Heights Homeowners' Association, dated June 4, 2024
25. Notice of Public Hearing, published June 18, 2024, with Affidavit of Posting, dated June 18, 2024
26. Notes from April 30, 2024, Neighborhood Meeting, with Presentation Slides
27. Notice of Application, published April 12, 2024, with Affidavit of Posting, dated April 12, 2024
28. Notice of Complete Application Letter, dated April 4, 2024
29. Decision Approving Zahradnik Binding Site Plan, dated January 3, 2023
30. Decision Approving Amended Zahradnik Binding Site Plan, dated February 21, 2023

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

FINDINGS

Background

1. On February 3, 2023, the City of Arlington (City) approved, with conditions, a request by Grandview North, LLC (Applicant), for a Binding Site Plan (Zahradnik BSP) to allow an approximately 16.8-acre lot, located at the northwest corner of the intersection of State Route 9 and 172nd Street, to be divided into six buildable lots, with a 4.31-acre tract (Tract 999) to be set aside as a protected wetland conservation area.¹ As originally proposed and approved, a build-out of the site under the BSP would accommodate the construction of: commercial, retail, and office space along 172nd Street NE (within Lots 4, 5, and 6); one mixed use building north of the commercial businesses and two three-story apartment buildings (within Lot 3); one mixed use building north of the commercial businesses and two three-story apartment buildings (within Lot 2); and townhouses on the west side of the property along the street frontage of 85th Avenue NE (within Lot 1). In

¹ The originally approved Zahradnik BSP lists a decision date of January 3, 2023, but contains a signature date of February 3, 2023. *Exhibit 29.*

approving the Zahradnik BSP, the City determined that, as conditioned, the proposal would meet all applicable BSP standards, including standards related to lot access, interior circulation, open space, landscaping, drainage facilities, facility maintenance, and parking, as well as for the preservation of trees and vegetation, natural drainage, existing topsoil, and wetland and critical areas to the fullest extent reasonably possible.

Accordingly, elements of the overall development on the site that were established with the approved Zahradnik BSP include lot sizes; critical areas and on- and off-site mitigation required for impacts to wetlands and wetland buffers; parks and recreation; open space; and street improvements, including a roundabout on 85th Avenue NE that would be installed with the mixed-use and multi-family apartment development phase and another roundabout at the intersection of 85th Avenue NE and 172nd Street that would be installed with commercial development phase. *Exhibit 1, Staff Report, page 2; Exhibit 29.*

2. On February 21, 2023, the City approved the Applicant's request for an amendment to the Zahradnik BSP, which proposed to reconfigure Lots 2 and 3 to separate the mixed-use building from the multi-family residential buildings; to add Lot 7 to accommodate the four multi-family residential buildings due to the changes to Lots 2 and 3; and for minor lot-size changes to Lots 2 through 6. The BSP amendment did not propose any changes to access; to the proposed number of units and buildings, critical areas, or open space; or to the size, use, or intensity of the site. *Exhibit 1, Staff Report, page 2; Exhibit 29.*

Application and Notice

3. The Applicant now requests approval of a conditional use permit (CUP) to allow for a preliminary unit lot subdivision that would accommodate the planned development of 23 townhome units on fee simple lots, within five 4-unit buildings and one 3-unit building, and associated improvements, and within the 1.18-acre lot that was established as Lot 1 of the previously approved and amended Zahradnik BSP. Applicant Representative Scott Wammack testified that the development of Lot 1 would occur concurrently with the construction of infrastructure improvements for the entire site approved with the amended Zahradnik BSP. The subject property comprising Lot 1 of the Zahradnik BSP is located along the eastern side of 85th Avenue NE, to the south of the intersection at 85th Avenue NE and 175th Street NE.² *Exhibit 1, Staff Report, pages 2 through 5; Exhibits 2 through 9; Exhibit 12; Exhibit 13; Testimony of Scott Wammack.*
4. The City determined that the application was complete on April 4, 2024. On April 12, 2024, the City provided notice of the application and of a neighborhood meeting on the proposal by mailing or emailing notice to property owners within 500 feet of the site and

² The property is identified by tax identification number 31052400303000. *Exhibit 1, Staff Report, page 3.*
A legal description of the property is included with the application materials. *Exhibit 11.*

to reviewing departments and agencies; publishing notice in *The Herald*; and posting notice on-site, on the City website, and at designated City locations, with a comment deadline of April 26, 2024. On June 18, 2024, the City provided notice of the open record hearing associated with the application in the same manner. *Exhibit 1, Staff Report, page 2; Exhibit 22; Exhibit 25; Exhibit 27; Exhibit 28.*

5. At the April 30, 2024, neighborhood meeting, area resident Melissa Parker raised concerns about potential development within a greenbelt area shown on the map. City staff responded that the entire area shown on the north to northeast portion of the site plan is a protected wetland area that would be preserved as a Native Growth Protection Area. Ms. Parker also raised concerns about the intersection at the entrance to her subdivision at 172nd Street and 85th Avenue NE. City staff responded that improvements to the intersection would be installed as part of the future commercial development associated with the overall Zahradnik BSP. The City also received two written comments on the proposal in response to its notice materials. Becca Yadon raised concerns about the existing traffic, parking, and public transit impacts associated with an apartment development that is not associated with this current project. The Eagle Heights Homeowners Association (HOA) noted that it currently maintains the landscaping within the median, and along both sides, of 85th Avenue NE. The HOA stated that the proposed new development would be responsible for maintaining the landscaping along its frontage with 85th Avenue NE and requested that the new development share the cost of maintaining the median landscaping. City staff forwarded the HOA's comment to the Applicant, and Mr. Wammack testified at the hearing that the Applicant would work with the HOA on a maintenance agreement for the median landscaping. *Exhibit 1, Staff Report, page 34; Exhibit 23; Exhibit 24; Exhibit 26; Testimony of Scott Wammack.*

State Environmental Policy Act

6. The City acted as lead agency and analyzed the environmental impacts of the proposal under the State Environmental Policy Act (SEPA), chapter 43.21C Revised Code of Washington. The City reviewed the Applicant's environmental checklist and other information on file and determined that it would be appropriate to adopt the Mitigated Determination of Nonsignificance (MDNS) issued for the Zahradnik BSP on January 4, 2023, because the mitigation measures incorporated therein apply to the current project and address all environmental elements of the site. Accordingly, the City issued a Determination of Nonsignificance (DNS) Adoption of Existing Document on April 11, 2024. The next day, the City provided notice of its SEPA determination together with the notice of application, with a comment and appeal deadline of April 26, 2024. The City did not receive any comments on its SEPA determination, and its determination was not appealed. The mitigation measures required under the MDNS issued for the Zahradnik BSP are listed in Appendix A, attached to this decision. *Exhibit 1, Staff Report, pages 2, 8, 9, and 22; Exhibit 15; Exhibit 27.*

Comprehensive Plan and Zoning

7. The property is designated “General Commercial” under the City Comprehensive Plan. The purpose of the General Commercial designation is to “provide a setting for commercial, office, and professional service uses of a moderate sized format that rely on motor-vehicle traffic.” *City Comprehensive Plan, sec. 5.3*. The General Commercial designation is “intended to be situated along arterials and to serve as a transition area between Highway Commercial designations and residential designations.” *City Comprehensive Plan, sec. 5.3*. “It is generally characterized as an active automobile and pedestrian environment with commercial buildings situated toward high-volume thoroughfares with parking located to the sides of buildings.” *City Comprehensive Plan, sec. 5.3*. The General Commercial designation encourages mixed-use development, subject to master plan and design review. *City Comprehensive Plan, sec. 5.3*.

City staff determined that the proposal would be consistent with the Comprehensive Plan by encouraging middle and higher density housing within the General Commercial with Mixed-Use Overlay zone and by providing open space for recreational opportunities for future residents within the overall finished project, identifying the following goals and policies of the City Comprehensive Plan as relevant:

- Ensure City Goals and Policies are consistent with the Growth Management Act. [Goal GO-1]
- Work towards promoting and maintaining an urban environment within the City that enhances livability for its residents. [Goal GO-3]
- Site design and building architecture in residential and commercial developments should be human scaled (i.e., pedestrian friendly) and conducive to social interaction. [Policy PO-6.1]
- Land-use developments should be conducive to human interaction. [Policy PO-6.4]
- Public and private civic spaces should be included in both commercial and residential neighborhoods to ensure adequate gathering places. [Policy 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. [Policy PO-6.6]
- Diversify the City’s housing stock. [Goal GH-1]
- Ensure the development of new multi-family housing and small single-family units occur within close proximity of commercial areas of the city. [Goal GH-2]
- Multi-family housing should be located close to commercial centers. [Policy PH-2.1]
- Utilize mixed-use mechanisms to incentivize housing within close proximity to commercial uses. [Policy PH-2.3]

- Work to ensure that the character and location of land uses optimize the economic benefit, enjoyment by residents, and protection of natural resources while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses and environmental degradation through implementation of the following:
 - a) Growth Management: Manage growth so that the delivery of public facilities and services will occur in a fiscally responsible manner to support development and redevelopment within the City.
 - c) Neighborhood Conservation: Achieve a well-balanced and well-organized combination of open space, commercial, industrial, recreation and public uses that are served by an efficient transportation network while protecting the fabric and character of residential neighborhoods.
 - d) Environmental Preservation and Conservation: Through both preservation and conservation ensure the proper management of the natural environment and resources.

[Goal GL-1]

- General Commercial (GC) – This designation is intended to provide areas for a wide range of small to large footprint commercial uses, but typically in areas that would be used predominantly by local users. Such uses typically are conducted in individual buildings with larger parking lots that are located toward the block or site interior and have adequate landscaping and screening. Mixed-use development should be permissible. [Policy PL-1.7]
- Accommodate new development in a manner that support a growth rate consistent with the goals of the State Growth Management Act but also preserves and enhances Arlington’s quality of life, its natural environment, and its historical and cultural amenities. [Goal GL-4]
- The City should ensure that growth and development is consistent with the City’s Capital Facilities Plan for providing public facilities including streets, sidewalks, lighting systems, traffic signals, water, storm, and sanitary sewer, parks and recreational facilities, and schools. [Policy PL-4.2]
- All new commercial, industrial, and residential plat developments should provide additional transportation infrastructure consistent with the City’s comprehensive transportation plan and development regulations through installation, dedication, fee-in-lieu or some other acceptable form of mitigation. [Policy PL-4.5]
- Encourage a mix of residential densities throughout the City. [Goal GL-7]
- Higher density residential uses should be located around commercial areas. [Policy PL-7.2]

- Vertical and Mixed-Use developments with a residential component should be permissible in designated zones within the City. [Policy PL-7.3]
- Create pedestrian links between commercial and residential developments. [Goal GL-9]
- 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. [Policy PL-9.1]
- Protect and enhance our various neighborhoods as follows: [Goal GL-15]
- The properties around the SR-9 and SR-531 intersection should be planned to become an urban village, with mixed commercial and high-density residential uses (mixed-use). [Policy PL-15.53]
- The City should work to ensure compatibility of land uses with topography, geology, soil suitability, surface water, groundwater & aquifers, frequently flooded areas wetlands, climate, and vegetation and wildlife. [Policy PL-18.3]
- Significant trees within the City should be preserved to the extent feasible. In instances where it is not feasible to preserve significant trees, any significant tree cut down should be mitigated either through re-planting or payment of a fee-in-lieu. [Policy PL-19.1]
- Minimize storm water runoff and urban drainage impacts by utilizing the natural drainage system where it is possible to do so without significantly altering the natural drainage ways. [Goal GL-20]
- The City should encourage the design of developments to use natural drainage patterns and incorporate means to entrap storm water and water pollutants before they are carried down slope or before they enter wetlands and/or other bodies of water. [Policy PL-20.1]
- To minimize impacts on natural resources, the evaluation of Low Impact Development techniques should be evaluated as the preferred approach prior to implementing traditional stormwater treatment and flow control facilities. [Policy PL-20.4]
- System Development: Plan, develop, and maintain a balanced transportation system for the efficient movement of people, goods, and services within the city and between the community and other activity centers in the region. [Goal T-1]
- Ensure that safe, convenient, and efficient transportation facilities are provided for all residents of and visitors to the City. This will include improvements to existing facilities as well as extensions to serve growth areas. [Policy PT-1.3]
- Require developers to construct those streets directly serving new development and to pay a fair-share fee for specific off-site improvements

necessary to mitigate any adverse impacts determined through the review to be created by the development. [Policy PT-1.9]

- Improving the appearance of existing corridors should be a primary objective in designing and maintaining the street system in Arlington. Appropriate design standards, including landscape standards for the construction of new streets shall be maintained. [Policy PT-4.1]
- All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development. [Policy PT-4.8]
- All public streets shall be constructed with curb, gutter, sidewalk, landscape strips and street trees. [Policy PT-4.13]
- Provide ramps and curb cuts that comply with the Americans with Disabilities Act. [Policy PT-5.6]
- Provide street lighting along sidewalks to encourage nighttime use and for safety. [Policy PT-5.7]
- New residential developments should be required to mitigate impacts to park, recreation, and open space through improvements to property. [Policy PP-1.4]
- 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. [Policy PS-1.7]
- Encourage efficient use of urban land by maximizing the development potential of existing urban lands, such as advancing development that achieves zoned density. [Policy MPP-DP-2]
- Preserve and enhance existing neighborhoods and create vibrant, sustainable compact urban communities that provide diverse choices of housing types, a high degree of connectivity in the street network to accommodate walking, bicycling and transit use, and sufficient public spaces. [Policy MPP-DP-14]
- Provide a range of housing types and choices to meet the housing needs of all income levels and demographic groups within the region. [Policy MPP-H-1]
- Prioritize investments in transportation facilities and services in the urban growth area that support compact, pedestrian- and transit-oriented densities and development. [Policy MPP-T-11]

Exhibit 1, Staff Report, pages 3 through 8.

8. The property is zoned General Commercial (GC) with a Mixed-Use Overlay. The GC zone is designed to accommodate a mix of intensive commercial activities and high-capacity residential uses, and it is intended to be located along arterials to cater to commuters or as a transition in some areas between a highway commercial zone and a

residential zone. *Arlington Municipal Code (AMC) 20.36.020(d)*. Major unit lot subdivisions³ facilitating townhome development on fee simple lots are allowed in the GC zone with a conditional use permit, subject to compliance with the unit lot subdivision (ULS) supplemental use regulations of AMC 20.44.020 and the mixed-use development regulations under chapter 20.110 AMC.

The property is also located within Subdistrict C of the Airport Protection (AP) District Overlay. The purpose of the AP district overlay is to “protect the viability of the Arlington Municipal Airport as a significant resource to the community by encouraging 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 ensure that the project complies with requirements for development within Subdistrict C of the AP district overlay. *Exhibit 1, Staff Report, pages 2 through 4, 9, and 12 through 14.*

Unit Lot Subdivision Supplemental Use Regulations

9. AMC 20.44.020 provides supplemental use regulations applicable to unit lot subdivisions. City staff reviewed the proposed ULS and determined that, with conditions, it would comply with these standards, noting:
- The preliminary major unit lot subdivision has proposed 23 townhouse units on 23 fee simple lots.
 - The proposed preliminary major ULS would be located in the GC with Mixed-Use Overlay zone.
 - The proposal is being reviewed concurrently for compliance with the requirements for design review of a mixed-use development project.
 - The Applicant’s site plans show that each lot would provide between 283.25 and 386.5 square feet of private open space areas, in accordance with minimum private open space requirements.
 - The parent parcel would meet the dimensional and design standards applicable to mixed-use developments.
 - The proposal does not include common areas because fee simple lots are proposed on Lot 1 of the Zahradnik BSP, with access to future common park areas, open spaces, and the private street system as part of the overall BSP.
 - The proposal would meet the density and dimensional standards for the parent parcel per the recorded Zahradnik BSP.

³ A *unit lot subdivision* is defined as:

[A]n alternative to [the] conventional subdivision process by which the location of a building on a lot can be placed in such a manner that one or more of the building’s sides rests directly on a lot line, allowing for the creation of fee simple lots for townhome, and cottage housing developments, in zones where such uses are permit[ted]. Each building shall not be less than one unit or exceed ten units and shall maintain a ten-foot separation from other buildings. A major unit lot subdivision is ten lots or more and a minor unit lot subdivision is nine lots or less.

AMC 20.08.010.

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- Access to the townhouses from 85th Avenue NE would be provided by a private internal drive aisle on the east side of the structures. No additional dedication of right-of-way would be required for this development. Pedestrian access would be provided from both the private internal drive aisle and from walkways to the front doors along the public street of 85th Avenue NE.
- The proposal would meet off-street parking and bicycle parking requirements.
- Utility plans would be reviewed at the civil permit stage for compliance with Public Works Construction Standards and Specifications.
- New landscaping is proposed in the front and rear yards of each unit, along with additional landscaping between each building and along the north portion of the private drive aisle. All proposed trees would be required to be on the City-approved tree list.
- The Applicant would be required to provide the City with documentation of an established homeowner’s association (HOA) prior to recording the final major unit lot subdivision.
- Covenants, Conditions, and Restrictions (CC&Rs) are required to be submitted for City review with the final ULS and recorded with the Snohomish County Auditor’s Office.
- All private common areas within the ULS would be required to be maintained by the HOA and stated within the CC&Rs and on the final ULS.
- All private lots, buildings, and facilities within the ULS would be required to be maintained by the individual lot owner and to be stated in the CC&Rs and on the final ULS.
- The Applicant would be required to include notes on the final recorded plat acknowledging the recorded conditions stated in AMC 20.44.020N.

Exhibit 1, Staff Report, pages 14 through 20; Exhibits 2 through 14; Exhibit 29; Exhibit 30.

Mixed-Use Development Regulations

10. The City has adopted 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)*. *Exhibit 1, Staff Report, pages 2 and 24.*
11. The project site is located within a “Place Type” that is designated “Mixed Use Community Center.” *AMC 20.110.014(c)(2)*. Under the form-based code, Place Types are further categorized by “Use Intensity Transects.” The property is located within

Transect 4 Neighborhood Medium Volume (T4N-MV), the key features of which entail a “[m]ix of medium density building types with a variety of forms, which decrease in size and intensity of use toward the outer boundary of the corridor.” *AMC 20.110.014(c)(2)*. The intent of the T4N-MV area is to provide “an appropriate transition from a neighborhood main street environment into the residential areas, and to provide flexible buildings that can allow a mix of residential and walkable local serving commercial and service uses.” *AMC 20.110.014(c)(2)*. City staff reviewed the proposal and determined that it would be consistent with the intent of the T4N-MV area by providing an appropriate transition between the existing two-story, single-family neighborhood to the west and the future multi-family apartments, mixed-use buildings, and commercial lots that would be developed in accordance with the Zahradnik BSP. *Exhibit 1, Staff Report, pages 2 and 24; Exhibits 4 through 7; Exhibit 9; Exhibit 12; Exhibit 13; Exhibit 29; Exhibit 30.*

12. The City’s mixed-use development regulations (*AMC 20.110.014*) provide specific guidelines on appropriate building types and frontages, with specific design standards related to blocks, rights-of-way, thoroughfares, parking, 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:
- Multifamily residential uses are allowed in the T4N-MV area with a conditional use permit or special use permit. The project is being processed as a preliminary unit lot subdivision that requires a conditional use permit.
 - Townhouse building types are allowed in the T4N-MV area.
 - The Applicant’s plans demonstrate that the proposed townhouse buildings would satisfy the building form standards applicable to the T4N-MV area, including standards related to maximum stories, minimum ground- and upper-floor ceiling height, minimum ground-floor space depth, and structural setbacks. Compliance with these standards would be reviewed during the building permit process.
 - The proposal would exceed off-street parking requirements by providing a total of 54 parking spaces on the lot, with 46 parking spots located within the garage and driveways of each of the 23 townhome units, plus additional guest parking spaces. Bicycle parking would be available within the garage of each unit.
 - The Applicant’s site plans show that the project would comply with parking space setback requirements. Parking would be located to the east of the residential structures, with a distance greater than 40 feet from 85th Avenue NE.
 - The site plan shows a two-way drive aisle, and all parking spaces would meet the minimum required dimensions.
 - The project would provide screening of the parking areas by being located to the east of the building structures.
 - The proposal would comply with parking drive width requirements by providing private parking drive aisle widths of 24 feet throughout the site.

- The proposed project has not shown any encroachments of the building into the setbacks established from the right-of-way.
- The proposed townhouses would have entries from the ground floor through a walkway and porch that share front yards meeting the common yard frontage type. The front yards are proposed to remain unfenced and would have visually continuous front yards.
- The project would be located between existing single-family residences to the west and future multi-family apartments to the east.
- The proposed development would be located along 85th Avenue NE, the frontage of which provides pedestrian and bicycle access. Vehicular access would be provided to the north and south through a private drive aisle. The project would comply with the complete street program and would provide multiple modes of travel throughout the entire site.
- Open space requirements for the entire site were addressed in the Zahradnik BSP. A total of 51,329 square feet of open space on the entire site would be provided, exceeding the 36,589 square feet of open space required for the 731,788 square foot site. The BSP includes civil spaces throughout the entire site, including plazas, park space, pickleball courts, and playgrounds.
- The proposed project would provide landscaping throughout the property and within the park, open space, and parking areas. Any proposed irrigation would be reviewed at the civil permit stage.
- The Applicant's landscape plans shall that all required landscaping components would be met. The interior shade trees between the buildings are proposed to be 1.5-inch caliper. The street frontage trees are proposed to be 2-inch caliper and spaced every 30 feet on center. All trees along the public rights-of-way would be planted with root barrier, in accordance with applicable City standards. All parking lot landscaping is proposed to be contained within planting beds with a minimum of 6-inch curbing that would provide stormwater breaks.
- The Applicant's project plans do not show any fencing. Any fencing installed on-site would be required to meet maximum fence height requirements.
- The preliminary drainage plans are conceptually feasible. All stormwater management measures would be reviewed at the civil permit stage for compliance with the 2019 Department of Ecology (DOE) Stormwater Management Manual for Western Washington and the City of Arlington Public Works Standards and Specifications.
- Lighting plans would be reviewed at the civil permit stage for compliance with the outdoor lighting standards for the T4N-MV area.
- The proposed development would meet applicable architectural standards, including standards related to regional and neighborhood compatibility; multiple building development compatibility; four-sided design; signage; building height and transition; building materials; building modulation and articulation; building scale; pitched roofs and eaves; gutters, downspouts, and scuppers; and windows.

Exhibit 1, Staff Report, pages 23 through 33; Exhibits 2 through 14; Exhibit 29; Exhibit 30.

Existing Site and Proposed Development

13. As noted above, the 1.18-acre lot that is the subject of the CUP request to allow a preliminary ULS accommodating 23 townhouse units was created as Lot 1 of the previously approved and amended Zahradnik BSP. In reviewing and approving the Zahradnik BSP, City staff determined that the overall development proposal would adequately address, and comply with applicable requirements for, critical areas mitigation, lot access, streets and sidewalks, open space, parks and recreation, landscaping, facility maintenance, parking, stormwater management, and utility infrastructure.

In accordance with the previously approved BSP, the Applicant would be required to construct the private drive aisles providing vehicular access to the townhouse units in compliance with applicable City standards and specifications, plant or replace street trees along 85th Avenue NE, provide water and sanitary sewer connections in accordance with Public Works Construction Standards and Specifications, and install stormwater management features in compliance with Public Works Construction Standards and Specifications and with the requirements of the most recent version of the Department of Ecology Stormwater Management Manual for Western Washington. Elements of the proposed site improvements related to utility connections and stormwater systems would be reviewed for compliance with applicable requirements at the civil permit stage, and as discussed above, the Applicant intends to construct infrastructure improvements for the entire site concurrently with the development of Lot 1. The proposal's impacts on traffic, schools, and parks were also addressed with the approved BSP, and for this phase of development, the Applicant would be required to pay \$43,615 in traffic impact fees for the 13 new PM peak-hour trips that would be generated from the 23 townhouse units, \$53,544 in school impact fees, and \$34,431 in parks impact fees. *Exhibit 1, Staff Report, pages 1 through 5, 20 through 22, and 33; Exhibits 4 through 21; Exhibit 29; Exhibit 30.*

Conditional Use Permit

14. As discussed above, major unit lot subdivisions facilitating townhome development on fee simple lots are allowed in the GC zone with a conditional use permit. City staff reviewed the application materials and determined that, with conditions, the criteria for a CUP would be satisfied, noting:
- The requested permit review is within the City's jurisdiction per the zoning map and permissible use table.
 - The application was deemed complete on April 4, 2024.
 - The proposal would comply with all requirements of the zoning code, Title 20 AMC.

- The City issued an MDNS for the Zahradnik BSP on January 4, 2023, and issued a DNS Adoption of Existing Document for the current proposal on April 11, 2024.
- The proposal would comply with the Arlington Municipal Code, Comprehensive Plan, and Transportation Plan.
- The proposed preliminary major ULS would not materially endanger public health or safety of city residents.
- The proposed preliminary major ULS would not materially harm adjoining or abutting properties.
- The proposed preliminary major ULS would be compatible with the existing neighborhood and would provide middle housing types, which is the expected development for the zone and area.

Exhibit 1, Staff Report, page 45.

Testimony

15. City Planning Manager Amy Rusko testified generally about the proposal and how, with conditions, it would comply with the City Comprehensive Plan, zoning ordinances, mixed-use development regulations, regulations for a preliminary ULS, and the specific criteria for approval for a CUP. She described the subject property and surrounding development and provided background information about the previously approved and amended Zahradnik BSP, consistent with the findings above. Ms. Rusko explained that the requirements for access, parking, landscaping, parks, and open space were reviewed and addressed for the entire site comprising the Zahradnik BSP. She noted that 23 townhouse units would be developed on Lot 1 of the Zahradnik BSP and that a CUP is required to create fee simple lots for the townhouse units.

Ms. Rusko stated that the subject property is within the GC zone with a Mixed-Use Overlay and that, therefore, the project was reviewed for compliance with the City's mixed-use development standards, in addition to general zoning regulations and the specific supplemental use regulations for a unit lot subdivision. She explained how the planned development of townhouse units on Lot 1 abutting 85th Avenue NE to the west would be compatible with surrounding development and with applicable mixed-use development regulations by providing a transition between existing single-family development to the west and planned multifamily apartment development within the BSP to the east. Ms. Rusko stated that the City received comments from an area resident, which City staff did not address because it did not relate to the current proposal, and from the Eagle Heights HOA, as detailed in the findings above. Regarding the Eagle Heights HOA comment, she explained that the proposed new development would be required to maintain landscaping along its frontage with 85th Avenue NE but that the City does not have a requirement for private property owners to maintain landscaping within the median strip. Ms. Rusko noted that the subject lot does not contain any critical areas and that the overall development's impacts to wetlands were addressed with the approved and amended Zahradnik BSP. *Testimony of Ms. Rusko.*

16. Applicant Representative Scott Wammack testified that the Applicant would work with the Eagle Heights HOA to enter into an agreement for shared maintenance of the landscaping median within 85th Avenue NE. He stated that the Applicant would apply for a civil permit authorizing the infrastructure improvements proposed for the overall site under the Zahradnik BSP and intends to construct the townhouse development portion concurrently with construction of the infrastructure improvements. *Testimony of Mr. Wammack.*
17. Project Manager Randy Devoir, of Cascade Surveying and Engineering, Inc., testified that he agrees with City staff's analysis of the proposal, as described in the staff report and Ms. Rusko's testimony. He identified a typographical error in the staff report with regard to the property's legal description, noting that "Township 30" should be replaced with "Township 31." *Exhibit 1, Staff Report, page 3; Testimony of Mr. Devoir.*

Staff Recommendation

18. City staff, having determined that the proposal would comply with the City Comprehensive Plan and all applicable development regulations, recommends approval of the Applicant's requests for a CUP, with conditions. Mr. Wammack testified that the Applicant has reviewed and would comply with City staff's recommended conditions of permit approval. *Exhibit 1, Staff Report, pages 35 through 39; Testimony of Mr. Wammack.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted the authority to hear and decide the applications for a conditional use permit. *Revised Code of Washington (RCW) 36.70.970; AMC 20.12.230; AMC 20.16.225.*

Criteria for Review

- 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,
- (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 for a preliminary major unit lot subdivision under the municipal code. The City provided reasonable notice of the application and opportunity to comment on the proposal. A neighborhood meeting on the proposal occurred on April 20, 2024, at which City staff provided responses to concerns raised by an area resident, as detailed in the findings above. The City received a comment on the proposal from another area resident, which expressed concerns about the existing traffic, parking, and public transit impacts associated with an apartment development that is not associated with this current project. In addition, the City received a comment from the Eagle Heights HOA regarding the responsibility for maintaining landscaping along, and within the median of, 85th Avenue NE. The proposed development would be responsible for maintaining the landscaping along the property's frontage with 85th Avenue NE, and the Applicant has indicated that it would work with the Eagle Heights HOA on a maintenance agreement for the median landscaping.

The City reviewed the Applicant's environmental checklist and other information on file and determined that it would adopt the January 4, 2023, MDNS issued for the Zahradnik BSP. Accordingly, the City issued a DNS Adoption of Existing Document on April 11, 2024, which was not appealed. The mitigation measures imposed with the January 4, 2023, MDNS are listed in Appendix A, attached to this decision.

The Comprehensive Plan designates the subject property as General Commercial, and City staff determined that the proposal would be consistent with numerous goals and policies of the Comprehensive Plan by encouraging middle and higher density housing and by providing open space for recreational opportunities for future residents within the overall finished project. The

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property is zoned GC with a Mixed-Use Overlay. Major unit lot subdivisions facilitating townhome development on fee simple lots are allowed in the GC zone with a conditional use permit, subject to compliance with the ULS supplemental use regulations of AMC 20.44.020 and the mixed-use development regulations under chapter 20.110 AMC. City staff provided a thorough analysis detailing how, with recommended conditions, the project would comply with applicable ULS regulations, including regulations related to private open space areas, ownership of common areas, density and dimensional standards, off-street parking, bicycle parking, vehicular and pedestrian access, utility infrastructure, and landscaping. The Hearing Examiner has independently reviewed the proposal for compliance with the ULS regulations under AMC 20.44.020 and concurs with City staff's analysis and determination that the proposal, as conditioned, would comply with these regulations.

City staff also provided a thorough analysis detailing how, with conditions, the proposal would comply with the City's mixed-use regulations for development within the T4N-MV use intensity transect of the Mixed Use Community Center place type. Again, the Hearing Examiner has independently reviewed the proposal for compliance with the mixed-use regulations of chapter 20.110 AMC and concurs with City staff's assessment that the proposal, as conditioned, would comply with these regulations, including regulations related to building form, building placement, parking standards, streets and sidewalk design, frontage types, open space, landscaping, lighting, and stormwater management, as well as specific architectural design standards related to regional and neighborhood compatibility; multiple building development compatibility; four-sided design; signage; building height and transition; building materials; building modulation and articulation; building scale; pitched roofs and eaves; gutters, downspouts, and scuppers; and windows.

As detailed in the above findings, the City's previous review and approval of the Zahradnik BSP included an analysis of the overall development proposal's traffic, school, and parks impacts and determined the appropriate mitigation for such impacts. For this specific phase of development, the Applicant would be required to pay \$43,615 in traffic impact fees for the 13 new PM peak-hour trips that would be generated from the 23 townhouse units, \$53,544 in school impact fees, and \$34,431 in parks impact fees. As part of the previous BSP approval, City staff also determined that the overall development proposal would adequately address, and comply with applicable requirements for, critical areas mitigation, lot access, streets and sidewalks, open space, parks and recreation, landscaping, facility maintenance, parking, stormwater management, and utility infrastructure. The Applicant does not propose any deviation from the previously approved site improvement plans for the Zahradnik BSP and indicates that it intends to construct the infrastructure improvements for the entire site concurrently with the proposed development for Lot 1 that would be allowed with CUP approval. Elements of the proposed site improvements would be reviewed for compliance with applicable requirements during the City's review of civil permits required for such infrastructure improvements.

The Hearing Examiner determines that the project's consistency with the City's ULS supplemental use regulations and mixed-use development standards, together with the mitigation

measures required under the MDNS issued for the Zahradnik BSP and the conditions detailed below, would ensure that the proposal would not materially endanger the public health or safety, would not materially harm adjoining or abutting property; and would be compatible with the surrounding area in terms of design. *Findings 1 – 18.*

DECISION

Based upon the preceding findings and conclusions, the request for a conditional use permit to allow for a preliminary major unit lot subdivision that would accommodate the development of 23 townhome units on fee simple lots, within five 4-unit buildings and one 3-unit building, with associated improvements, on a 1.18-acre lot that was established as part of the previously approved and amended Zahradnik binding site plan, located to the northeast of the intersection of State Route 9 and 172nd Street NE, is **APPROVED**, subject to the following conditions:

Preliminary Unit Lot Subdivision (Conditional Use Permit):

1. All development shall be in substantial conformance with the approved Preliminary Lot Subdivision and Landscape Plans received on May 24, 2024, subject to any conditions or modifications that may be required as part of the permit review.
2. The Applicant shall meet all local, state, or federal code requirements. Please refer to the Arlington Municipal Code for a complete list of code requirements for your project type.
3. The Preliminary Unit Lot Subdivision shall comply with all permits and conditions thereof from the City of Arlington and other government agencies with jurisdiction.

SEPA Conditions:

Description of Document Being Adopted: Mitigated Determination of Nonsignificance issued by the City of Arlington on January 4, 2023, for the Zahradnik Binding Site Plan (PLN#941). This MDNS included all impacts and mitigation for the residential and mixed-use areas of the binding site plan. There was no appeal of the Mitigated Determination of Nonsignificance.

The City has identified and adopted this document as being appropriate for this proposal after independent review. This document meets the environmental review needs for the current proposal and will accompany the proposal to the decision makers.

The City of Arlington has determined that this proposal will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This determination is based on the following findings and conclusions:

4. The original permit decision and amended Zahradnik Binding Site Plan have not been changed for this permit. The amended Zahradnik Binding Site Plan is recorded under AFN202303025002.

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5. The conditions of the Mitigated Determination of Non Significance and the Zahradnik Binding Site Plan decision apply to this project and have addressed all environmental elements of the site including: soils (cut and fill onsite), air, surface water wetlands, wetland buffer, establishment of the native growth protection area, conceptual mitigation plan, ground water, stormwater, spill prevention, Department of Ecology stormwater management requirements, noise, removal of significant trees, planting of trees and landscaping, aesthetics, light and glare, airport avigation easement, open space, onsite recreation and trail system, ground disturbance notification requirements, unanticipated discovery plan, transportation public road and intersection improvements, private roadway system, right of way dedication, transportation impact fees, community park impact fees, school impact fees, water and sewer extension, public utility improvements, and underground public and private utilities.
6. The review of the environmental impacts and the mitigation thereof have been reviewed by all affected agencies. Comments received were incorporated into the MDNS and Binding Site Plan decision.

Civil Permit:

7. The Applicant is required to apply for a Civil Construction Permit and receive approval prior to any land disturbance or work commencing on the site.
8. The Applicant shall submit a lighting plan with the Civil Construction Permit.
9. The project is subject to a right-of-way permit for all work within public rights-of-way.
10. The project is required to meet the most current version of the Department of Ecology Stormwater Management Manual for Western Washington and the City of Arlington Engineering Standards for the specific details of the project.
11. The Applicant shall submit a copy of the incorporation of the Homeowner's Association and the Covenants, Conditions, and Restrictions with the final major lot subdivision application. The CC&Rs shall include the following:
 - No parking allowed along the public alley.
 - No storage of inoperable motor vehicles.
 - Maintenance of private lots, buildings, and abutting right-of-way for the site.

Prior to Final Unit Lot Subdivision Approval:

12. The Applicant shall complete all required Civil Construction improvements on the subject site.

13. The Applicant shall submit as-builts, acquire all required bonds, and complete the civil construction punch list for the project.
14. The Applicant shall provide the conditions found in AMC 20.44.020N on the face of the final plat document.
15. The Applicant shall provide language to be placed on the final unit lot subdivision that notifies future property owners of possible effects from aviation activities and the proximity of the Arlington Municipal Airport.

Building:

16. The Final Unit Lot Subdivision shall be recorded at Snohomish County Auditor's Office and the recorded document returned to the City of Arlington prior to issuance of any Building Permits.
17. The proposed building plans shall be in compliance with the elevations and floor plans that were received on March 13, 2024, subject to any conditions or modifications that may be required as part of the permit review.
18. The project is subject to applicable water and sewer utility fees. These fees are collected at the time of building permit issuance.
19. Prior to issuance of building permits, all associated impact fees shall be paid.

Other:

20. All contractors working on the site are required to obtain a Washington State Business License and a City of Arlington Endorsement.
21. The placement of Snohomish County PUD transformer cases shall be reviewed and approved by the City. All cases that abut public rights-of-way are required to be decoratively wrapped.

DECIDED this 25th day of July 2024.



PEREGRIN K. SORTER
Hearing Examiner
Laminar Law, PLLC

Appendix B

Mitigation Measures of the MDNS issued for the Zahradnik Binding Site Plan on January 4, 2023

- **(B)(1) Earth:** In order to mitigate for 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.
 - a. Heavy equipment shall be refueled in a designated area. Absorbent pads and spill containment equipment shall be stored on-site for quick response and placement to reduce the potential for contaminants to reach the streams or wetlands should any sort of spill or leakage occur.
 - b. Sediment fencing shall be placed around the perimeter of the staging areas, between the staging area and any surface water, wetland, or stream.
 - c. The contractor shall be responsible for adhering to the Spill Prevention Control and Countermeasures (SPCC) Plan. The contractor shall designate at least one employee as the Certified Erosion and Spill Control Lead (CESCL). The CESCL shall be responsible for installing and monitoring erosion control measures and maintaining spill containment and control equipment. The CESCL shall also be responsible for ensuring compliance with all local, state, and federal erosion and sediment control requirements. The CESCL shall be responsible for monitoring, documenting, and reporting all construction/discharge activity as required by the Department of Ecology. Moreover, the CESCL shall be responsible for inspecting all temporary erosion and sediment control measures on a regular basis, as well as maintaining and repairing such measures and ensuring their continued performance.
- **(B)(2) Air:** In order to mitigate potential air impacts during construction, 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.
- **(B)(3)(a) Surface Water:**
 - a. There are four Category II Wetlands on the property, listed in the project documents as Wetland A, B, C and D. Wetland A and B are located within the southern portion of the property and are proposed to be filled (0.872 acres). Wetland C and D and associated buffer areas (4.31 acres) are located within the northeast portion of the property and will remain largely undisturbed.
 - b. To mitigate for Wetland A and B the applicant has purchased two parcels of land (31052400201300 and 31052400203100) within the Portage Creek sub-basin to dedicate as Native Growth Protection Area to the City of Arlington. These parcels contain a segment of Prairie Creek and part of an associated Category I wetland complex. All invasive species shall be removed from the property and dedicated to the city after the clean-up of the site has occurred.

- c. To mitigate for Wetland A and B the applicant is required to purchase credits from Skykomish Habitat Mitigation Bank to provide additional off-site mitigation for the proposed wetland impacts.
 - d. To mitigate for Wetland C and D the applicant shall protect the critical area tract with the installation of permanent fencing and signs along the edge of the buffer per AMC 20.93.290(a).
 - e. To mitigate for Wetland C and D the applicant shall protect the critical area tract with the installation of temporary fencing and signs along the edge of the buffer during construction.
 - f. The proposal shall comply with the Critical Area Study and Mitigation Plan completed by Wetland Resources, revised July 26, 2022.
 - g. Required Department of Ecology permits shall be obtained prior to any construction activities commencing on the site.
- **(B)(3)(b) Ground Water:** In order to mitigate for 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.
 - **(B)(3)(c) Water Runoff:** In order to mitigate potential impacts to water runoff the Applicant shall follow the current edition of the Department of Ecology Stormwater Management Manual for Western Washington and Best Management Practices used to protect groundwater. All onsite stormwaters will be collected, treated, and detained or infiltrated to match preexisting runoff conditions on site.
 - **(B)(4)(b) Plants:**
 - a. The project will remove existing vegetation and import fill. Landscaping of approximately 25% of the site will be included as part of the development consisting of native grasses and street trees as required by AMC 20.76.
 - b. The proposed project shall comply with the Conceptual Mitigation Plan for the stream and wetland areas. The project shall follow AMC Chapter 20.76 and the landscape plans proposed with the binding site plan.
 - **(B)(5)(d) Animals:** The applicant shall protect Wetland C and D and associated buffers as identified on the northern portion of the property.
 - **(B)(6) Energy and Natural Resources:** The applicant shall comply with all current energy code requirements to minimize the amount of energy needed for the finished buildings.
 - **(B)(7)(a) Environmental Health:** 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. All businesses shall keep Material Safety Data Sheets for all chemicals stored on individual properties or within the building structure.
 - **(B)(7)(b)(2) Noise:** 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.

- **(B)(8)(L) Land and Shoreline Use:**
 - a. The property owner shall provide Arlington Municipal Airport Avigation Easement and Disclosure Statement language on the face of the Binding Site Plan. The subject property is located within both Airport Protection District C and D.
 - b. All permissible uses on the site shall comply with the Mixed-Use Development Regulations. All uses shown on the site plan shall be consistent with these regulations.
 - c. The applicant has proposed to remove 93 significant trees on the subject site. The replacement ratio of significant trees is 3:1, for a total replacement of 279 trees. The site plan proposes 118 trees to be planted with the proposed development. The applicant shall provide payment for the 161 remaining trees per the in-lieu tree mitigation impact fee at a rate listed in the most current adopted City of Arlington Fee Schedule.
 - d. The Binding Site Plan SEPA Decision addresses the overall site plan, critical areas, and current uses and/or impacts to the site. The city shall determine if future development requires an amended SEPA checklist. This would only be required if the proposed uses or impacts exceed the thresholds of the original project description.
- **(B)(10) Aesthetics:** The proposal is required to meet the City of Arlington Mixed-Use Development Regulations and the applicable design requirements prior to building permit issuance. The building placement shown on the Binding Site Plan are conceptual only. The final approved layout will occur with each individual land use permit required for each lot.
- **(B)(11)(a) Light and Glare:** To mitigate potential light pollution, the Applicant is required to install LED light fixtures that are down shielded and do not glare onto the wetlands or buffer areas. The property is located within the Arlington Airport Protection District – Subdistrict C and D– that is comprised of the Federal Aviation Regulations (FAR) parts 77 Imaginary surfaces.
- **(B)(12)(c) Recreation:**
 - a. To mitigate recreation, the Applicant provides 6 mini-parks, a commercial plaza area, walking trail along the wetland buffer, and open space throughout the development. The total amount of mini-parks and open space results in 86,754 square feet.
 - b. The property owner/applicant of each lot shall pay Community Park Impact Fees in the amount adopted by the most current code and/or fee schedule in place at time of building permit submittal.
- **(B)(13) Historic and Cultural Preservation:** An Unanticipated Discovery Plan (UDP) was submitted with the Binding Site Plan. The property owner shall contact the Stillaguamish Tribe and provide notification of construction and the opportunity for tribal monitoring prior to ground disturbance of the site. 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 City of Arlington Community & Economic Development Director, the Stillaguamish Tribe of Indians, the State Historical Preservation Officer, and implement all measures of the UDP. A copy of the UDP is required to be on-site at all times during construction.

- **(B)(14)(b) Transportation:** The proposal is required to provide a Community Transit stop on the property when transit is available to the site.
- **(B)(14)(c) Transportation:** The subject development has proposed 536 total parking spaces on the property. The minimum parking required on each lot shall be evaluated prior to the approval of the individual land use permit for each lot. The number of parking spaces is dependent on the proposed use of each lot.
- **(B)(14)(d) Transportation:** The property owner is required to dedicate 2,793 square feet, shown on the site plan at the southwest corner of lot 4 abutting 172nd Street for public right-of-way after improvements have been completed. The proposed development provides a new private road system, new intersections along 85th Avenue, and new crosswalks. The project shall comply with the city's Complete Streets Policy.
- **(B)(14)(f) Transportation:** Trip generation and intersection impacts have been calculated by Gibson Traffic Consultants through a traffic impact analysis. The report uses the Institute of Transportation Engineers' Trip Generation Manual 11th Edition. The property owner/applicant is required to pay traffic mitigation fees in the amount of \$3,550.00 per PM peak hour trip to the City of Arlington. The traffic impact analysis provides a general description of the traffic counts and impacts to the subject property. A traffic impact analysis shall be required with the development of each lot showing the specific impact of each use on the property. In order to mitigate for traffic impacts for the residential and mixed-use buildings proposed on lots 1, 2, and 3, the city requires a traffic circle to be installed at the 85th Avenue and 84th Avenue intersection. In order to mitigate for traffic impacts for the commercial buildings on lots 4, 5, and 6, the city requires a traffic signal to be installed at the 85th Avenue and 172nd Street intersection. A development agreement shall be required to identify the specifics of the mitigation requirements. There will be two development agreements, one for the property owner of lots 1-3 and one for the property owner of lots 4-6. City traffic mitigation fees shall be paid prior to the issuance of each building permit.
- **(B)(15) Public Services:** The applicant shall pay Arlington School District Mitigation Fees for each residential unit for the amount adopted in the most current Capital Facilities Plan. The applicant shall provide proof of payment prior to building permit issuance.
- **(B)(16)(a) Utilities:** The applicant shall connect to the City of Arlington 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. Connection fees shall be paid at the time of building permit issuance.
- **(B)(16)(b) Utilities:**

- a. The electrical poles and utility lines along the frontage of 172nd Street need to be removed and all electrical and other utilities on the poles shall be placed underground. This includes all utilities from the SR 9 and 172nd Street intersection to one pole west of the 85th Avenue and 172nd Street intersection.
- b. 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 new construction the service lines shall be placed beneath said roadway by means of boring or surface excavation across said roadway.