



CITY OF ARLINGTON NOTICE OF DECISION

Harmony at Arlington 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**, with the conditions listed in the attached Hearing Examiner Decision.

Project Name: Harmony at Arlington

Proponent: Harmony at Arlington, LLC

Project Number: PLN #1234

Description of Proposal: The applicant is proposing to construct 60 townhome units on Tract B of the Reserve at Arlington Binding Site Plan through a unit lot subdivision. The project consists of three 5-unit buildings, four 6-unit buildings, and three 7-unit buildings, with 3 bedrooms each on 3.21 acres. The townhome buildings are 3 stories in height and provide a garage, carport, and living area on the first floor, living area on the second floor, and 3 bedrooms on the third floor. The project improvements include parking, pedestrian trail, private open space, shared and public open space, private drives throughout the subdivision, public access from 204th Street sidewalks, landscaping, and critical area protection. Frontage improvements along 204th Street includes an improved access to and a new sidewalk from 204th Street to the project site. A new public street will be constructed on the west side of the project (West Aisle) with new pavement, curb, gutter, sidewalk, and street trees. Stormwater runoff from the proposed development will be conveyed and managed on-site and within the 30-foot Ingress, Egress, Road, and Utilities Easement with low impact stormwater management with bio-cells and infiltration. The project will be served by City of Arlington utilities. Tract A of the same binding site plan is proposed for a pedestrian trail. Tract A is proposed to be dedicated to the City of Arlington as civic space and Native Growth Protection Area (NGPA).

Location: 7417 204th Street NE

Hearing Examiner Decision: Approved, with Conditions

Notice of Decision Date: February 21, 2025

End of Appeal Period: March 14, 2025

Preliminary Unit Lot Subdivision Expiration Date: February 21, 2030

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 the City of Arlington and 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, by **Friday, March 14, 2025**.

Staff Contact: Amy Rusko, Deputy Director, arusko@arlingtonwa.gov, 360-403-3550

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

In the Matter of the Application of)	No. PLN#1234
)	
Merle Ash, Land Technologies, Inc., on)	Harmony at Arlington CUP
behalf of Harmony at Arlington, 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 60 townhome units on fee simple lots, within three 5-unit buildings, four 6-unit buildings, and three 7-unit buildings, with associated improvements, on a 3.21-acre tract that was established as part of the previously approved Reserve at Arlington binding site plan, located to the northwest of the intersection of State Route 9 and 204th 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 February 4, 2025.

Testimony:

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

Amy Rusko, City Deputy Director of Community and Economic Development
Tyler Foster, Applicant Representative

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report
2. Land Division Permit Application, dated May 29, 2024
3. Project Narrative, Land Technologies, Inc., dated May 18, 2024
4. Preliminary Unit Lot Subdivision Site Plan
5. Architectural Plans (8 Sheets), dated September 18, 2024
6. Landscaping Plans (1 Sheet), dated May 15, 2024
7. Preliminary Civil Plans, including availability of utilities (23 Sheets)
8. Lighting Plans (1 Sheet), dated September 25, 2024
9. Reserve at Arlington Binding Site Plan, approved July 12, 2021
10. Water and Sewer Availability Request, approved June 25, 2024
11. Vicinity Map

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12. Property Legal Description
13. Complete Streets Checklist, approved November 1, 2024
14. SEPA Environmental Checklist, dated May 1, 2024
15. Critical Areas Report, PBS Engineering and Environmental, Inc., dated March 29, 2019
16. Habitat Protection Plan, Acre Environmental Consulting, LLC, dated October 28, 2024
17. Archaeological Investigation Report, Equinox Research and Consulting International Inc., dated October 22, 2019
18. Unanticipated Discovery Plan
19. Preliminary Stormwater Site Plan Report, dated June 10, 2024
20. Construction Stormwater Pollution Prevention Plan, dated June 10, 2024
21. Geotechnical Engineering Report, PBS Engineering and Environmental Inc., dated May 21, 2024
22. Traffic Impact Analysis, Kimley Horn, dated May 2024
23. Snohomish County Traffic Mitigation Offer, dated May 17, 2024
24. Public Notice Mailing Labels, Vicinity Map, and Mailing List
25. Notice of Public Hearing, published January 17, 2025
26. Summary from August 13, 2024, Neighborhood Meeting, with Presentation Slides
27. Stillaguamish Tribe of Indians comment, dated July 30, 2024
28. Washington State Department of Transportation comment, dated January 16, 2025
29. Tulalip Tribes comments, dated August 9 and November 4, 2024
30. Notice of Application, Notice of Neighborhood Meeting, and Mitigated SEPA Determination of Nonsignificance, dated July 25, 2024, with Affidavit of Posting and publication dated July 30, 2024
31. Notice of Complete Application Letter, dated July 9, 2024

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

FINDINGS

Application and Notice

1. Merle Ash, of Land Technologies, Inc., on behalf of Harmony at Arlington, LLC (Applicant), requests approval of a conditional use permit (CUP) to allow for a preliminary unit lot subdivision (ULS) that would accommodate the development of 60 townhome units on fee simple lots, within three 5-unit buildings, four 6-unit buildings, and three 7-unit buildings, on a 3.21-acre tract (Tract B) that was established as part of the previously approved Reserve at Arlington binding site plan (BSP). Associated improvements would include internal sidewalks and private drive aisles providing access to the individual units from a new public roadway (74th Avenue NE) that would be constructed along the west side of the site, frontage improvements to the future 74th Avenue NE roadway, off-street parking spaces, private open space, shared and public open space, stormwater management features, and landscaping. The Applicant also proposes to install a pedestrian trail within a 1.17-acre tract (Tract A), which is located directly north of Tract B and along Portage Creek. Tract A would also be protected

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within a Native Growth Protection Area (NGPA) and dedicated to the City of Arlington (City). The remaining tracts of the Reserve at Arlington BSP, located directly south of Tract B and along 204th Street NE, are developed with a Bartell Drug Store (Tract C) and Starbucks (Tract D). The subject property is located to the northwest of the intersection of 204th Street NE and State Route (SR) 9.¹ *Exhibit 1, Staff Report, pages 1 through 6; Exhibits 2 through 9; Exhibits 11 through 13.*

2. The City determined that the application was complete on July 9, 2024. On July 30, 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 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 August 13, 2024. On January 17, 2025, the City provided notice of the open record hearing associated with the application in the same manner. The City did not receive any comments on the proposal from members of the public, and no members of the public testified at the open record hearing. The City received comments on the proposal from the Washington State Department of Transportation (WSDOT), the Stillaguamish Tribe of Indians, and the Tulalip Tribes, which are discussed in detail below. *Exhibit 1, Staff Report, pages 3, 9, and 12; Exhibit 24; Exhibit 25; Exhibits 27 through 31.*
3. WSDOT requested to review the Applicant's drainage plans to ensure that stormwater runoff from the proposed development would not impact SR 9. Following its review of the Applicant's civil plans, WSDOT determined that the proposal would not disperse any water towards SR 9 and did not raise any further concerns.

The Stillaguamish Tribe of Indians requested to be notified prior to any ground disturbance of the site, particularly near Portage Creek. City staff has recommended a condition that would require that the property owner or Applicant provide notification of ground disturbance to the tribe prior to any grading or clearing of the site.

The Tulalip Tribes raised concerns about the proposal's potential impacts to Portage Creek. In response to the tribe's concerns, the Applicant submitted a Habitat Protection Plan prepared by Acre Environmental Consulting, LLC, dated November 28, 2024, which is discussed in detail later in this decision. After reviewing the Habitat Protection Plan, the tribe indicated that its concerns were largely addressed but requested additional plantings along the proposed pedestrian trail. City staff has indicated that a consensus for

¹ The property is identified by tax identification numbers 31051100304000 and 31051100400700. *Exhibit 1, Staff Report, page 4.* A legal description of the property is included with the application materials. *Exhibit 12.*

the required plantings has been reached and is noted on the Applicant's landscape plans. *Exhibit 1, Staff Report, pages 36 and 38; Exhibit 16; Exhibits 27 through 29.*

4. A neighborhood meeting on the proposal was held on August 13, 2024, at which the property owners, members of the Applicant team, and members of City staff were present. No members of the public attended the neighborhood meeting. *Exhibit 1, Staff Report, page 3, 4, and 9; Exhibit 26.*

State Environmental Policy Act

5. 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, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the City issued a Mitigated Determination of Nonsignificance (MDNS) for the proposal on July 25, 2024. On July 30, 2024, the City provided notice of its SEPA determination together with the notice of application, as described above, with a comment and appeal deadline of August 13, 2024. As described above, the City received comments from WSDOT, The Stillaguamish Tribe of Indians, and The Tulalip Tribes. *Exhibit 1, Staff Report, pages 3, 9, and 24; Exhibits 27 through 30.*
6. The MDNS was not appealed and includes the following mitigation measures:
 - **(B)(1) Earth:** The applicant proposes an estimated total fill of 8,989 cubic yards. 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.
 - **(B)(2) Air:** 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.
 - **(B)(3)(a) Surface Water:** To mitigate potential impacts to surface water the Applicant shall follow the Reserve at Arlington Binding Site Plan – PLN #577, recorded under AFN202107165005. The binding site plan requires Tract A of the applicants' property to be dedicated to the City of Arlington for a Native Growth Corridor Protection Area for Portage Creek.
 - **(B)(3)(b) Ground Water:** 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.

- **(B)(3)(c) Water Runoff:** 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.
- **(B)(4)(b) Plants:** The applicant shall dedicate Tract A (Portage Creek and Buffer Corridor) north of the project site. The applicant shall provide new landscaping throughout the project site for the proposed development.
- **(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.
- **(B)(7)(b) Noise:** City of Arlington noise standards found in AMC [Arlington Municipal Code] 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 vehicle traffic and residential units will be generated after project completion.
- **(B)(8) Land and Shoreline Use:** The property is located within Subdistrict C and shall comply with the Federal Aviation Regulations (FAR) Part 77 and complete a Federal Aviation Administration form 7460. An Aviation Disclosure Statement shall be placed on the final unit lot subdivision and recorded with the final document at the Snohomish County Auditor’s Office.
- **(B)(10)(c) Aesthetics:** The applicant shall meet the requirements of the Mixed-Use Development Regulations Architectural Standards for the sixty townhouse units.
- **(B)(11)(a) Light and Glare:** 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.
- **(B)(12)(c) Recreation:** The proposed residential development of sixty multi-family dwelling units shall pay the following Community Park Impact Fees:
 - Community Park Impact Fees: \$89,820.00 (\$1,497 x 60 units)
 The applicant shall pay all community park impact fees prior to building permit issuance. Impact fees do not vest and are fees in place at the time of payment.

- **(B)(13) Historic and Cultural Preservation:** The applicant submitted an Unanticipated Discovery Plan. 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 provide ground disturbance notification to the Stillaguamish Tribe of Indians and allow for monitoring on the site.
- **(B)(14)(c) Transportation:** The proposal requires frontage improvements along the future roadway of 74th Avenue NE.
- **(B)(14)(f) Transportation:** Trip generation for the proposed development has been calculated by Kimley Horn through a Traffic Impact Analysis. The report references land use code 215 for single family attached housing for the 60 proposed residential townhomes per the ITE Trip Generation Manual, 11th Edition. This use resulted in 34 PM Peak Hour Trips (432 Average Daily Trips). The Applicant is required to pay the following Traffic Impact Fee as proposed in the Traffic Impact Analysis:
 - City of Arlington Traffic Impact Fees: \$114,070.00 (\$3,355/trip x 34 PMPHT)

The applicant shall pay all traffic impact fees prior to the building permit issuance. Impact fees do not vest and are the fees in place at the time of payment.
- **(B)(15)(b) Public Services:** The proposal is within the Arlington School District and will be required to pay \$2,328.00 for every multi-family dwelling unit. The Applicant is required to pay the following Arlington School District Mitigation Fee:
 - Arlington School District Mitigation Fees: \$139,680.00 (\$2,328/unit x 60 units)

The applicant shall provide the City a copy of payment/receipt to Arlington School District prior to building permit issuance.
- **(B)(16)(a) Utilities:** The applicant shall receive approval and 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 Civil Construction phase of the project. All utilities shall be installed underground.

Exhibit 30.

Comprehensive Plan and Zoning

7. The subject property, and adjacent properties to the south and west, are designated “Commercial Corridor” under the City Comprehensive Plan. Adjacent properties to the

north and east are designated General Commercial with Mixed Use Overlay. The purpose of the Commercial Corridor designation is to “create pedestrian oriented, urbanized, mixed use neighborhoods, along designated transit routes.” *City Comprehensive Plan, Land Use Descriptions*. Design elements that are included within the Commercial Corridor designation include “widened sidewalks, drop lanes with on street parking, mid-block pedestrian crossings, planted medians, and bike lanes.” *City Comprehensive Plan, Land Use Descriptions*. The Commercial Corridor zones implementing this designation “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.” *City Comprehensive Plan, Land Use Descriptions*.

City staff determined that the proposal would be consistent with the Comprehensive Plan by encouraging middle-density housing within the Commercial Corridor zone and by providing open space and recreational opportunities for future residents within the overall finished project site. City staff identified 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]

- Accommodate new development in a manner that supports 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]
- Require new construction to construct sidewalks, bicycle storage/parking facilities, and access to mass transit where possible and in proportion to the proposal. [Policy PT-4.10]
- 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]

In addition to the above-referenced City Comprehensive Plan goals, City staff also noted the following Multi-County Planning Goals and Policies as relevant:

- New residential developments should be required to mitigate impacts to park, recreation, and open space through improvements to property. [Policy PP-1.4]
- New residential developments should provide adequate on-site park space or pay a fee-in-lieu. [Policy 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. [Policy PS-1.7]
- Any infrastructure improvements needed to serve a proposed development should be installed prior to the issuance of any building permit. [Policy PS-1.8]
- 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 4 through 9.

8. The subject property and properties to the south and west are zoned Commercial Corridor (CC). Properties to the north and east are zoned General Commercial with a Mixed-Use Overlay. The CC zone is designed to create mixed-use neighborhoods along designated transit routes that are pedestrian oriented. The CC zones are focused on utilizing the mixed-use development regulations/form based code to accommodate mixed-use as the primary land use. *Arlington Municipal Code (AMC) 20.36.020(g)*. Major unit lot subdivisions² facilitating townhome development on fee simple lots are allowed in the CC 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’s proposed preliminary major lot subdivision site plan contains language to ensure that the project complies with requirements for development within Subdistrict C of the AP district overlay. *Exhibit 1, Staff Report, pages 3 through 5, and 12 through 19; Exhibit 4.*

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 60 townhouse units on 60 fee simple lots.
 - The proposed preliminary major ULS would be located in the CC zone and subject to the Mixed-Use Development Regulations.
 - The proposal is being reviewed concurrently for compliance with the requirements for design review of a mixed-use development project.

² 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.

- The Applicant's site plans show that each lot would meet minimum private open space requirements by providing between 214 and 475 square feet of private open space areas on each lot.
- The parent parcel would meet the dimensional and design standards applicable to mixed-use developments in the CC zone.
- The proposal complies with chapter 20.16 AMC, relating to permit and land division approval requirements.
- The proposal includes common open space areas, which would be owned in common by all lots through the required establishment of a homeowner's association.
- The proposal would meet the density and dimensional standards for the parent parcel per the recorded Reserve at Arlington BSP.
- The proposal would meet off-street parking and bicycle parking requirements.
- Access to the townhouses would be provided from the public street of 204th Street NE, from the new public street of 74th Avenue NE, and by a private internal drive aisle that loops through the site. The new 74th Avenue NE roadway would require dedication of right-of-way. Pedestrian access would be provided from both the private internal drive aisle and from walkways to the front doors along 74th Avenue NE.
- Utility plans would be reviewed at the civil permit stage for compliance with Public Works Construction Standards and Specifications.
- New landscaping is proposed throughout the site, including street trees along the public street frontage to the west, perimeter landscaping to the north and east, and unit landscaping to the south along the private shared access. 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 providing the recorded conditions stated in AMC 20.44.020N.

Exhibit 1, Staff Report, pages 14 through 19; Exhibits 2 through 13.

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, page 2*.
11. The project site is located within a “Place Type” that is designated “Mixed-Use Village Center.” *AMC 20.110.014(c)(3)*. Under the form-based code, Place Types are further categorized by “Use Intensity Transects.” The property is located within Transect 4 Flex (T4-F), 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 center.” *AMC 20.110.014(c)(3)*. The intent of the T4-F 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)(3)*. City staff reviewed the proposal and determined that it would be consistent with the intent of the T4-F area by accommodating a diverse range of uses in the urban form and reinforcing a walkable neighborhood while also providing a transition between the higher intensity existing commercial uses along 204th Street and the Portage Creek stream buffer. *Exhibit 1, Staff Report, pages 2, and 24 through 26; Exhibits 3 through 6; Exhibit 9; Exhibit 11*.
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:
 - Townhouse building types are allowed in the T4-F area.
 - The Applicant’s plans demonstrate that the proposed townhouse buildings would satisfy the building form standards applicable to the T4-F area, including standards related to maximum stories, minimum ground- and upper-floor ceiling height, minimum ground-floor space depth, and structural setbacks. The City agrees with the Applicant that ground floor ceiling height of 12 feet is not required for residential townhouse units.
 - The proposal would exceed minimum off-street parking requirements by providing a total of 136 parking spaces on the lot, with 120 parking spots located within the garage and carport of each of the 60 townhome units, plus 16 additional guest parking spaces. The perpendicular parking within the garage,

carports, and perpendicular and parallel guest parking would meet minimum dimensional requirements for parking space. The proposal would provide screening of the parking areas on the east side from a 6-foot wood fence between State Route 9 and the parking area. The townhouses would provide bicycle parking within the garage for each unit.

- The Applicant's site plans show that the project would comply with parking space setback requirements. The parking space is located behind the residential structures, with a distance greater than 40 feet from 74th Ave NE. There are no public side streets. The parallel parking along the east property line is 10 feet.
- The proposal would comply with parking drive width requirements by providing private parking drive aisle widths of 20 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 meet the requirements for frontage types with an engage porch from the ground floor through a walkway to an 8-foot by 10-foot porch. The porch would have two sides engaged to the building and two sides that are open.
- Townhouses are allowed on-site, and the project is being processed as a preliminary unit lot subdivision that requires a conditional use permit.
- The proposal is for a 60-unit lot subdivision with 60 fee simple lots. The preliminary major unit lot subdivision provides three 5-unit buildings, four 6-unit buildings and three 7-unit buildings. The project would promote walkability to the commercial uses in the surrounding area and provide a transition between commercial uses and the natural area of the Portage Creek stream buffer.
- The proposed project would be located along 74th Avenue NE and would provide pedestrian and bicycle access from public streets and the private drives and alleys provide for block like standards and connectivity. The project would comply with the complete street program and would provide multiple modes of travel throughout the entire site.
- The total site is 190,958 square feet. Tract A, which is 50,933 square feet, would be dedicated to the City for public civic space and NGPA for the Portage Creek stream buffer. The remaining area used for calculating the required open space is 140,025 square feet. The Applicant proposes providing 19,142 square feet of open space, which exceeds the required 7,001 square feet of land required. The application materials show future City improvements for a public pedestrian trail along the Portage Creek corridor, and these would be counted as public civic space for the project.
- The proposed project would provide landscaping throughout the property and within the open space and parking areas. Any proposed irrigation would be reviewed at the civil permit stage.
- The project would not require shading for the garages and carports. Shading of 8 percent would be required for the 16 guest parking spaces.

- The Applicant’s landscape plans show 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 project plans show a 6-foot wood fence on the east property line between the project and State Route 9.
- The preliminary drainage plans are conceptually feasible, and the project has received conceptual approval for the stormwater design. All stormwater management measures would be reviewed at the civil permit stage for compliance with the most current version of the 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 T4-F area. The project lighting plan shows that the project would follow the lighting zones, lumen limits, and lighting BUG [backlight, uplight, and glare] ratings.
- 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 24 through 35; Exhibits 2 through 9; Exhibit 13; Exhibits 19 and 20.

Existing Site and Proposed Development

13. The 4.83-acre area comprising Tracts A and B is currently undeveloped and is bordered by SR 9 to the east, commercial development within Tracts C and D to the south, and an access way to the west that would be improved as a public street (74th Avenue NE). Portage Creek is located along the western portion of the property, within Tract A. Property to the west consists of vacant land. Property to the north, across Portage Creek, is developed with commercial construction supply stores. Properties to the east, across SR 9, are developed with a commercial complex, with a grocery store, gas station, and fast-food restaurants. Properties to the south of Tracts C and D, across 204th Street NE, are developed with commercial retail stores. *Exhibit 1, Staff Report, page 4; Exhibit 4; Exhibit 11; Exhibit 14; Exhibit 15.*

Critical Areas

14. PBS Engineering and Environmental, Inc. (PBS), prepared a Critical Areas Report, dated March 29, 2019, which identified Portage Creek, along the northern boundary of the property, as a Type F stream with a standard 100-foot buffer. The report noted that a 25

percent reduction of the 100-foot buffer (to 75 feet) is permitted under the municipal code if certain conditions are met and that the City had previously agreed that Portage Creek and riparian areas be placed within a NGPA that extends 75 feet from the ordinary high-water mark of the creek. The report also noted PBS's opinion that a restored and enhanced 75-foot buffer would result in greatly improved buffer function as compared to the current, highly disturbed condition.

As noted above, Acre Environmental Consulting, LLC (AEC), prepared a Habitat Protection Plan, dated October 28, 2024, in response to concerns expressed by the Tulalip Tribes. AEC noted that the City had approved a 25 percent reduction of the standard 100-foot buffer associated with Portage Creek in 2019 and that the entire width of the 75-foot buffer is contained within Tract A and does not extend onto Tract B. AEC further noted that the outer 25 feet of the standard 100-foot stream buffer has been comprised of maintained pasture for the past 35 years that provided no protection to Portage Creek, with only nominal buffer functions and values. AEC determined that the proposed development and protection of the stream and 75-foot stream buffer within an NGPA would result in no adverse impacts to Portage Creek or Fish and Wildlife Conservation Areas (FWCAs) located downstream. AEC further determined that the proposed development's compliance with Washington State Department of Ecology (DOE) stormwater requirements would likely result in increased water-quality functions to Portage Creek and associated FWCAs. *Exhibit 15; Exhibit 16.*

15. ERCI prepared an Archaeological Investigation Report, dated October 22, 2019, which did not identify any cultural resources or historic properties within the site. As a mitigation measure included with the MDNS, the Applicant would be required to comply with an Unanticipated Discovery Plan in the event that any historical, cultural, or archaeological sites or artifacts are discovered during ground disturbing activities on-site. *Exhibit 17; Exhibit 18; Exhibit 30.*

Stormwater

16. Land Technologies, Inc., prepared a stormwater site plan report and a construction stormwater pollution prevention plan for the project, both dated June 11, 2024. Stormwater runoff from roofs would be routed to downspout infiltration facilities. Runoff from pollution generating impervious surfaces (roads, driveways, and parking areas) would be routed to bioretention areas for flow control and water-quality treatment before fully infiltrating on-site. City staff reviewed the Applicant's proposed stormwater management measures and determined that it is conceptually feasible. The City would review the Applicant's final drainage plan for compliance with the 2019 Department of Ecology Stormwater Management Manual for Western Washington, and with City Public Works Standards and Specifications, at the civil permit stage. *Exhibit 1, Staff Report, pages 3, 31, 35, and 40; Exhibit 19; Exhibit 20.*

Traffic

17. Kimley-Horn and Associates, Inc., prepared a Traffic Impact Analysis (TIA) for the proposal, dated May 9, 2024, which determined that the project would generate a total of 432 new average daily trips, with 29 new AM peak-hour trips and 34 new PM peak-hour trips. For the project's impacts to the City's transportation network, the Applicant would be required to pay traffic mitigation fees currently calculated at \$3,355 per PM peak hour trip, for a total of \$144,070. The TIA further determined that all studied intersections would continue to operate at acceptable levels of service following a full build out of the project. *Exhibit 22.*

Utilities

18. The City of Arlington would provide water and sanitary sewer service to the proposed development. The Applicant obtained a water and sewer availability letter from the City, dated June 25, 2024. The City would also provide police services, and North County Regional Fire would provide emergency fire services. Students residing in the subdivision would be served by Arlington School District #16. Garbage services would be provided by Waste Management NW; electricity services would be provided by Snohomish County PUD #1; and gas services would be provided by Cascade Natural Gas. *Exhibit 1, Staff Report, page 4; Exhibit 10.*

Conditional Use Permit

19. As discussed above, major unit lot subdivisions facilitating townhome development on fee simple lots are allowed in the CC 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 limits and the City's jurisdiction per the zoning map and permissible use table.
 - The application was deemed complete on July 9, 2024.
 - The proposal would comply with all requirements of the zoning code, Title 20 AMC.
 - The City issued an MDNS on July 25, 2024, which was not appealed.
 - The proposal would comply with the Comprehensive Plan, Transportation Plan, and the Arlington Municipal Code.
 - The proposed development would not materially endanger public health or safety of city residents. The proposal has met the intent of the zoning and mixed-use development regulations.
 - The proposed development would not materially harm adjoining or abutting properties.
 - The proposed development would be compatible with the surrounding land uses.
 - The CUP, with the City's recommended conditions, is consistent with all adopted plans, regulations, policies, and AMC Title 20 requirements.*Exhibit 1, Staff Report, pages 36 and 37.*

Testimony

20. City Deputy Director of Community and Economic Development 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, consistent with the findings above. Ms. Rusko stated that the subject property is within the CC zone, which requires compliance with the City's mixed-use regulations. She provided an overview of the proposed development, noting the location of proposed townhouse units, the access roadways, and the planned recreational trail and NGPA along Portage Creek. Ms. Rusko explained that the project would be the final phase of the previously approved Reserve at Arlington BSP and that the potential impacts to Portage Creek were analyzed as part of the BSP approval process, noting, however, that the Applicant submitted a Habitat Protection Plan in response to concerns raised by the Tulalip Tribes and that the Applicant agreed to voluntarily install additional plantings to address these concerns. She confirmed that the City had reviewed the Applicant's plans for stormwater management and determined that it would be conceptually feasible and compliant with applicable stormwater regulations. Regarding access to the site from 204th Street NE, Ms. Rusko explained that the City is allowing for the continued use of an existing accessway along the west side of Tract D that would connect to the new public roadway of 74th Avenue NE along the subject property's western frontage. She further explained that, with future development of a parcel to the west, the new 74th Avenue NE roadway would be extended to the south and meander west to connect with the existing intersection at 204th Street NE and 74th Avenue NE. Ms. Rusko stated that City staff reviewed the proposal and determined that it would comply with all applicable design requirements under the City's mixed-use regulations and ULS supplemental use regulations, consistent with the analysis provided in the City staff report. *Testimony of Ms. Rusko.*
21. Applicant Representative Tyler Foster, of Land Technologies, Inc., testified that the Applicant agrees with City staff's analysis of the proposal, as detailed in the City staff report and Ms. Rusko's testimony. He stated that the Applicant believes that this project would help contribute to a walkable community. Mr. Foster explained that low-impact infiltration trenches would be utilized to manage stormwater from rooftops and that runoff from pollution-generating surfaces would be managed through bioretention cells that would provide water-quality treatment before fully infiltrating on-site. He requested some clarification on the language of one of the City's recommended conditions of approval regarding the undergrounding of transmission lines along the frontage of 204th Street NE. *Testimony of Mr. Foster.*
22. In response to Mr. Foster's request for clarification regarding City staff's recommended condition number 34, Ms. Rusko explained that the City does not require transmission lines to be installed underground and that the language of recommended condition

number 34 could be modified to make this clear. At the Hearing Examiner's suggestion, Ms. Rusko agreed to work with the Applicant to modify the language of the condition. Following the hearing, the City and Applicant submitted suggested language changes to the recommended condition, which the Hearing Examiner accepted and incorporated into the conditions of approval detailed below. *Testimony of Ms. Rusko.*

Staff Recommendation

23. 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. *Exhibit 1, Staff Report, pages 36 through 42.*

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).

*Findings, Conclusions, and Decision
City of Arlington Hearing Examiner
Harmony at Arlington CUP
No. PLN#1234*

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 (ULS) under the municipal code.

The City provided reasonable notice of the application and opportunity to comment on the proposal. The City did not receive any comments on the proposal from members of the public in response to its notice materials, and no members of the public testified at the open record hearing. The City received comments on the proposal from WSDOT, the Stillaguamish Tribe of Indians, and the Tulalip Tribes, which have been fully addressed by the City and the Applicant. Following its review of the Applicant's civil plans, WSDOT determined that the proposed development would not have stormwater impacts to SR 9. As a condition of approval, the Applicant or property owner would be required to notify the Stillaguamish Tribe of Indians prior to any ground disturbing activities on-site. The Tulalip Tribes indicated that its concerns regarding impacts to Portage Creek were addressed by the Applicant's Habitat Protection Plan and its agreement to voluntarily install plantings along the proposed recreational trail

The City 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, the City issued an MDNS on July 25, 2024, which was not appealed.

The Comprehensive Plan designates the subject property as Commercial Corridor, and City staff determined that the proposal would be consistent with numerous goals and policies of the Comprehensive Plan by encouraging middle density housing and by providing open space and recreational opportunities for future residents. The property is zoned CC. Major unit lot subdivisions facilitating townhome development on fee simple lots are allowed in the CC 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 T4-F use intensity transect of the Mixed-Use Village 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, civic and open space

standards, 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.

The Applicant's Critical Areas Report identified Portage Creek along the northern boundary of the property as a Type F stream with a standard 100-foot buffer. The City previously approved a 25 percent reduction of the standard buffer, to 75 feet, as permitted under the municipal code. The Critical Areas Report determined that restoration and enhancement of the 75-foot buffer would greatly improve buffer functions. The portions of Portage Creek and its reduced 75-foot buffer on-site would be dedicated to the City and protected within an NGPA. No portion of the creek or its associated buffer extends onto the portion of the site proposed for development (Tract B). The Applicant's Habitat Protection Plan determined that the proposed development and protection of the stream and buffer within an NGPA would result in no adverse impacts to Portage Creek or FWCAs located downstream.

An Archaeological Investigation Report prepared for the proposal did not identify any cultural resources or historic properties within the site, and the Applicant would be required to comply with an Unanticipated Discovery Plan as a mitigation measure included with the MDNS issued for the project. City staff reviewed the Applicant's proposed measures for addressing stormwater on-site and determined that it would be conceptually feasible. The City would review the Applicant's final drainage plan to ensure compliance with applicable stormwater regulations.

The Applicant's Traffic Impact Analysis determined that the project would generate a total of 432 new average daily trips, with 29 new AM peak-hour trips and 34 new PM peak-hour trips. For the project's impacts to the City's transportation network, the Applicant would be required to pay traffic mitigation fees currently calculated at \$3,355 per PM peak hour trip, for a total of \$144,070. The TIA further determined that all studied intersections would continue to operate at acceptable levels of service following a full build out of the project. City staff determined that there are adequate utilities to serve the proposed development.

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 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 – 23.*

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 60 townhome units on fee simple lots, within three 5-unit buildings, four 6-unit buildings, and three 7-unit buildings, with associated improvements, on a 3.21-acre tract that was established as part of the previously approved Reserve at Arlington binding site plan, located to the northwest of the intersection of State Route 9 and 204th Street NE, is **APPROVED**, subject to the following conditions:

Land Use Approval:

1. All development shall be in substantial conformance with the Site Plan, Landscape Plans, and Architectural Plans received on December 20, 2024 and the Preliminary Civil Plans and Lighting Plans received on October 3, 2024, subject to any conditions or modifications that may be required as part of the permit and construction plan review.
2. All development shall be in substantial conformance with all Exhibits of the Hearing Examiner Public Hearing held on February 4, 2025.
3. The property owner or applicant of the project shall provide notification of ground disturbance to The Stillaguamish Tribe of Indians prior to any grading or clearing of the subject properties.
4. The property owner or applicant of the project shall clear all invasives and provide mitigation plantings as shown on the approved site plan and landscape plan on Tract A prior to dedication to the City of Arlington.
5. The approved Preliminary Major Unit Lot Subdivision Conditional Use Permit shall expire five (5) years after the date of the Notice of Decision per AMC §20.16.280.
6. No permits and/or construction pursuant to the Preliminary Major Unit Lot Subdivision Conditional Use Permit shall begin or be authorized until 21 days from the date of the decision.
7. The homeowner's association is responsible for managing all parking for residents on the site with the proposed number of parking stalls. If parking issues arise it is the responsibility of the homeowner's association to limit the number of cars a property owner or 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.
8. The development shall meet all Title 20 AMC regulation requirements.
9. The developer shall meet all local, state, or federal code requirements.

10. The developer shall clear any outstanding Planning Division permit-processing accounts with the City within 30 days of issuance of this permit.

SEPA MDNS Conditions:

The developer shall comply with all conditions of the SEPA MDNS issued on July 25, 2024.

11. **(B)(1) Earth:** The Applicant proposes an estimated total fill of 8,989 cubic yards. 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.
12. **(B)(2) Air:** 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.
13. **(B)(3)(a) Surface Water:** To mitigate potential impacts to surface water the Applicant shall follow the Reserve at Arlington Binding Site Plan – PLN #577, recorded under AFN202107165005. The binding site plan requires Tract A of the Applicant’s property to be dedicated to the City of Arlington for a Native Growth Corridor Protection Area for Portage Creek.
14. **(B)(3)(b) Ground Water:** 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.
15. **(B)(3)(c) Water Runoff:** 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.
16. **(B)(4)(b) Plants:** The Applicant shall dedicate Tract A (Portage Creek and Buffer Corridor) north of the project site. The Applicant shall provide new landscaping throughout the project site for the proposed development.
17. **(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.
18. **(B)(7)(b) 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 7:00 pm to 7:00 am 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 vehicle traffic and residential units will be generated after project completion.

19. **(B)(8) Land and Shoreline Use:** The property is located within Subdistrict C and shall comply with the Federal Aviation Regulations (FAR) Part 77 and complete a Federal Aviation Administration form 7460. An Avigation Disclosure Statement shall be placed on the final unit lot subdivision and recorded with the final document at the Snohomish County Auditor's Office.
20. **(B)(10)(c) Aesthetics:** The Applicant shall meet the requirements of the Mixed-Use Development Regulations Architectural Standards for the sixty townhouse units.
21. **(B)(11)(a) Light and Glare:** 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.
22. **(B)(12)(c) Recreation:** The proposed residential development of sixty multi-family dwelling units shall pay the following Community Park Impact Fees:
 - Community Park Impact Fees: \$89,820.00 (\$1,497 x 60 units)The Applicant shall pay all community park impact fees prior to building permit issuance. Impact fees do not vest and are fees in place at the time of payment.
23. **(B)(13) Historic and Cultural Preservation:** The Applicant submitted an Unanticipated Discovery Plan. 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 provide ground disturbance notification to the Stillaguamish Tribe of Indians and allow for monitoring on the site.
24. **(B)(14)(c) Transportation:** The proposal requires frontage improvements along the future roadway of 74th Avenue NE.
25. **(B)(14)(f) Transportation:** Trip generation for the proposed development has been calculated by Kimley Horn through a Traffic Impact Analysis. The report references land use code 215 for single- family attached housing for the 60 proposed residential townhomes per the ITE Trip Generation Manual, 11th Edition. This use resulted in 34 PM Peak Hour Trips (432 Average Daily Trips). The Applicant is required to pay the following Traffic Impact Fee as proposed in the Traffic Impact Analysis:
 - City of Arlington Traffic Impact Fees: \$114,070.00 (\$3,355/trip x 34 PMPHT)The Applicant shall pay all traffic impact fees prior to the building permit issuance. Impact fees do not vest and are the fees in place at the time of payment.

26. **(B)(15)(b) Public Services:** The proposal is within the Arlington School District and will be required to pay \$2,328.00 for every multi-family dwelling unit. The Applicant is required to pay the following Arlington School District Mitigation Fee:
- Arlington School District Mitigation Fees: \$139,680.00 (\$2,328/unit x 60 units)
- The Applicant shall provide the City a copy of payment/receipt to Arlington School District prior to building permit issuance.
27. **(B)(16)(a) Utilities:** The Applicant shall receive approval and 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 Civil Construction phase of the project. All utilities shall be installed underground.

Civil Construction:

28. Prior to any construction activities, the Applicant shall file and receive approval of a Civil Construction Permit 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. The Applicant shall submit a final landscape and lighting plan with the Civil Construction Permit.
30. The project is subject to submit a Right-of-Way Permit for all work within the public right-of-way.
31. All stormwater is required to meet the most current edition Department of Ecology Stormwater Management Manual for Western Washington. The final drainage plan shall be approved with the Civil permit.
32. The Applicant is required to obtain utility permits from the City of Arlington for water and sanitary sewer connections.
33. The Applicant is required to provide an automatic irrigation system on the site. The proposed irrigation plan shall be submitted with the Civil Permit.
34. 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 property owner of the Harmony at Arlington project is not required to underground the transmission lines or other utilities on the existing power poles that are parallel to 204th Street NE. The property owner is required to underground power from 204th Street NE north to serve the proposed unit lot subdivision on Tract B. No new power poles shall be placed along 204th Street NE or along the access drive north into the project.

Prior to Final Unit Lot Subdivision Submittal:

35. The Applicant shall submit a copy of the incorporation of the Homeowner's Association and the Covenants, Conditions, and Restrictions with the final major unit lot subdivision application. The CC&Rs shall include the following:
 - a. No parking allowed along the public alley
 - b. No storage of inoperable motor vehicles.
 - c. Maintenance of private lots, buildings, and abutting right-of-way for the site.

Prior to Final Unit Lot Subdivision Approval:

36. The Applicant shall complete all required Civil Construction improvements on the subject site.
37. The Applicant shall submit as-builts, acquire all required bonds, and complete the civil construction punch list for the project.
38. The Applicant shall provide the conditions found in AMC 20.44.020N on the face of the final plat document.
39. 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:

40. 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.
41. The proposed building plans shall be compliant with the elevations and floor plans meeting the architectural standards of AMC 20.110, that were received on December 20, 2024, subject to minor conditions or modification that may be required as part of the permit review.
42. Prior to issuance of the building permit, the Applicant shall complete all required or voluntary improvements approved with the Civil Permit, unless otherwise secured and authorized by the City Engineer.

43. The project is subject to applicable water and sewer utility fees. These fees are collected at the time of building permit issuance.
44. Prior to issuance of building permits, all associated impact fees shall be paid.
45. 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.

Other:

46. Business Licenses for all contractors working on the site shall be required to obtain a City of Arlington Business License.
47. The placement of Snohomish County PUD transformer cases shall be reviewed and approved by the city. All cases that abut public right-of-way are required to be decoratively wrapped.

DECIDED this 21st day of February 2025.



PEREGRIN K. SORTER
Hearing Examiner
Laminar Law, PLLC