



CITY OF ARLINGTON NOTICE OF DECISION

Smokey Point Ridge Binding Site Plan and Preliminary Unit Lot Subdivision Conditional Use Permit

The City of Arlington has issued a Notice of Decision for a Binding Site Plan and 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: Smokey Point Ridge

Proponent: Peak to Peak, LLC

Project Number: PLN #1198 and PLN #1199

Description of Proposal: The applicant is proposing a 9-Lot Binding Site Plan on 7.83 and a 62-Lot Preliminary Major Unit Lot Subdivision on Lot 9 of the Smokey Point Ridge Binding Site Plan consisting of 16 Live/Work Units and 46 Townhouse Units on 4.82 acres. This project consists of two 8-unit live/work buildings, seven 6-unit buildings, and one 4-unit building. The live/work buildings are 3 stories in height and provide a garage and commercial space on the first floor and living area and bedrooms on the second and third floors. The townhome buildings are 2 stories in height and provide a garage and living area on the first floor and bedrooms on the second floor. The project improvements include parking, pedestrian paths and trails, private open space, shared and public open space, pickleball courts, bocce, playgrounds, picnic areas, dog run, fire pit, sitting areas, sidewalks, landscaping, and private drives throughout the site with access from Smokey Point Boulevard. Frontage improvements along Smokey Point Boulevard includes curb, gutter, sidewalks, landscape strips with trees, and back in parking spaces for the commercial uses. Stormwater runoff from the proposed development will be conveyed and managed on-site through multiple infiltration trenches and catch basins, along with a bioretention area. The project will be served by City of Arlington utilities and a new sewer lift station is proposed to be constructed on Lot 7 of the binding site plan.

Location: 19402 Smokey Point Boulevard

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)	Nos. PLN#1198; PLN#1199
)	
Carl Pirscher, on behalf of Peak to Peak, LLC)	Smokey Point Ridge BSP and CUP
)	
For a Binding Site Plan and Conditional Use Permit)	FINDINGS, CONCLUSIONS, AND DECISION

SUMMARY OF DECISION

The request for approval of a Binding Site Plan, to subdivide a 7.84-acre property into eight commercial lots and one residential mixed-use lot, and for a Conditional Use Permit, to allow for a preliminary unit lot subdivision that would accommodate the development of 62 lots consisting of two 8-unit live/work buildings, seven 6-unit townhouse buildings, and one 4-unit townhouse building, with associated improvements, on the proposed 4.82-acre residential mixed-use lot, located at 19402 Smokey Point Boulevard, is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposal.

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
Brian Kalab, Applicant Representative
Carl Pirscher, Project Architect

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report
2. Land Division Permit Application, dated February 26, 2024
3. Narrative Project Description
4. Binding Site Plan, dated October 11, 2024
5. Preliminary Unit Lot Subdivision Site Plan (15 Sheets), dated November 14, 2024
6. Architectural Plans (28 Sheets), dated March 1, 2024
7. Landscaping Plans (2 Sheets), dated February 20, 2024
8. Lighting Plans (2 Sheets), dated May 31, 2024

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9. Lighting Cut Sheets
10. Water and Sewer Availability Request, approved February 18, 2024
11. Vicinity Map
12. Aerial Property Photograph
13. Property Legal Description
14. Title Report
15. Lot Closures
16. Complete Streets Checklist, approved January 15, 2025
17. SEPA Environmental Checklist
18. Statement of Compliance with AMC 20.110.014(l) Architectural Standards, dated March 7, 2024
19. Stormwater Site Plan Report, dated May 20, 2024
20. Geotechnical Engineering Report, PBS Engineering and Environmental GeoTest Services, Inc., dated September 16, 2022
21. Traffic Impact Analysis, Heath and Associates, dated January 29, 2024
22. Mailing labels
23. Notice of Public Hearing, published January 17, 2025
24. Summary from April 2, 2024, Neighborhood Meeting
25. Stillaguamish Tribe of Indians comment, dated March 26, 2024
26. Washington State Department of Transportation comment, dated April 1, 2024
27. Washington State Department of Transportation Aviation comment, dated March 22, 2024
28. Notice of Application and Notice of Neighborhood Meeting, published March 19, 2024
29. Notice of SEPA Mitigated Determination of Non-significance, published April 12, 2024
30. Binding Site Plan Notice of Application, published March 19, 2024
31. Project Resubmittal Extension Letter, dated June 10, 2024
32. Notice of Complete Application Letter, dated March 14, 2024
33. Notice of Incomplete Application Letter, dated March 7, 2024
34. Smokey Point Ridge Forest Practice Zoning Permit, approved February 7, 2024

FINDINGS

Application and Notice

1. Carl Pirscher, of CDA + Pirscher Architects, Inc., on behalf of Peak to Peak, LLC (Applicant), requests approval of a binding site plan (BSP) to subdivide a 7.84-acre property into eight commercial lots and one residential mixed-use lot. The Applicant also requests approval of a conditional use permit (CUP) to allow for a preliminary unit lot subdivision (ULS) that would accommodate the development of 62 lots consisting of two 8-unit live/work buildings, seven 6-unit townhouse buildings, and one 4-unit townhouse building, with associated improvements, on the proposed 4.82-acre residential mixed-use lot (Lot 9) that would be located on the southern portion of the overall subject property. The proposed live-work buildings would front Smokey Point Boulevard and would be three stories in height, with a garage and commercial space on the first floor and living area and bedrooms on the second and third floors. The proposed townhouse buildings

would be located throughout proposed Lot 9 and would be two stories in height, with a garage and living area on the first floor and bedrooms on the second floor. Associated improvements would include internal private drive aisles providing access from Smokey Point Boulevard to the individual units, parking spaces, and other on-site amenities; frontage improvements along Smokey Point Boulevard, including curb, gutter, sidewalks, landscape strips with trees, and back-in parking spaces for the commercial uses; stormwater management features; utility infrastructure; pedestrian paths and trails; private open space; shared and public open space; pickleball courts; bocce; playgrounds; picnic areas; a dog run; a fire pit; sitting areas; and landscaping. The property is located at 19402 Smokey Point Boulevard, to the northwest of the intersection at 193rd Street NE and Smokey Point Boulevard.¹ *Exhibit 1, Staff Report, pages 1 through 6; Exhibits 2 through 9; Exhibits 11 through 15.*

2. The City of Arlington (City) determined that the application was complete on March 14, 2024. On March 19, 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 April 2, 2024. On January 17, 2025, the City provided notice of the open record hearing associated with the application in a similar manner. The City did not receive any comments from members of the public in response to its notice materials, and no members of the public attended the neighborhood meeting or testified at the open record hearing. The City received comments on the proposal from the Stillaguamish Tribe of Indians, the Washington State Department of Transportation (WSDOT), and the WSDOT Aviation Division, which are discussed in detail below. *Exhibit 1, Staff Report, pages 3, 9, 11, 12, 14, and 38; Exhibits 22 through 28; Exhibits 30 through 33.*
3. The Stillaguamish Tribe of Indians recommended that an archaeological monitor be on-site for ground disturbing activities, requested review of any archaeological monitoring plans, and requested to be notified of ground disturbing activities on the site. The City responded to the Tribe's concerns by providing it with a cultural resources report that was prepared for the project, after which the Tribe did not raise any further concerns. In addition, City staff has recommended a condition requiring that the Applicant or property owner notify the Stillaguamish Tribe of Indians prior to any clearing or grading activities on-site.

WSDOT provided a comment regarding the BSP application that requested to review a hydraulics report to ensure that stormwater would not impact Interstate 5. In response,

¹ The subject property is identified by tax identification number 31051700400600. *Exhibit 1, Staff Report, page 4.* A legal description of the property is included with the application materials. *Exhibit 13.*

the City provided WSDOT with an updated stormwater and hydraulics report showing that stormwater drainage would be contained on-site. Following its review of the updated report, WSDOT confirmed that stormwater would not leave the site and indicated that no further review would be required. WSDOT noted that it had no comments related to the CUP application.

WSDOT – Aviation Division provided comments, noting that the project would be located within Airport Compatibility Zone 4 and providing information regarding development restrictions within this area, including restrictions against high-density residential uses consisting of 15 units or more per acre. City staff confirmed that the project would provide 12.86 dwelling units per acre. The Applicant would be required to provide avigation easement information on both the BSP and the final unit lot subdivision. *Exhibit 1, Staff Report, pages 15 and 38; Exhibits 25 through 27; Testimony of Amy Rusko.*

Forest Practice Zoning Permit

4. On February 7, 2024, the City administratively approved, with conditions, the Applicant’s request for an early clearing and grading permit and a Class IV forest harvesting permit (PLN#1163) to allow the 7.84-acre site to be prepared for the proposed mixed-use development, with the clearing and grading activities consisting of the removal of 95 significant trees, approximately 3,950 cubic yards of cut, and approximately 40,000 cubic yards of fill. The administrative permit decision was not appealed and, therefore, all clearing, grading, and tree removal associated with the project has been fully addressed and these issues need not be revisited as part of the current permit applications. In association with the prior permit approval, the City reviewed the environmental impacts of the proposed action and determined that, with mitigation measures, it would not have a probable significant adverse impact on the environment. Accordingly, the City issued a Mitigated Determination of Nonsignificance (MDNS) for the clearing, grading, and tree removal activities, which was not appealed. *Exhibit 29; Exhibit 34; Testimony of Amy Rusko.*

State Environmental Policy Act

5. The City acted as lead agency and analyzed the environmental impacts of the current 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 MDNS that was issued with the forest practice and grading permits discussed above, with additional mitigation measures. Accordingly, the City issued an MDNS Adoption of Existing Document on April 11, 2024. The next day, the City provided notice of its SEPA determination, with a comment and appeal deadline of April 26, 2024. The City’s SEPA determination was not appealed. The MDNS Adoption of Existing Document includes the following additional mitigation measures:

- **(B)(10) Aesthetics:** The proposal is required to meet the Mixed-Use Development Regulation Design Standards of AMC 20.110.014(1) with each development permit.
- **(B)(11)(a) Light and Glare:** To mitigate for potential light pollution, the Applicant will be required to install light fixtures that are down shielded. The property is located within the Arlington Airport Protection District – Subdistrict C – that is comprised of the Federal Aviation Regulations (FAR) parts 77 Imaginary surfaces. Street lighting is required to be installed along Smokey Point Boulevard. The applicant shall follow the Street Lighting Guide of the Complete Streets Program for approved roadway lighting luminaire fixture and poles.
- **(B)(12)(c) Recreation:** The proposed development has provided and met the mini-park requirements through a variety of amenities on the site. The proposed 62 multi-family residential units shall pay Community Park Impact Fees in the amount of \$92,814.00 (\$1,497 x 62). The applicant shall pay all community park impact fees prior to building permit issuance.
- **(B)(14)(d) Transportation:** The proposal is required to construct frontage improvements along Smokey Point Boulevard. These improvements include drive aisle, back-in angled parking spaces, median, curb, gutter, sidewalk, and street trees.
- **(B)(14)(f) Transportation:** Trip generation for the proposed development has been calculated by Heath & Associates Consultants through a Traffic Impact Analysis. The report references land use code 220 for low rise multi-family for the 62 residential townhomes and the residential portion of the live/work units, land use code 710 for general office to capture the approximate 4,448 square feet of commercial within the live/work units, and land use code 821 for shopping plaza for approximately 42,929 square feet of commercial per the ITE Trip Generation Manual, 11th Edition. These uses result in 152 PM Peak Hour Trips (1954 Average Daily Trips). The Applicant is required to pay the following Traffic Impact Fees as proposed in the Traffic Impact Analysis:
 - City of Arlington Traffic Impact Fees = \$509,960.00 (\$3,355/trip x 152 PMPHT)
 - WSDOT Traffic Impact Fees = \$70,344.00 (\$36/trip x 1954 ADT)
 The applicant shall pay all traffic impact fees prior to building permit issuance.
- **(B)(15) Public Services:** The proposal is within the Arlington School District and is required to pay \$2,328 for every two/+ bedroom multi-family dwelling unit. The proposed development consists of 62 3-bedroom units, for a total of \$144,336.00 in school mitigation fees. 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 1, Staff Report, pages 9, 25, and 39 through 41; Exhibit 17; Exhibit 29.

Comprehensive Plan and Zoning

6. The subject property and adjacent properties to the north and south are designated “Commercial Corridor” under the City Comprehensive Plan. Adjacent property to the east is within unincorporated Snohomish County, and property to the west is designated as right-of-way for Interstate 5. 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 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]
- 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 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 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.

7. The subject property and adjacent properties to the north and south are zoned Commercial Corridor (CC) with a Mixed-Use Overlay place type of Neighborhood Corridor. The adjacent property to the east that is within unincorporated Snohomish County is classified as Agricultural-10, and as mentioned above, property to the west consists of right-of-way for Interstate 5. The CC zone is designed to create mixed-use neighborhoods that are pedestrian oriented and along designated transit routes. The CC zones are focused on utilizing the mixed-use development regulations/form based code. *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 subject property and adjacent properties to the north and south are currently developed with single-family residences; properties to the east include a towing company and vacant land; to the west is Interstate 5.

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 be required to provide language on the final binding site plan and preliminary major unit lot subdivision 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 9, 14, and 15.*

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.

Unit Lot Subdivision Supplemental Use Regulations

8. 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 16 live/work units and 46 townhouse units on 62 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.
 - The Applicant's site plans show that each lot would meet minimum private open space requirements by providing each unit with between 208 and 552 square feet of private open space areas.
 - The parent parcel would meet the dimensional and design standards applicable to mixed-use developments.
 - The proposal is in compliance with chapter 20.16 AMC, relating to permit and land division approval requirements.
 - The proposal includes common open spaces, recreational areas, and trails, which will 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 Smokey Point Ridge BSP.
 - The proposal would meet residential bicycle and automobile parking requirements. Each townhouse would have two parking spaces and would have bicycle parking in the garage. Driveway and garage access is from the internal loop drive aisle. In addition, the proposal includes 32 standard/compact and 2 ADA off-street residential parking spaces. Proposed parking would be used by residents or guests and would not store inoperable vehicles. Parking would be prohibited along the internal drive except in designated areas. Commercial parking for the site is addressed under the Mixed-Use Development Regulations.
 - Access to the townhouses would be provided by a private internal drive aisle that loops through the site and is accessed from Smokey Point Boulevard. Pedestrian access would be provided from both the private internal drive aisle and from walkways to the front doors along Smokey Point Boulevard frontage. Dedication of right-of-way would be required along the Smokey Point Boulevard frontage.
 - 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 east, perimeter landscaping to the north, south, and west. 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 15 through 20.

Mixed-Use Development Regulations

9. 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 3.*
10. The project site is located within a “Place Type” that is designated “Neighborhood Corridor.” *AMC 20.110.014(c)(1)*. 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)(1)*. 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, reinforcing a walkable neighborhood to future commercial uses, increasing walkability along Smokey Point Boulevard, and providing a transition between existing residential and commercial uses. *Exhibit 1, Staff Report, pages 26 through 28; Exhibits 3 through 6.*
11. The City’s mixed-use development regulations (*AMC 20.110.014*) provide specific guidelines on appropriate building types and frontages, with specific design standards

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related to blocks, rights-of-way, thoroughfares, parking, civic and open spaces, landscaping and screening, low-impact design for stormwater management, outdoor lighting, and architecture. City staff analyzed the proposal and determined that these requirements would be met, noting:

- The project proposes live/work units and residential townhouses, which are allowed building types in the T4-F area.
- The Applicant's plans demonstrate that the proposed 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 for both townhouse buildings and live/work buildings.
- The proposal would exceed minimum off-street parking requirements by providing a total of 124 garage parking spaces in the townhouse buildings; 104 standard surface parking spaces; 57 compact surface parking spaces; and 14 ADA parking spaces. The overall project requires a minimum of 233 parking spaces for townhouse residents and guests, calculated per unit, and commercial uses, calculated per square foot of commercial space. The proposal shows a total of 285 spaces throughout the development area. Residential bicycle parking would be provided within the garage of each townhouse. Commercial bicycle parking would be provided by the proposed 20 parking spaces within the commercial areas.
- The Applicant's site plans show that the project would comply with parking space setback and parking drive width requirements. The parking would be located behind the residential structures and greater than 40 feet from Smokey Point Boulevard. There are no public side streets.
- The proposed project has not shown any encroachments of the building into the setbacks established from the right-of-way.
- All buildings would meet the requirements for frontage types. The proposed live/work units would have a shopfront/awning, and the townhouses would have an engage porch from the ground floor entry.
- Live/work units and townhouses are allowed on-site, and the project is being processed as a binding site plan and preliminary unit lot subdivision that requires a conditional use permit.
- The proposal is for a 62-unit lot subdivision with 62 fee simple lots. The preliminary major unit lot subdivision provides two 8-unit live/work buildings, seven 6-unit townhouse buildings, and one 4-unit townhouse building. The project would promote walkability to the commercial uses within the site and to the surrounding area, including the development of future commercial and residential developments.
- The proposed project would be located along Smokey Point Boulevard and would provide pedestrian and bicycle access from the public street to the private drives.

The project would comply with the complete street program and would provide multiple modes of travel throughout the entire site.

- The total site is 240,970 square feet, which requires a total of 17,049 square feet of open space. The proposed preliminary major unit lot subdivision utilizes 208,955 square feet of space, requiring 10,448 square feet of open space. The applicant proposes to 11,100 square feet of open space shown on the binding site plan.
- 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 requires shading of 16 percent for the surface parking.
- The Applicant's landscape plans show that all required landscaping components would be met. The interior shade trees between the buildings and parking spaces are proposed to be 1.5- or 2-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 has proposed a wall on the west and south property lines, which would provide a barrier from Interstate 5 and 193rd Street.
- 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 26 through 37; Exhibits 2 through 9.

Existing Site and Proposed Development

12. The 7.84-acre subject property is a trapezoidal shaped parcel bordered by Smokey Point Boulevard to the east, Interstate 5 to the west, and properties containing single-family residences to the north and south. The property is partially developed with a single-

family residence, gravel driveway, and associated outbuildings that would be removed as part of the proposed development. The parcel gently terraces and slopes up in elevation from the north to south, with approximately 15 feet of vertical relief. The western and southern portions of the property currently consist of forested areas, with an open grass field located in the northeastern portion of the property. City staff determined that there are no critical areas on or in the vicinity of the property.

As noted above, the Applicant requests approval of a BSP to subdivide the property into eight commercial lots (Lots 1 through 8), which would be located at the northern portion of the property, and one mixed-use residential lot (Lot 9), which would be located on the southern 4.82-acre portion of the property. The Applicant also requests approval of a CUP to allow for a preliminary unit lot subdivision that would accommodate the development of 62 fee simple lots on Lot 9 that would consist of two 8-unit live/work buildings fronting Smokey Point Boulevard, seven 6-unit townhouse buildings that would be located in the central portion of Lot 9 and along the southern and western borders of the property, and one 4-unit townhouse building that would be located at the northern border of Lot 9. Access to the individual units would be provided by internal private drive aisles, and recreational open space areas would be located at various locations within Lot 9. *Exhibit 1, Staff Report, pages 1 through 6, and 25; Exhibits 2 through 9; Exhibits 19; Exhibit 20.*

13. GeoTest Services, Inc. (GeoTest), prepared a geotechnical engineering report for the proposal, dated September 16, 2022. The report determined that the property is relatively flat and does not contain any erosion, landslide, or steep slope hazards. The report noted that the property is mapped as having a low to moderate susceptibility to liquefaction. Based on its subsurface explorations, GeoTest determined that the potential for liquefaction underlying the property is generally low and that no additional mitigation would be required to address liquefaction for the proposed development. GeoTest ultimately determined that the site would be suitable for the proposed development, provided that its recommendations are incorporated into the project design. GeoTest provided recommendations related to site preparation and earthwork, fill and compaction, wet weather earthwork, seismic design, foundation support, floor support, site drainage, temporary and permanent slopes, utilities, and stormwater infiltration. *Exhibit 20.*

Stormwater

14. Insight Engineering Co. prepared a preliminary stormwater site plan for the proposal, dated July 3, 2024. Stormwater runoff from roofs and pollution-generating impervious surfaces would be directed to multiple infiltration trenches through catch basins, with water-quality treatment provided by filters located upstream of each infiltration trench. 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, 33, and 37; Exhibit 19.*

Traffic

15. Heath and Associates prepared a traffic impact analysis (TIA) for the proposal, dated January 29, 2024, which determined that the project would generate a total of 1,954 new primary average weekday daily trips, with 67 primary AM peak-hour trips and 152 primary PM peak-hour trips. The Applicant would be required to pay traffic mitigation fees for the project's impacts to the City's transportation network, which are currently calculated at \$3,355 per PM peak-hour trip, for a total of \$509,960. 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, except for the intersection at Smokey Point Boulevard and SR 531, which would operate at a substandard level of service with or without the proposed development. The report determined that additional mitigation to address the conditions of the projected substandard intersection at Smokey Point Boulevard and SR 531 would not be required, however, because the project would have only minimal impacts to the intersection. City staff agreed with this determination. *Exhibit 1, Staff Report, pages 25 and 41; Exhibit 21; Testimony of Amy Rusko.*

Utilities and Services

16. 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 February 18, 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.*

Binding Site Plan

17. As noted above, the Applicant requests approval of a BSP to subdivide the property into eight commercial lots and one mixed-use residential lot. City staff reviewed the application materials and determined that, with conditions, the criteria for BSP approval would be met, noting:
 - The Applicant shall receive approval and record the binding site plan prior to final major unit lot subdivision of lot 9.
 - The binding site plan has identified all lots, access, internal private road circulations, open space, trail and sidewalk connections, landscaping, drainage facilities, and parking stalls and lots on the plans.
 - The binding site plan sheets have identified all required elements. The site plan shows dedication and improvements along Smokey Point Boulevard, the construction of internal private roads that connect and provide internal

circulation throughout the site, along with residential and commercial parking areas.

- The subject site has been surveyed with topography and the proposed and future building footprints.
- The Applicant submitted proposed drainage features and a private wastewater lift station, along with water, sewer, and drainage easements throughout the entire development area.
- The Applicant has proposed to retain a few trees along the west side of the property along Interstate 5. A Forest Practice Permit to remove trees on the property was issued under PLN #1163 issued on February 7, 2024.
- All conditions, maintenance, and restrictions on redevelopment of the required open space, and access to improvements are identified on the binding site plan through conditions, covenants, easements, and dedications listed on the document.

Exhibit 1, Staff Report, pages 13 and 14.

Conditional Use Permit

18. 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 March 14, 2024.
- The proposed BSP and ULS would comply with all requirements of the zoning code, Title 20 AMC.
- The City issued an MDNS on April 11, 2024, which was not appealed.
- The proposed BSP and ULS 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, as mitigated and conditioned, would not materially harm adjoining or abutting properties.
- The proposed development would be compatible with the surrounding land uses.
- The BSP and ULS, with the City's recommended conditions, are consistent with all adopted plans, regulations, policies, and AMC Title 20 requirements.

Exhibit 1, Staff Report, pages 38 and 39.

Testimony

19. 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 of a BSP and a CUP. She described the subject property and surrounding development, consistent with the findings above. Ms. Rusko also described the Applicant's proposed BSP, noting that it would provide for eight lots on the northern portion of the property to accommodate the future development of commercial buildings and associated parking spaces, as well as a mixed-use residential lot on the southern 4.82 acres of the property that is the subject of the request for a CUP to accommodate a 62-lot unit lot subdivision. She provided additional details about the proposed mixed-use development that would occur on Lot 9 with approval of the CUP, again consistent with the findings above.

Ms. Rusko explained that the tree removal requirements of the municipal code were fully addressed with the grading and forest practice permits that were previously approved by the City. She further explained that, in analyzing the environmental impacts of the current applications, the City adopted the MDNS that had been issued with the grading and forest practice permits, with some additional mitigation measures. Ms. Rusko noted that a cultural survey of the property was conducted in response to concerns raised by the Stillaguamish Tribe and that, following its review of the cultural resources report, the Stillaguamish Tribe did not raise any additional concerns about the proposed development. She explained that the Applicant's TIA showed that the intersection at Smokey Point Boulevard and SR 531 would operate at a substandard level of service with or without the proposed development and that the City agrees with the TIA's assessment that additional mitigation, beyond standard transportation impacts fees, would not be required. *Testimony of Ms. Rusko.*

20. Applicant Representative Brian Kalab, of Insight Engineering Co., testified that the Applicant agrees with City staff's analysis of the proposal, as detailed in the staff report and Ms. Rusko's testimony. He explained that stormwater would be managed through an infiltration system, with all runoff from roofs and impervious surfaces routed to various mechanical filter systems for enhanced water-quality treatment before discharging to gravel trenches that would fully infiltrate the stormwater on-site. Mr. Kalab stated that the Applicant intends to begin construction this summer, following approval of all required permits. He detailed the infrastructure improvements that would occur during this initial phase of development, which would occur concurrently with development of Lot 9 and would include frontage improvements to Smokey Point Boulevard, construction of a road system through the site to provide a secondary access point from Smokey Point Boulevard, installation of a water system through the site, and installation of a sewer lift station at the northeast corner of the site. *Testimony of Mr. Kalab.*
21. Project Architect Carl Pirscher, of CDA + Pirscher Architects, Inc., testified that he worked extensively with City staff and Mr. Kalab in the development of the project drawings and documents submitted with the applications. *Testimony of Mr. Pirscher.*

Staff Recommendation

22. 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 BSP and a CUP, with conditions. Mr. Kalab testified that the Applicant has reviewed and would comply with City staff's recommended conditions of permit approval. *Exhibit 1, Staff Report, pages 38 through 44; Testimony of Mr. Kalab.*

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

Conditional Use Permit

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).

Binding Site Plan

The Revised Code of Washington provides for an alternative method of land division – binding site plans:

A city, town, or county may adopt by ordinance procedures for the divisions of land by use of a binding site plan as an alternative to the procedures required by this chapter. The ordinance shall be limited and only apply to one or more of the following: (1) The use of a binding site plan to divisions for sale or lease of commercially or industrially zoned property as provided in RCW 58.17.040(4); (2) divisions of property for lease as provided for in RCW 58.17.040(5); and (3) divisions of property as provided for in RCW 58.17.040(7). Such ordinance may apply the same or different requirements and procedures to each of the three types of divisions and shall provide for the alteration or vacation of the binding site plan, and may provide for the administrative approval of the binding site plan.

RCW 58.17.035.

Binding site plans are subject to the following standards:

- (1) The binding site plan shall ensure that the collective lots continue to function as one site with respect to, but not limited to, lot access, interior circulation, open space, landscaping, drainage facilities, facility maintenance and parking
- (2) The binding site plan shall:
 - (A) Identify the areas and locations of all streets, roads, improvements, utilities, open spaces, sensitive areas, parking areas, landscaped areas, surveyed topography (by a Washington State registered land surveyor) for preliminary map, water bodies and drainage features and building envelopes;
 - (B) Contain inscriptions or attachments setting forth such limitations and conditions for the use of the land as are established by the community development director or the hearing examiner;
 - (C) Contain provisions requiring any development or division of land to be conformance with the approved site plan;
 - (D) Contain requirements for street right-of-way realignment, dedication or widening either required by the city or by voluntary agreement; and
 - (E) Adhere to all applicable provisions set forth in the land use code;
- (3) Both the design and development shall preserve the trees and vegetation, natural drainage, existing top soil, and wetlands/critical areas to the fullest extent that is reasonably possible.
- (4) Conditions of use, maintenance and restrictions on redevelopment of required open space, parking, access and other improvements shall be identified and enforced by covenants, easements, dedications or other similar mechanisms.

AMC 20.16.435(b).

“Binding site plans follow the standard subdivision, review, resubmittal, final approval process and recording requirements as that of the standard subdivision per Chapter 58.17 RCW.” *AMC 20.16.435(c)*.

RCW 58.17.110(2) requires that a proposed subdivision shall not be approved unless the Hearing Examiner finds that:

- (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
- (b) the public use and interest will be served by the platting of such subdivision and dedication.

Conclusions Based on Findings

With conditions, the proposal would satisfy the requirements for approval of a binding site plan and 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. 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, WSDOT – Aviation Division, and the Stillaguamish Tribe of Indians, which have been fully addressed by the City and the Applicant. Following its review of an updated stormwater and hydraulics report, WSDOT determined that stormwater runoff would be contained on-site and would not impact Interstate 5. In response to comments from WSDOT – Aviation Division, City staff confirmed that the project would provide 12.86 dwelling units per acre, less than the maximum 15 units per acre allowed in Airport Compatibility Zone 4, and that the Applicant would be required to provide aviation easement information on the both the BSP and the final unit lot subdivision. In response to comments from the Stillaguamish Tribe of Indians, a cultural survey of the site was conducted and a cultural resources report was prepared, to the satisfaction of the tribe.

The City reviewed the Applicant’s environmental checklist and other information on file and determined that it would be appropriate to adopt, with additional mitigation measures, the MDNS issued in conjunction with the City’s approval of grading and forest practice permits for the site. Accordingly, the City issued an MDNS Adoption of Existing Document on April 11, 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

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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 Neighborhood Corridor 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; customer and public entrances; and windows.

The Applicant's geotechnical engineering report determined that the site would be suitable for the proposed development, provided that its recommendations are incorporated into the project design, including recommendations related to site preparation and earthwork, fill and compaction, wet weather earthwork, seismic design, foundation support, floor support, site drainage, temporary and permanent slopes, utilities, and stormwater infiltration. 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 (TIA) determined that the project would generate a total of 1,954 new primary average weekday daily trips, with 67 primary AM peak-hour trips and 152 primary PM peak-hour trips. The Applicant would be required to pay traffic mitigation fees for the project's impacts to the City's transportation network, which are currently calculated at \$3,355 per PM peak-hour trip, for a total of \$509,960. The TIA also determined that all studied intersections would continue to operate at acceptable levels of service following a full build out of the project, except for the intersection at Smokey Point Boulevard and SR 531, which would operate at a substandard level of service with or without the proposed development. The TIA further determined, however, that additional mitigation beyond the payment of traffic impact fees

would not be required for the project's impacts to the projected substandard intersection. City staff concurs with this determination. 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 additional mitigation measures required under the MDNS Adoption of Existing Document 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.

The Applicant's submitted binding site plan demonstrates that the proposed commercial lots and mixed-use residential lot would continue to function as one site with respect to access, circulation, open space, landscaping, stormwater drainage facilities, facility maintenance, and parking, and would comply with all other requirements for binding site plan approval under AMC 20.16.435. The subject property does not contain any critical areas, and applicable tree removal requirements have been fully addressed by the clearing and forest practice permits that were administratively approved by the City. As discussed above, the proposed development would comply with all applicable zoning regulations, including mixed-use development regulations, which would ensure that the proposal would make adequate provisions for the public health, safety, and general welfare, and would satisfy all other requirements under RCW 58.17.110(2). *Findings 1 – 22.*

DECISION

Based upon the preceding findings and conclusions, the request for approval of a Binding Site Plan, to subdivide a 7.84-acre property into eight commercial lots and one residential mixed-use lot, and for a Conditional Use Permit, to allow for a preliminary unit lot subdivision that would accommodate the development of 62 lots consisting of two 8-unit live/work buildings, seven 6-unit townhouse buildings, and one 4-unit townhouse building, with associated improvements, on the proposed 4.82-acre residential mixed-use lot, located at 19402 Smokey Point Boulevard, is **APPROVED**, subject to the following conditions:

Land Use Approval:

1. All development shall be in substantial conformance with the Binding Site Plan received on December 9, 2024, the Preliminary Major Unit Lot Subdivision and Civil Plans received on December 16, 2024, Landscape Plans received on December 16, 2024, Architectural Plans received on March 1, 2024, and Lighting Plans received on June 17, 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.

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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 Adoption of Existing Documents issued on April 11, 2024.

Description of Document Being Adopted: Mitigated Determination of Non-Significance issued by the City of Arlington on January 3, 2024 for the Smokey Point Mixed Use Clearing Forest Practice Permit (PLN#1163) and Grading Permit (PWD#3514). This MDNS included all impacts and mitigation for the removal of 95 significant trees, approximately 3,950 cubic yards of cut, and 40,000 cubic yards of fill on the site. There was no appeal on the Mitigated Determination of Non-Significance.

Additional Mitigation Measures include the following:

11. **(B)(10) Aesthetics:** The proposal is required to meet the Mixed-Use Development Regulation Design Standards of AMC 20.110.014(l) with each development permit.
12. **(B)(11)(a) Light and Glare:** To mitigate for potential light pollution, the Applicant will be required to install light fixtures that are down shielded. The property is located within the Arlington Airport Protection District – Subdistrict C – that is comprised of the Federal Aviation Regulations (FAR) parts 77 Imaginary surfaces. Street lighting is required to be installed along Smokey Point Boulevard. The applicant shall follow the Street Lighting Guide of the Complete Streets Program for approved roadway lighting luminaire fixture and poles.
13. **(B)(12)(c) Recreation:** The proposed development has provided and met the mini-park requirements through a variety of amenities on the site. The proposed 62 multi-family residential units shall pay Community Park Impact Fees in the amount of \$92,814.00 (\$1,497 x 62). The applicant shall pay all community park impact fees prior to building permit issuance.
14. **(B)(14)(d) Transportation:** The proposal is required to construct frontage improvements along Smokey Point Boulevard. These improvements include drive aisle, back-in angled parking spaces, median, curb, gutter, sidewalk, and street trees.
15. **(B)(14)(f) Transportation:** Trip generation for the proposed development has been calculated by Heath & Associates Consultants through a Traffic Impact Analysis. The report references land use code 220 for low rise multi-family for the 62 residential townhomes and the residential portion of the live/work units, land use code 710 for general office to capture the approximate 4,448 square feet of commercial within the live/work units, and land use code 821 for shopping plaza for approximately 42,929 square feet of commercial per the ITE Trip Generation Manual, 11th Edition. These uses result in 152 PM Peak Hour Trips (1954 Average Daily Trips). The Applicant is required to pay the following Traffic Impact Fees as proposed in the Traffic Impact Analysis:
 - City of Arlington Traffic Impact Fees = \$509,960.00 (\$3,355/trip x 152 PMPHT)
 - WSDOT Traffic Impact Fees = \$70,344.00 (\$36/trip x 1954 ADT)The applicant shall pay all traffic impact fees prior to building permit issuance.
16. **(B)(15) Public Services:** The proposal is within the Arlington School District and is required to pay \$2,328 for every two/+ bedroom multi-family dwelling unit. The proposed development consists of 62 3-bedroom units, for a total of \$144,336.00 in school mitigation fees. The applicant shall provide the City a copy of payment/receipt to Arlington School District prior to building permit issuance.
17. **(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:

18. 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.
19. The Applicant shall submit a final landscape and lighting plan with the Civil Construction Permit.
20. The project is subject to submit a Right-of-Way Permit for all work within the public right-of-way.
21. 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.
22. The Applicant is required to obtain utility permits from the City of Arlington for water and sanitary sewer connections.
23. The Applicant is required to provide an automatic irrigation system on the site. The proposed irrigation plan shall be submitted with the Civil Permit.
24. 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.

Binding Site Plan Conditions:

25. The Applicant shall record the use agreement along the north property line and all new legal descriptions and place recording numbers on Binding Site Plan prior to recording.
26. The Binding Site Plan shall be recorded prior to the Final Major Unit Lot Subdivision on Lot 9 of the project.

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27. The Applicant shall record the Binding Site Plan within 30 days of City signature with the Snohomish County Auditor's Office and provide the City of Arlington with an electronic conformed copy.
28. Binding Site Plan Lots #1-8 shall apply and receive approval for a Special Use Permit prior to the issuance of the building permits for each lot.

Prior to Final Unit Lot Subdivision Submittal:

29. 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:

30. The Applicant shall complete all required Civil Construction improvements on the subject site.
31. The Applicant shall submit as-builts, acquire all required bonds, and complete the civil construction punch list for the project.
32. The Applicant shall provide the conditions found in AMC 20.44.020N on the face of the final plat document.
33. 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:

34. 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.
35. 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.
36. 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.

37. The project is subject to applicable water and sewer utility fees. These fees are collected at the time of building permit issuance.
38. Prior to issuance of building permits, all associated impact fees shall be paid.
39. 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:

40. Business Licenses for all contractors working on the site shall be required to obtain a City of Arlington Business License.
41. 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