



# CITY OF ARLINGTON NOTICE OF DECISION

## Ironwood Place Mixed Use Development Permit

The City of Arlington has issued a Notice of Decision for a 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:** Ironwood Place

**Proponent:** Grandview North, LLC

**Project Number:** PLN #912

**Description of Proposal:** The applicant is proposing to construct a Mixed-Use Development (known as "Ironwood Place") on 2.5 acres located at 18725 67<sup>th</sup> Avenue NE and 18620 Woodlands Way, Arlington, Washington, on parcel numbers 31052300200500 and 00738500103100. The proposed project will be constructed in conformance with Title 20 (Zoning) of the Arlington Municipal Code, including Chapter 20.110, the Mixed-Use Development Regulations.

The Ironwood Place community consists of a mixed-use project with two buildings on the site consisting of 8,990 square feet of commercial space, 2,071 square feet of tenant amenities, and 102 multi-family residential units. The residential units provided within the project include 39 studio units, 42 one-bedroom units, and 21 two-bedroom units. Building 1 is a three-story building along the 67<sup>th</sup> Avenue frontage that will consist of commercial and tenant amenities on the ground floor with residential units on the upper floors. Building 2 is a three-story building located towards the rear of the property and will consist of residential units on all floors, with nine covered parking stalls on the ground floor.

The project improvements include 143 parking stalls (111 standard stalls, 19 compact stalls, 5 ADA stalls, and 8 EV stalls), gazebo, patio area, sports court, playground, sidewalk, open space, and landscaping. Stormwater runoff from the proposed development will be managed on-site through infiltration. Frontage improvements along 67<sup>th</sup> Avenue consists of replacing the existing driveway approaches with curb, gutter, sidewalk, and repairs to Centennial Trail as needed. Frontage improvements along Woodlands Way consists of replacing the existing rolled curb and sidewalk with curb, gutter, sidewalk, and landscaping.

**Location:** 18725 67<sup>th</sup> Avenue NE and 18620 Woodlands Way

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

**Notice of Decision Date:** September 12, 2023

**End of Appeal Period:** October 3, 2023

**Conditional Use Permit Expiration Date:** September 12, 2025

**Appeals:** This decision may be appealed pursuant to AMC 20.20.020. Any aggrieved party of record may file an appeal within 21 days of the Conditional Use Permit Decision. An appeal shall be considered filed when a written notice of appeal, specifying the grounds and arguments, therefore, is made to Snohomish County Superior Court pursuant to the Land Use Petition Act, Chapter 36.70C RCW by close of business on **October 3, 2023**, and the appeal filing fee as set by Snohomish County. An appeal application and filing fee must also be filed with the City of Arlington Community and Economic Development Department at 18204 59<sup>th</sup> Avenue NE, Arlington, WA 98223

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

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

In the Matter of the Application of	)	No. PLN#912
	)	
	)	
<b>Scott Wammack,</b>	)	<b>Ironwood Place Mixed-Use Proposal</b>
<b>Grandview North, LLC</b>	)	
	)	
	)	
	)	
<u>For a Conditional Use Permit</u>	)	FINDINGS, CONCLUSIONS, AND DECISION

**SUMMARY OF DECISION**

The request for a conditional use permit to allow the development of a mixed-use proposal—including construction of two buildings that would contain approximately 8,990 square feet of commercial space, 2,071 square feet of tenant amenities, and up to 102 multi-family residential units; as well as other site improvements and appurtenances—on approximately 2.5 acres at 18725 67th Avenue NE and 18620 Woodlands Way, 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 August 10, 2023.

Testimony:

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

- Amy Rusko, City Planning Manager
- Marc Hayes, City Director of Community and Economic Development
- Randy Devoir, Project Engineer
- Edward Koltonowski, Project Traffic Engineer
- Scott Tomkins
- Ryan Larsen
- Karri Norberg
- Bob Vick
- Jessica Guerrier
- Kathy Ladines
- John Donahue
- Keith Russell
- Sierra Landry

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Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, undated
2. Conditional Use Permit, dated December 14, 2021
3. Project Narrative, undated
4. Design Review Narrative, dated December 22, 2022
5. Final Site Plan, dated August 2, 2023
6. Original Site Plan, dated December 13, 2021
7. Landscape Plan, dated March 10, 2022
8. Architectural Plans, dated February 20, 2023
9. Lighting Cut Sheets, undated
10. 3D Color Renderings and Schedule, undated
11. Water and Sewer Availability Application, dated December 13, 2021
12. SEPA Environmental Checklist, dated December 14, 2021
13. Complete Streets Checklist, undated
14. Owner's Policy of Title Insurance
15. Geotechnical Engineering Report, GeoTest Services, Inc., dated June 7, 2021
16. Cultural Resources Assessment, ASM Affiliates, Inc., dated October 2022
17. Unanticipated Discovery of Cultural Resources and Human Skeletal Remains Plan, undated
18. Targeted Drainage Report, Cascade Surveying and Engineering, Inc., dated December 14, 2021
19. Access Analysis Memorandum, Kimley-Horn and Associates, Inc., dated August 4, 2023
20. Traffic Impact Analysis, Gibson Traffic and Consultants, Inc., dated November 19, 2021
21. Traffic Mitigation Offer to Snohomish County, dated December 13, 2021
22. Long Version Traffic Mitigation Offer to WSDOT, dated December 13, 2021
23. Parking Analysis Memorandum, Kimley-Horn and Associates, Inc., dated October 31, 2022
24. Vicinity Map
25. Plat of the Woodlands, dated April 3, 1985
26. Statutory Warranty Deed, dated May 24, 2001
27. Quit Claim Deed, dated July 23, 2001
28. Resolution No. 631, dated March 18, 2002
29. Resolution No. 632, dated April 1, 2002
30. Easement, dated October 26, 2004
31. Quit Claim Deed, dated October 29, 2004
32. Arlington City Council Workshop Notes, dated February 19, 2002
33. Arlington City Council Workshop Notes, dated March 18, 2002
34. Arlington City Council Workshop Notes, dated April 1, 2002
35. Letter from City Planning Manager Amy Rusko, dated May 31, 2022
36. Email Thread between Scott Wammack and Janice Van Hook, dated March 31, 2022, to April 19, 2022

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37. Party of Record Tracking List
38. Email Thread between City Staff, the Washington State Department of Archaeology and Historic Preservation, and the Stillaguamish Tribe of Indians, dated January 21, 2022, to July 24, 2023
39. Comment from the Washington State Department of Archaeology and Historic Preservation, dated January 24, 2022, and Comment from Washington State Department of Archaeology and Historic Preservation, dated December 16, 2022
40. Comment from the Washington State Department of Transportation Aviation Division, dated February 4, 2022
41. Comment from the Washington State Department of Transportation, dated February 1, 2022
42. Comment from Curt and Kathy Ladines, dated February 3, 2022, with City Response, dated February 14, 2022
43. Comment from Janice Van Hook, dated February 10, 2022
44. Email Thread between Kristin Banfield and City Staff, dated February 15, 2022, to July 17, 2023, with Comment from Keith Russell, dated February 14, 2022
45. Comment from Mike Bickford, dated January 24, 2022
46. Comment from Pam and Roger Meneses, dated February 4, 2022, with City Response, dated February 14, 2022
47. Email from Jason Davis, dated May 17, 2023
48. Comment from Keith Russell, dated July 7, 2023
49. Comment from David Kuhl, dated July 22, 2023
50. Comment from Laura and David Kuhl, dated July 21, 2023
51. Comment from Christin Flynn Peterson, dated July 31, 2023
52. Email from John Donahue, dated February 9, 2022
53. Notice of Public Hearing Materials:
  - a. Affidavit of Posting, dated July 20, 2023
  - b. Affidavit of Posting, dated July 19, 2023
  - c. Notice of Public Hearing, dated July 20, 2023
  - d. Notice of Public Hearing for publication in *The Herald* on July 20, 2023
54. Letter from City re: Resubmittal Timeframe, dated March 24, 2022; Letter from City re: Resubmittal Timeframe, dated July 18, 2022; Letter from City re: Resubmittal Timeframe, dated September 28, 2022; Letter from City re: Resubmittal Timeframe, dated October 21, 2022; Letter from City re: Resubmittal Timeframe, dated February 7, 2023; Letter from City re: Resubmittal Timeframe, dated May 23, 2023
55. Neighborhood Meeting Summary, dated February 15, 2022, with Project Presentation
56. Vicinity Map with Mailing Labels
57. Notice of Application Materials:
  - a. Affidavit of Posting, dated January 21, 2022
  - b. Notice of Application, Mitigated Determination of Nonsignificance, and Notice of Neighborhood Meeting, dated January 19, 2022
  - c. Email Request for Notice of Application publication in *The Herald* on January 21, 2022

- d. Notice of Application Email to Reviewing Agencies, dated January 21, 2022
- e. Postcards
- 58. Notice of Complete Application, dated January 18, 2022
- 59. Comment from Curt and Kathy Ladines, dated August 7, 2023
- 60. Comment from Keith Russell, dated August 7, 2023
- 61. Additional Traffic Data, dated June 9, 2023

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. Scott Wammack, of Grandview North, LLC (Applicant), requests approval of a conditional use permit (CUP) to allow construction of a multi-family housing and commercial mixed-use development, known as the “Ironwood Place” proposal, on two parcels totaling 2.5 acres. The proposed development would include two three-story mixed-use buildings with a total of 102 multi-family residential units, including 39 studio units, 42 one-bedroom units, and 21 two-bedroom units. Building 1 would include 8,990 square feet of commercial space and 2,071 square feet of tenant amenities on the ground floor, with residential units located on the upper floors. Building 2 would consist of residential units on all three floors and nine covered parking stalls on the ground floor. Associated improvements would include 143 parking stalls, a gazebo, patio area, sports court, playground, sidewalk, open space, landscaping, stormwater management features, and frontage improvements along 67th Avenue and Woodlands Way. Access to the site is provided by Woodlands Way and 188th Street NE. The properties are located at 18725 67th Avenue NE and 18520 Woodlands Way.<sup>1</sup> *Exhibit 1, Staff Report, pages 1 through 4; Exhibits 2 through 8; Exhibit 10; Exhibit 24.*
2. The City of Arlington (City) determined that the application was complete on January 18, 2022. On January 19, 2022, the City provided notice of the application and associated neighborhood meeting by mailing or emailing notice to property owners within 500 feet of the site and to reviewing agencies, publishing notice in *The Herald*, and posting notice on-site and on the City website, with a comment deadline of February 4, 2022. On July 19, 2023, the City provided notice of the open record hearing associated with the application by posting notice on-site. The next day, the City provided notice of the open record hearing by mailing or emailing notice to property owners within 500 feet of the site and to reviewing agencies, posting notice on-site, and publishing notice in *The Herald*. The City received several comments on the proposal from reviewing agencies and members of the public in response to its notice materials, discussed in further detail

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<sup>1</sup> The properties are identified by tax identification numbers 31052300200500 and 00738500103100. *Exhibit 1, Staff Report, page 3.*

below. *Exhibit 1, Staff Report, pages 3 and 8; Exhibit 37; Exhibit 53; Exhibits 55 through 58.*

State Environmental Policy Act

3. The City acted as lead agency and analyzed the environmental impacts of the proposal as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). 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 January 19, 2022, with a comment and appeal deadline of February 4, 2022. The MDNS was not appealed. *Exhibit 1, Staff Report, page 8; Exhibit 12; Exhibit 57.*
  
4. The MDNS would require that the Applicant:
  - The Applicant proposes an estimated grading of 6,000 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.
  - 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.
  - To mitigate for potential impacts to ground water the Applicant shall employ best design practices meeting the current Department of Ecology's Stormwater Management Manual for Western Washington.
  - 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.
  - To mitigate for the removal of significant trees on the site the Applicant shall replant at a ratio of 3:1 for every significance tree removed. If the required amount of trees cannot be replanted on site then a tree in-lieu fund shall apply.
  - 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.
  - City of Arlington noise standards found in AMC 9.20.060 shall be complied with. Specifically, in section 9.20.060.8 noises resulting in any construction or development activity or the operation of heavy equipment from 7:00pm to 7:00a, 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.
- The Applicant shall comply with the Airport Protection District Overlay within AMC 20.38. 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 Easement over the subject parcels shall be reviewed by the Arlington Municipal Airport and recorded at the Snohomish County Auditor's Office.
- The height of the proposed buildings will be approximately 34 feet (3-story). The project shall comply with the design requirements set forth in the Mixed-Use Development Regulations of AMC Chapter 20.110. The exterior of the building will consist of a variety of materials, including horizontal lap siding, vertical board and batten siding, brick siding, cedar wood trim, and class B composition roofing.
- 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.
- A variety of on-site common open space recreation areas are proposed to meet the mini-park requirement with the development and includes a playground, sport court, and plaza area. Each residential development shall pay a Community Park Impact fee of \$1,497 per multi-family dwelling unit for a total of \$152,694 in Park Mitigation fees for 102 units. Every development shall be developed so that at least 5 percent of the total area remains permanently usable open space. In this instance, the open space requirement would entail 5,443 square feet of required open space, where the Applicant has provided 6,600 square feet of common use open space.
- 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 proposal is required to construct or repair frontage improvements along 67th Avenue NE, Woodlands Way, and Brierwood Loop as approved on the Civil Construction plans. The Traffic Impact Analysis, that was submitted by Gibson Traffic Consultants, Inc., dated November 2021, states that the level of service (LOS) at the intersection of 188th Street NE and 67th Avenue NE currently operates at a LOS E and is anticipated to operate at LOS F with the development of the proposed project under current intersection conditions. The City of Arlington 6-Year Transportation Improvement Plan (TIP), however, shows improvements to the intersection that convert the intersection from a 2-way stop

to a controlled intersection with a traffic signal. The traffic impact analysis states that with a signalized intersection and the proposed project the subject intersection would operate at a LOS B. Discussion between the developer and the city is required prior to issuance of the land use permit to determine the timing and construction details of the improvements to the intersection. The use of a Development Agreement may be required to address the signalized intersection.

- Trip generation has been calculated at 77 PM Peak Hour Trips (PMPHT) and 876 Average Daily Traffic (ADT) trips per the Traffic Impact Analysis that was submitted by Gibson Traffic Consultants, Inc., dated November 2021. The analysis includes the traffic calculation for 102 multi-family residential and 12,870 square feet of commercial space. The city traffic mitigation fee is \$3,355 per PMPHT for a total of \$258,335 in traffic mitigation fees. The Traffic Impact Analysis identified that the project impacts the Snohomish County intersection of 67th Avenue NE and 152nd Street NE, under project INT-007. Snohomish County bases mitigation fees from Peak Hour Trips (PHT). The required traffic mitigation for this intersection is \$185 for 55.5 PHT and \$157 for 32.1 PHT for a total of \$15,307.20. All City and Snohomish County traffic mitigation fees shall be paid prior to building permit issuance.
- The proposal is within the Arlington School District and will be required to pay \$3,455 for every 2-bedroom multi-family dwelling unit for 21 units, for a total of \$72,555 in school mitigation fees. The Applicant shall provide the City a copy of payment/receipt to Arlington School District prior to building permit issuance.
- The Applicant shall connect to the City of Arlington water and wastewater systems.

*Exhibit 57.*

#### Comprehensive Plan and Zoning

5. The property is designated “Neighborhood Commercial with Mixed-Use Overlay” by the City Comprehensive Plan. “The purpose of the Neighborhood Commercial designation is to provide commercial amenities and professional services within geographic areas that are generally coned for residential or industrial uses in order help ensure the daily convenience needs of the nearby residences and employees can be met.” *Comprehensive Plan, page 5-6.* The Neighborhood Commercial designation “consists primarily of a compact commercial urban fabric with small-scaled commercial retail and professional services.” *Comprehensive Plan, page 5-6.* The City utilizes a Mixed-Use overlay on commercially zoned areas throughout the city in order to “create neighborhoods that replicate the feeling, functionality and efficiencies of neo-traditional development.” *Comprehensive Plan, page 5-6.*

Mixed Use development focuses on the integration of commercial, retail and residential uses in close proximity to one another, while promoting the safety and mobility of both pedestrian and biker and less emphasis on auto dependence, thus creating a livable environment where residents have to

ability to safely use alternate modes of transportation to commute to employment centers, complete their shopping and for their recreation.

*Comprehensive Plan, pages 5-6 and 5-7.*

City staff identified the following Comprehensive Plan polices as relevant to the proposal:

- Building architecture in residential and commercial developments should be human-scaled (i.e., pedestrian friendly) and conducive to social interaction. [PO-6.1]
- Mini Parks should be required in new residential developments. [PO-6.3]
- Land-use developments should be conducive to social interaction. [PO-6.4]
- Public and private civic spaces should be included in both commercial and residential neighborhoods to ensure adequate gathering places. [PO-6.5]
- Design standards should be enforced to ensure that all new developments are in harmony with the desired character of each subarea. [PO-6.6]
- Multifamily housing should be located close to commercial centers. [PH-2.1]
- Utilize mixed-use mechanisms to incentivize housing within close proximity to commercial uses. [PH-2.3]
- Based upon the monitoring and evaluation results from Policy 4.B.1, the City should evaluate the effectiveness of its zoning regulations to produce housing developments that meet the diverse housing needs identified in the Housing Characteristics and Needs Report for the community. [PH-8.5.7]
- The City should coordinate growth and development with adjacent jurisdictions to promote and protect inter-jurisdictional interests. [PL-3.1]
- Higher density residential areas should be located around commercial areas. [PL-7.2]
- Vertical and Mixed-Use developments with a residential component should be permissible in designated zones within the City. [PL-7.3]
- Where commercial and residential areas abut, new development should include the design and construction of walkways, sidewalks, or other non-motorized features to integrate and link commercial activities to neighborhoods. [PL-9.1]
- Require developers to construct those streets directly serving new development and pay a fair-share fee for specific off-site improvements necessary to mitigate any adverse impacts. [PT-1.9]
- All developments in all zoning districts shall provide sufficient parking spaces to accommodate the number of vehicles that are likely to be attracted to the development. [PT-4.8]
- Require new construction to construct sidewalks, bicycle storage/parking facilities, and access to mass transit where possible and in proportion to the proposal. [PT-4.10]
- All public streets shall be constructed with curb, gutter, sidewalk, landscape strips, and street trees. [PT-4.13]

- Provide ramps and curb cuts that comply with the Americans with Disabilities Act. [PT-5.6]
- New residential developments should be required to mitigate impacts to park, recreation, and open-space through property improvements. [PP-1.4]
- New residential developments should provide adequate on-site park space. [PP-1.12]
- The City should require that 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. [PS-1.7]

*Exhibit 1, Staff Report, pages 4, 6, and 7.*

6. The property is zoned “Neighborhood Commercial” (NC) with a mixed-use overlay. The NC zone is established “to accommodate commercial activities that would meet the daily convenience needs of people residing or working in the environs.” *Arlington Municipal Code (AMC) 20.36.020(e)*. Mixed-use, multi-family housing developments are an allowed use in the NC zone with a conditional use permit, subject to compliance with mixed-use development regulations under Chapter 20.110 AMC. *AMC Table 20.40-1*. As discussed in more detail below, the Applicant proposes to utilize the City’s mixed-use overlay, which allows NC zoned properties in the city to site residential development together with commercial, retail, and specific light manufacturing uses. *AMC 20.36.080*. *Exhibit 1, Staff Report, pages 4, 12, and 18.*

7. 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)*. The project site is located within a “Place Type” that is designated “Mixed-Use Community Center.” *AMC 20.110.012(d); AMC 20.110.014(c)(2)*.

Under the form-based code, Place Types are further categorized by “Use Intensity Transects.” The properties are located within Transect 4 – Neighborhood Medium Volume (T4N-MV). *AMC 20.110.012(e); AMC 20.110.014(c)(2)*. The purpose of the T4N-MV area is to “provide an appropriate transition from a neighborhood main street environment into the residential areas, and to provide flexible buildings in a residential form that can allow a mix of residential and walkable local serving commercial and service uses.” *AMC 20.110.014(c)(2)*. Key features of the T4N-MV area include a “[m]ix of medium density building types with a variety of forms which decrease in size and intensity of use toward the outer boundary of the corridor.” *AMC 20.110.014(c)(4)*. Predominate land uses in the T4N-MV area of the Mixed-Use Community Center place

type include a “mix of uses to transition from the higher intensity commercial and high density residential along the corridor’s main boulevard core to more moderate density and moderate volume residential uses along the edge of the neighborhood corridor.” *AMC 20.110.014(c)(2). Exhibit 1, Staff Report, pages 2, and 19 through 21.*

8. The City’s mixed-use development regulations (AMC 20.110.014) provide specific guidelines on appropriate building types and frontage, with specific standards related to building height, building form, building placement, parking, blocks, civic and open spaces, landscaping and screening, low-impact design (LID) for stormwater management, outdoor lighting, and architecture. City staff analyzed the proposal and determined that these requirements would be met, noting:
- The project provides a neighborhood main street building along the frontage of 67th Avenue NE and a smaller residential building to the east utilizing horizontal mixed-use on the site creating a transition off the main street. This area is zoned NC and is intended to provide local commercial businesses and higher density along the 67th Avenue corridor.
  - The project has proposed to utilize the Mid-Rise style building type with commercial and retail uses on the ground floor for Building 1 and residential on all floors with structured ground floor parking.
  - The proposed architectural plans shows that the project meets the regulations for building height.
  - The proposed project has provided a ground floor space depth of 67 feet for the commercial and retail tenant spaces in Building 1 and 55 feet for the residential in Building 2. The entries to the commercial and retail tenant spaces are shown as evenly spaced and provide an entry for each commercial suite along the frontage of the building.
  - The proposed project complies with building placement and setbacks requirements. The setbacks are compatible with the neighboring properties, access aisles, required landscaping, open space, and access.
  - The proposed project vested on January 18, 2022, prior to the city’s parking code change that occurred in October of 2022. The proposed project is not required to provide a certain number of parking spaces for the residential uses on the site. However, the parking is the responsibility of the owner or covenants of the property. If parking issues arise, it is the responsibility of the owner to limit the number of cars a tenant can have on the site. Parking is not allowed off-site unless a parking agreement is reviewed by the city and recorded. The Applicant has provided a total of 143 parking stalls on the site and provided a Parking Demand Study prepared by Kimley Horn Traffic Consultants, dated October 2022.
  - The proposed project with parking location requirements. Building 1 provides parking to the east of the building and Building 2 provides parking with the required setback from the side street.

- The proposed project has provided parking drive aisle widths of both 20 feet and 24 feet throughout the site.
- The proposed project has not shown any encroachments of the building into the setbacks established from the public right-of-way.
- Building 1 utilizes the Shopfront frontage type and Building 2 utilizes the Porch Projecting frontage type. The Applicant has provided a widened sidewalk for access to the commercial or retail spaces.
- The proposed uses are allowed on the site. The first floor of Building 1 allows for commercial, retail, or service uses and the second and third floors would accommodate the multi-family residential use. The first floor through third floor of Building 2 would be developed with residential uses.
- Building 1 has proposed a Shopfront frontage type and awning on the west and south sides of the building that front the public streets. The commercial or retail store fronts provide access from the sidewalk with large windows for the businesses. Building 2 has proposed a Porch frontage type on the east and west sides of the building that face the public street on the west and the parking area to the east to provide residents access to the building.
- The proposed project is a medium to medium-large sized structure that incorporates structured parking in Building 2. Building 1 would include commercial/retail on the first floor with multi-family residential on floors two and three, while Building 2 would provide multi-family residential on all three floors.
- The proposed project is located along 67th Avenue and Woodlands Way, with an access point to 188th Street. The frontage along 67th Avenue provides pedestrian and bicycle access from Centennial Trail. The frontage of 188th Street and Woodlands Way provides accessible vehicular, pedestrian, and bicycle access. The project has access from the north and south through public streets. The project complies with the complete street program and provides multiple modes of travel throughout the entire site.
- The proposed project provides parking on-site with surface and structured parking. The parking stalls are a mixture of parallel, perpendicular, and tandem. The site plan shows that the parking spaces are 8-feet by 18-feet, 8-feet by 19-feet, 8-feet by 20-feet, and 8-feet by 36-feet with a two-way drive aisle of 20 and 24 feet. The project has provided screening of the parking areas by installing a fence and landscaping on the southwest portion of the site. The project has provided 32 bicycle parking spaces on the site. The bicycle space location and rack details shall be provided on the Civil Plans.
- The proposed project has provided a walkable urban environment for the tenants of the building. The project has provided for 5,443 square feet of permanent open space on the site.
- The proposed project has provided landscaping throughout the properties within the park, open space, and parking areas. The project is not required to install irrigation, but the property owner may choose to install automatic irrigation on the

site. If this is proposed then plans would need to be submitted, reviewed, and approved with the Civil Permit. The project has provided 20 percent shading in the parking lot area. The total area of shading is 9,251 square feet. The project is vested to the previous code that required one tree per five parking stalls. The landscape plans show that 31 trees are provided within the parking area. The landscape plans show all required landscaping components have been met. The interior shade trees between the building are proposed to be 1.5 inches caliper between the buildings. The street frontage trees are proposed to be 2 inches caliper and be spaced every 30 feet on center. All trees would be planted with root barrier per the City of Arlington Standard R-260 along the public rights-of-way. All parking lot landscaping is proposed to be contained within planting beds with a minimum of 6-inch curbing that provides stormwater breaks.

- The project has proposed a 6-foot solid privacy fence constructed of cedar along all property lines, except for the frontage along 67th Avenue.
- The development is proposing to use infiltration on the site to manage the stormwater. All stormwater is required to meet the 2012 Stormwater Management Manual for Western Washington, with 2014 Updates. The final drainage plan shall be approved with the Civil permit.
- The project has proposed lighting that meets the requirements of the T4N-MV transect.
- The proposed development has met the compatibility of the surrounding developments. Regional Compatibility: The design of the building has incorporated design features to address the local weather and compliment regional aesthetics. Every entry either has a roof overhang, awning, canopy, or is recessed back to create cover from the elements. Neighborhood Compatibility: The design is a craftsman style and proposed earth tone colors and natural materials, such as brick and wood-grain siding and trim. This site is in a transitional district and creates a model for future projects in the immediate area and are compatible with existing neighboring residential.
- The proposed project consists of two buildings on the site that both have the same craftsman design, with similar colors and materials. This project is the first to develop in the Neighborhood Commercial/Mixed-Use Overlay transect.
- The proposed project has architectural design and details on all four sides of the buildings, providing consistent style, colors, and materials. The HVAC equipment would be screened and designed to blend in with the building.
- The proposed development does not have any dominate corporate or trademark architectural details. The project would provide signage for the name of the project. The individual commercial or retail businesses on the first floor of the building would submit proposed signage to the City for approval prior to installation. The signage must meet all requirements of Chapter 20.68 AMC and blend in with the overall building.

- The project has proposed two three-story buildings. Building 1 would be 44 feet in height to the peak of the roof and Building 2 would be 40 feet and four inches in height. The design height of the building meets the requirements for the zone and there are no abrupt or severe differences in building scale or massing within the complex.
- The proposed buildings start with a brick and board and batten exterior surface surrounding the first floor. The color and material forms give the project a solid, recognizable base. The upper floors consist of hardie-plank and hardie-shake. These materials and colors represent the middle of the building. The roof material is proposed to be architectural composition roofing, which represents the top of the building. The combination of these colors and materials help define a distinctive bottom, middle, and top of the structure.
- The project has proposed many vertical and horizontal elements, including modulation and articulation on all sides of the building. The elevations show the bump outs, gable roofs, decks, entry canopies, and storefronts. In addition, the use of trellises and knee-braces throughout the project, creates additional shadow lines and interest. The buildings follow the typical northwest craftsman style with the eaves, overhangs, and brackets.
- The project proposes a pleasing pedestrian experience by breaking up the building elements and dividing the building into smaller proportions. The front (west) elevation incorporates canopies, decks, trellises, windows, and vertical and horizontal modulations that cover 90 percent of the street elevation. The remaining elevations utilize the same elements and cover at least 60 percent of each elevation.
- The project has proposed hip and gable roofs with a minimum 4-to-1 slope. The gable roofs break up the eave length a minimum of every 30 feet. There are hip roof elements over each deck that are modulated from the main eave height.
- The project proposes gutters and downspouts that are incorporated into the building design. The gutters are across the face of the eaves. The downspout locations are integrated into the façade.
- The proposed development provides customer and public entrances to the commercial and retail spaces on the west side of Building 1. Each individual commercial suite would have their own entrance. The entrances would be visible through awning/canopy covers with recessed entrances. The awning/canopy design is a gable roof form with heavy timber accents that is similar in design to the numerous knee-braces throughout the project. All entrances are clearly defined and face public streets and the internal drives.
- The development proposes first-floor storefront windows facing 67th Avenue are of commercial material, vertically proportioned, and recessed into the brick veneer. The residential windows on all sides of both buildings are vertically proportioned and provide trim.

- The project has proposed many windows, especially with the commercial storefronts on the first floor. The commercial floor level is minimally transparent with storefront glazing with a pedestrian view of between 0 to ten feet, as shown on the west side of Building 1. The first floor glazing along the street would meet the 50 percent of the elevation, the upper floors would meet the 25 percent to 60 percent of the frontage. The transparent glass would possess a minimum of 60 percent light transmittance factor. The project would provide a maximum reflectance factor of .20. No first floor reflective coating is permitted.

*Exhibit 1, Staff Report, pages 19 through 28.*

9. The properties are 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 is required to obtain an avigation easement with the Airport prior to project completion. The avigation easement submittal must include the applicable Federal Aviation Administration (FAA) forms. *Exhibit 1, Staff Report, pages 12 and 34.*

#### Existing Site and Surrounding Development

10. The 2.5-acre project site is currently vacant and relatively flat. The parcels have been largely cleared of vegetation with only short grass and some landscaping shrubs remaining. The southern and eastern margins are covered with weeds, blackberry brambles, scotch broom, alders, and conifers. No critical areas were identified on the site. GeoTest, Services, Inc., prepared a “Geotechnical Engineering Report” (“Geotechnical Report” or “GR”) on behalf of the Applicant, dated June 7, 2021. The Geotechnical Report determined that the subsurface conditions at the site are suitable for proposed development, provided that the recommendations contained in the GR are incorporated into the project design. The GR also indicates that the site is suitable for stormwater infiltration. The GR provides recommendations related to site preparation and earthwork, fill and compaction, wet weather earthwork, seismic design considerations, foundation support, floor support, foundation and site drainage, resistance to lateral loads, temporary and permanent slopes, utilities, pavement subgrade preparation, stormwater management, and monitoring.

Cascade Surveying and Engineering, Inc., provided a report addressing stormwater on the properties on behalf of the Applicant entitled “Targeted Drainage Report” (“Drainage Report” or “DR”), dated December 14, 2021. The Drainage Report indicates that all runoff from impervious surfaces would fully infiltrate. Flow control would be provided through infiltration trenches. Runoff treatment would be provided by 18 inches of treatment soil beneath the trenches. The DR determined that fully infiltrating all runoff from the site is anticipated to meet or lower the site’s runoff from predeveloped, native

forested conditions. *Exhibit 1, Staff Report, pages 2, 4, 24, and 28; Exhibits 3 through 5; Exhibit 15; Exhibit 18.*

11. Properties to the north are zoned NC with a mixed use overlay and developed with single-family residences and a Verizon telephone building. Properties to the south and east are zoned Residential Low Capacity (RLC) and developed with single-family residences. Adjacent properties to the west are zoned General Industrial (GI) and developed with manufacturing industrial businesses. *Exhibit 1, Staff Report, pages 4 and 6; Exhibit 24.*

#### Development Regulations

12. The proposed development is subject to the 2012 Stormwater Management Manual for Western Washington, with 2014 Updates. *Chapter 13.28 AMC.* As detailed above, all runoff from impervious surfaces would fully infiltrate on-site. Flow control would be provided through infiltration trenches. Water quality treatment would be provided by treatment soil beneath the trenches. Runoff from the site is anticipated to meet or lower the site's runoff from predeveloped, native forested conditions. The City would review the Applicant's final stormwater drainage plan for compliance with applicable stormwater regulations at the civil permit stage. *Exhibit 1, Staff Report, pages 24 and 28; Exhibit 15; Exhibit 18.*
13. City staff reviewed the proposal and determined that it would comply with lot access requirements under AMC 20.56.030, noting that the project would provide vehicular, pedestrian, and bicycle access to the project site from 188th Street NE and Woodlands Way, which are public streets. Pedestrian and bicycle access to the site would also be provided by 67th Avenue NE from the Centennial Trail. City staff also determined that the proposal would comply with street entrance requirements under AMC 20.56.050, noting that: (1) the proposed development provides driveway access to each building lot from internal private drive aisles; (2) proposed entrances have appropriate signage, stop bars, and crosswalks to protect vehicles, pedestrians, and bicyclists; (3) proposed driveway entrances are located in the areas that would have the least interference with surrounding streets; (4) proposed driveway cuts are 20 feet from 188th Street and 24 feet from Woodlands Way, and both are within the allowed width limits to provide safe access to the site; and (5) the driveway entrances would not be located adjacent to each other so as to create a double width driveway and accommodate vehicles moving in both directions. The City would review the proposal at the civil permit stage for compliance with street and sidewalk construction standards and specifications, as required under AMC 20.56.130. *Exhibit 1, Staff Report, page 14; Exhibit 5; Exhibit 13.*
14. Gibson Traffic Consultants, Inc., prepared a traffic impact analysis ("TIA") for the proposed development, dated November 19, 2021. The TIA determined that the mixed-use development would generate 876 new average daily trips, with 45 AM peak-hour trips and 77 PM peak-hour trips. The TIA further determined that, with planned future

improvements, all studied intersections would operate at acceptable levels of service (LOS) following a build-out of the proposed development, except for the intersection at 67th Avenue NE and 188th Street NE, which currently operates at a deficient LOS E and is anticipated to operate at a deficient LOS F with or without the proposed development. The TIA notes that the intersection is on the 6-Year Transportation Improvement Plan (TIP) to convert the intersection to a controlled intersection and that the intersection is anticipated to operate at LOS B following full build-out of the proposed development if the intersection is signalized. During the open record hearing associated with the application, City Planning Manager Amy Rusko clarified that the City is planning to convert the intersection at 67th Avenue NE and 188th Street NE to a signalized intersection.

Kimley-Horn and Associates, Inc., provided a memorandum addressing traffic impacts related to site plan revisions, entitled “Access Analysis” (“AA”), dated August 4, 2023. The Access Analysis explains that the relocation of site access approximately 40 feet to the north would increase sight distance visibility towards the intersection of 67th Avenue NE and Woodlands Way. The AA also determined that the relocated access would not change the distribution of trips beyond the initial proposed access point and that off-site level of service would remain similar to or better than initially proposed by the Applicant. The traffic impacts of the proposed development were evaluated and addressed in the MDNS, which was not appealed, and which would require the Applicant to pay traffic impacts fees based on the number of PM peak-hour trips generated by the proposal. The Applicant would also be required to pay traffic fees to Snohomish County to address impacts to the County’s planned improvements to the intersection of 67th Avenue NE and 152nd Street NE. In addition, the Applicant would be required to pay school district fees to the Arlington School District and community park fees to the City. *Exhibit 1, Staff Report, pages 2, 16, and 17; Exhibit 5; Exhibit 13; Exhibit 19; Exhibit 20; Exhibit 21; Exhibit 22; Testimony of City Planning Manager Amy Rusko.*

15. As noted above, the proposed development vested prior to the City’s adoption of parking code changes in October 2022. Under the vested code, the proposed development is not required to provide a certain number of parking spaces for the residential uses on-site. City staff indicate that parking is the responsibility of the owner or covenants of the property and that, if parking issues arise, it is the responsibility of the owner to limit the number of cars a tenant can have on the site. City staff also indicate that parking is not allowed off-site unless a parking agreement is reviewed and recorded by the City. AMC 20.110.014.c.2 requires two parking spaces per 1,000 square feet for retail and service uses over 3,500 square feet in size. Under this requirement, the Applicant must provide 18 parking spaces for the 8,990 square feet of commercial space. Kimley-Horn and Associates, Inc., prepared a memorandum addressing parking for the proposed development, entitled “Parking Analysis” (“PA”), dated October 31, 2022. The Parking Analysis indicates that the City Mixed-Use Development Regulations identify parking guidelines for residential and commercial uses that include 1.25 parking spaces per unit

plus one space for every four units for studios and one-bedroom units; 2.25 parking spaces per unit plus one space for every four units for two-bedroom units; and two spaces per 1,000 square feet for commercial uses. The Mixed-Use Development Regulations also identify an adjustment that can be made based on shared parking. Specifically, the adjustment can range between 1.2 for residential and retail uses and 1.4 for residential and office uses. As noted above, the proposed development includes 39 studio units, 42 one-bedroom units, 21 two-bedroom units, and 8,990 square feet of commercial space. The PA determined that the Mixed-Use Development regulations would identify a need of 193 parking spaces without adjustments and between 138 and 161 parking spaces with adjustments. The Parking Analysis also evaluated parking needs for the site under the Parking Generation Manual, 5th Edition, published by the Institute of Transportation Engineers, which indicates that the proposed development would have a demand of between 99 and 141 parking spaces. The proposed development includes 143 parking spaces, including 111 standard stalls, 19 compact stalls, five ADA-accessible stalls, and eight electric vehicle (EV) stalls. The ADA-accessible stalls would include eight feet of adjacent striped area and appropriate signage. As noted above, City staff determined that the proposed development would comply with parking dimensional and landscaping requirements under AMC 20.110.014. *Exhibit 1, Staff Report, pages 1, 2, 15, 16, and 20 through 23; Exhibit 5; Exhibit 23.*

16. City staff reviewed the proposal and determined that it would comply with the recreational facilities and open space requirements of Chapter 20.52 AMC, noting that the project would: (1) exceed the minimum required 10,400 square feet of mini-park space by providing 10,923 square feet of mini-park space and (2) meet recreational facility requirements by providing amenities within the mini-park space that would include play equipment, a sport court, a gazebo and patio area, picnic tables, and a tenant lounge. *Exhibit 1, Staff Report, page 13; Exhibit 5; Exhibit 7.*
17. Water and sanitary sewer service for the proposed mixed-use development would be provided by the City of Arlington. The City of Arlington issued a water and sewer availability letter, dated December 13, 2021, which confirmed that there would be adequate public water and sewer service available to serve the project. All proposed utilities to and on the site would be required to be installed underground. The utility lines serving the site would be required to be shown on the civil plans and approved by the City. The construction of utilities would take place after civil permit approval and would be required to meet Public Works Construction Standards and Specifications. *Exhibit 1, Staff Report, pages 14 and 15; Exhibit 11.*

#### Conditional Use Permit

18. As noted above, the Applicant requests a CUP to allow construction of an up to 102-unit, multi-family housing and commercial development utilizing the City's mixed-use development regulations under Chapter 20.110 AMC. City staff reviewed the application

materials and determined that, with conditions, the criteria for a CUP would be satisfied, noting:

- The properties are located within the city limits and the City of Arlington Zoning Map identifies the subject properties as Neighborhood Commercial with Mixed Use Overlay. The Mixed-Use building is allowed by meeting the regulations of the Mixed-Use Development Regulations.
- The City determined that the application was complete on January 18, 2022. With conditions, the proposed mixed-use project would comply with all requirements under Title 20 AMC.
- The City issued an MDNS on January 19, 2022. The MDNS was not appealed, and comments from reviewing agencies and members of the public have been addressed.
- The requested CUP, as conditioned, would be consistent with all Title 20 AMC requirements; permit processing procedures; and all other applicable plans, regulations, and policies.
- The project would not materially endanger public health or safety. The proposed development meets the intent of the zoning and mixed-use development regulations.
- The project, as mitigated and conditioned, would not materially harm adjoining or abutting property.
- The site design/layout, building design, and the proposed uses of the proposed development would be compatible with surrounding residential land uses.

*Exhibit 1, Staff Report, pages 31 and 32.*

#### Written Comments

19. The City received several comments on the proposal from reviewing agencies:
- The Stillaguamish Tribe of Indians stated that there may be cultural materials on the project site and requested to be notified of ground disturbance.
  - On January 24, 2022, the Washington State Department of Archaeology and Historic Preservation (DAHP) expressed concerns about cultural resources on the properties and recommended a professional archaeology survey consultation with the concerned Tribes' cultural committees and staff regarding cultural resources. On December 16, 2022, DAHP stated that it concurred with results and recommendations made in the archaeology survey report and recommended that a standard Inadvertent Discovery Plan is followed during all ground disturbing activities.
  - The Washington State Department of Transportation (WSDOT) Aviation Division commented that the proposed development is consistent with WSDOT's guidance but that, given the proximity of the site to the airport, the project site may experience low flying aircraft, aircraft engine and propeller noise, vibrations, and exhaust fumes.

- The Washington State Department of Transportation stated that it had no comment on the proposal.

*Exhibit 1, Staff Report, page 29; Exhibit 17; Exhibits 38 through 41.*

20. As noted above, the City also received several comments on the proposal from members of the public in response to its notice materials. Specifically, these comments related to the following topics:

- **Traffic:** Comments on this topic generally expressed concerns about increased traffic and impacts to the level of service (LOS) of intersections in the area. For example, Curt and Kathy Ladines, Pam and Roger Meneses, and David and Laura Kuhl raised concerns about the LOS at the intersection of 67th Avenue NE and 188th Street NE. David and Laura Kuhl and Christin Flynn Peterson also expressed concerns about access to and from the site. Keith Russell, Curt and Kathy Ladines, and Pam and Roger Meneses expressed concerns about the TIA, specifically whether traffic counts accurately reflected present traffic conditions and whether cyclist traffic had been adequately addressed. Several commenters expressed concerns about safety issues related to increased traffic in the area. Commenters also raised concerns about impacts to a school bus stop located near the intersection of Woodlands Way and 67th Avenue NE.
- **Parking:** Comments on this topic generally expressed concerns that the proposed development would not provide adequate parking to serve the number of residential units. Several commenters expressed concerns that residents would park on Woodlands Way.
- **Tree Retention:** Comments on this topic generally expressed concerns about tree removal and the loss of greenery and wildlife habitat on the project site.
- **Tract A-32:** Comments on this topic raised the concern that Tract A-32 is not a City right-of-way but rather belongs to the Gleneagle Homeowners' Association (HOA).
- **Compatibility with Surrounding Area:** Comments on this topic generally expressed concerns about the compatibility of the proposed development with the surrounding area. Specifically, commenters expressed that the proposed development would impact privacy in the area and that the proposed development would not serve families similar the surrounding neighborhood.
- **Commercial Space:** Comments on this topic generally expressed concerns that the commercial space in the proposed development would not be utilized.

*Exhibits 42 through 52; Exhibit 59; Exhibit 60.*

#### Testimony

21. City Planning Manager Amy Rusko testified generally about the proposal and about how, with conditions, it would comply with the City Comprehensive Plan, zoning ordinances, mixed-use development regulations, and the criteria for approval of a CUP. She stated that the proposed two three-story mixed-use buildings would include residential units and commercial space. Ms. Rusko explained that the Applicant initially proposed an access

point on Tract A-32 but that it was determined the Tract belongs to the Gleneagle HOA rather than the City and the HOA did not approve access to the Tract. She stated that the Applicant would be required to install a four-way stop at the intersection of 67th Avenue NE and 188th Street and that the City would eventually signalize the intersection. She provided a brief overview of the Mixed-Use Overlay development regulations in the City and how they relate to the subject proposal. She noted that, as part of compliance with the Mixed-Use Overlay regulations, the Applicant would provide a plaza on the project site for public use. She noted that the proposal vested on January 18, 2022, prior to the adoption of a code amendment in October 2022, related to parking requirements (as detailed above). She explained that the proposal vested to regulations that did not require a certain number of parking spaces for the proposed development.

In response to concerns raised by members of the public, Ms. Rusko explained that the City sent notice of the proposal to the Arlington School District, who did not respond.  
*Testimony of Ms. Rusko.*

22. Project Engineer Randy Devoir stated that the proposed development would provide 146 parking spaces, which is more than the parking analysis and code requires. He stated that the Applicant was told that office space was not allowed on the ground floor of the proposed buildings and requested clarification. He noted that all stormwater from impervious surfaces would be infiltrated on-site. In response to concerns raised by members of the public, Mr. Devoir clarified that the access point on Woodlands Way would be located as far from 67th Avenue NE as possible. *Testimony of Mr. Devoir.*
23. Project Traffic Engineer Edward Koltonowski explained that the intersection of 67th Avenue and 188th Street would be converted to a four-way stop and would be signalized under the City's six-year Transportation Improvement Plan, to which the Applicant would contribute traffic mitigation fees. He stated that the Applicant conducted traffic counts in 2021 and 2023, which were very similar. He noted that improvements at the intersection of 172nd Avenue and 67th Avenue are a fully funded state project. He stated that scheduled intersections improvements would put the proposed development well within the six-year concurrency window established for these types of developments.

In response to concerns raised by members of the public Mr. Koltonowski clarified that the signalization at 188th Street and 67th Avenue would require southbound traffic to stop on 188th Street. He stated that queuing traffic is not supposed to block any intersections under Washington law. He also provided a brief description of sight distance at the access points and noted that further review of this issue would occur with engineered project plans. *Testimony of Mr. Koltonowski.*

24. Scott Tomkins expressed concerns about an access point being located right on the cusp of a bend that is utilized by students and parents as a school bus stop. He also raised concerns about overflow parking from the site onto Woodlands Way. He expressed

- concerns about the commercial space in the proposed development, noting that commercial space in a similar development—Centennial Park—has not been utilized since construction. *Testimony of Mr. Tomkins.*
25. Ryan Larsen expressed support for the proposed development and concurred with the findings in the Staff Report. *Testimony of Mr. Larsen.*
  26. Karri Norberg expressed concerns about increased traffic at the intersection of 67th Avenue NE and Woodlands Way, noting that the number of people living near the intersection has increased over recent years. She echoed concerns about the number of on-site parking spaces and overflow parking on Woodlands Way. She also expressed concerns about use of the commercial space in the proposed development. *Testimony of Ms. Norberg.*
  27. Bob Vick raised concerns about the access point on Woodlands Way and about traffic conflicts with cyclists on Centennial Trail. He also expressed concerns that the MDNS had not been amended after the site plan was revised. *Testimony of Mr. Vick.*
  28. Jessica Guerrier echoed concerns about increased traffic, impacts to cyclists, and safety concerns related to traffic. She noted that there have been multiple accidents in the area. *Testimony of Ms. Guerrier.*
  29. Kathy Ladines expressed concerns that the traffic counts in the TIA do not accurately reflect current traffic conditions. She also raised concerns about the sight distance and queuing related to the access points. She echoed concerns about parking on Woodlands Way. *Testimony of Ms. Ladines.*
  30. John Donahue echoed concerns about increased traffic, safety concerns related to students at a nearby bus stop, and cyclist safety. He also echoed concerns about safety concerns related to siting the access point closer to 67th Avenue. *Testimony of Mr. Donahue.*
  31. Keith Russell echoed concerns about overflow parking on Woodlands Way. He stated that similar proposals have experienced problems with adequate parking. He echoed concerns about cyclist safety and traffic impacts related to Centennial Trail. *Testimony of Mr. Russell.*
  32. Sierra Landry expressed concerns that the issues raised by members of the public living in the vicinity of the project site would not be adequately considered. *Testimony of Ms. Landry.*
  33. City Director of Community and Economic Development Marc Hayes explained that the City has done a cursory review of the site plan and will conduct additional, more detailed

review of the proposed site access during review of the engineered project plans. He stated that the fire department would review the site plan during the civil review process. He noted that the City would move forward with posting “No Parking” signs on Woodlands Way. He clarified that the proposed development is required to have commercial retail uses on the project site (as opposed to office space) but that in five years, the Applicant could complete a market analysis in order to demonstrate that retail commercial was not viable at the subject location. Mr. Hayes explained that parking issues with Centennial Park were caused by a large portion being taken up with material storage related to supply chain issues. *Testimony of Mr. Hayes.*

#### Additional Materials

34. As noted above, during the open record hearing associated with the application, Project Traffic Engineer Edward Koltonowski testified that an independent traffic analysis had been completed for the intersection of 67th Avenue NE and 188th Street NE in 2023. After the close of the hearing, the Applicant submitted the traffic count data. The traffic count is dated June 7, 2023. *Exhibit 61.*

#### Staff Recommendation

35. City staff, having determined that the proposed development would comply with the City Comprehensive Plan and all applicable development regulations, recommends approval of the Applicant’s request for a CUP, with conditions. Mr. Devoir testified that the Applicant understands and would comply with City staff’s recommended conditions. *Exhibit 1, Staff Report, pages 32 through 36; Testimony of Mr. Devoir.*

### **CONCLUSIONS**

#### Jurisdiction

The Hearing Examiner is granted the authority to hear and decide the applications for a conditional use permit. *AMC 20.12.210; AMC 20.12.230; AMC 20.16.170.*

#### Criteria for Review

In considering whether to approve an application for a conditional use permit, the hearing examiner shall proceed according to the following format:

- (1) The hearing examiner shall consider whether the application is complete. If no evidence is presented that the application is incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the hearing examiner that the application is complete.
- (2) The hearing examiner shall consider whether the application complies with all of the applicable requirements of this title. If a finding to this effect can be made, the hearing examiner need not make further findings concerning such requirements. If such a finding cannot be made then a finding shall be made that the application be found not in compliance with

one or more of the requirements of this title. Such a finding shall specify the particular requirements the application fails to meet. Separate findings may be made with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the hearing examiner to be unsatisfied through this process.

- (3) If the hearing examiner concludes that the application fails to comply with one or more requirements of this title, the application shall be denied. If the hearing examiner concludes that all such requirements are met, he shall issue the permit unless he denies the application for one or more of the reasons set forth in Section 20.16.140 (Special Use Permits and Conditional Use Permits). Specific findings for such a denial must be made, based upon the evidence submitted, justifying such a conclusion.

*AMC 20.16.170(e).*

Subject to Subsection (d) [of AMC 20.16.140], 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 20.16.140(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 20.16.140(d).*

The criteria for review adopted by the Arlington City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency

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with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040*.

#### Conclusions Based on Findings

**With conditions, the proposal would comply with all applicable development regulations and would satisfy the requirements for approval of a conditional use permit.** Mixed-use, multi-family housing and commercial developments are allowed uses in the NC zone with a conditional use permit, subject to compliance with the City's mixed-use development regulations under Chapter 20.110 AMC. City staff reviewed the proposal and provided a detailed analysis demonstrating that the proposal would comply with the mixed-use development regulations applicable to the Neighborhood Medium Volume use intensity transect (T4N-MV) of the Mixed-Use Community Center place type, including regulations related to building height, building form, building placement, parking, blocks, civic and open spaces, landscaping and screening, low-impact design for stormwater management, outdoor lighting, and architecture. The Hearing Examiner concurs with City staff's assessment. The proposed multi-family residential and commercial mixed-use project would be consistent with several Comprehensive Plan policies by incorporating a pedestrian friendly design with mini parks, open spaces, and pedestrian and bicycle connections that would be conducive to social interaction and in harmony with the desired character of the surrounding area.

The City analyzed the environmental impacts of the proposal and determined that, with mitigation measures, it would not have a probable significant impact on the environment. Accordingly, the City issued an MDNS for the proposal on January 19, 2022, which was not appealed. Compliance with the MDNS conditions has been made a condition of issuance of the CUP. The City provided reasonable notice and opportunity to comment on the proposal and on the MDNS. The City received comments from reviewing agencies expressing concerns about cultural resources on the properties. The Applicant provided an Unanticipated Discovery Plan and must stop work immediately if cultural resources are discovered during ground disturbing activities.

The City also received several comments on the proposal from members of the public who generally expressed concerns about traffic impacts, student safety, cyclist safety, access to the site, adequacy of parking, commercial space, compatibility with the surrounding area, and Tract A-32. The initial site plan had an access point on Tract A-32. However, after being notified by members of the public that the Tract belonged to the Gleneagle HOA and was not a City right-of-way, the Applicant revised the site access points. The Applicant provided additional information which affirmed that the access relocation would not change the distribution of trips. Vehicular, pedestrian, and bicycle access to the project site would be provided from 188th Street NE and Woodlands Way. The access point on Woodlands Way would be located as far as possible from 67th Avenue NE, and additional information about site distance and safety related to access would occur during review of engineered plans. The Applicant's TIA determined that the proposed development would generate 876 new average daily trips, with 45 AM peak-hour trips and 77 PM peak-hour trips. The TIA further determined that, with planned future

improvements, all studied intersections would operate at acceptable levels of service (LOS) following a build-out of the proposed development, except for the intersection at 67th Avenue NE and 188th Street NE, which currently operates at a deficient LOS E and is anticipated to operate at a deficient LOS F with or without the proposed development. The Applicant conducted an independent traffic count at the intersection of 67th Avenue NE and 188th Street NE in 2023, which affirmed the study's traffic count of the intersection in 2021. The Applicant would convert the intersection at 67th Avenue NE and 188th Street NE into a four-way stop and then the City would signalize the intersection as part of its 6-Year Transportation Improvement Plan (TIP). The traffic impacts of the proposed development were evaluated and addressed in the MDNS, which would require the Applicant to pay traffic impacts fees to the City and to Snohomish County. In addition to traffic impact fees, the Applicant would be required to pay school district fees to the Arlington School District and community park fees to the City. Ms. Rusko indicated at the open record hearing that Arlington School District had been provided notice of application but that the School District had not provided any comments.

The proposed development is not required to provide a certain number of parking spaces for the residential uses on-site. The Applicant provided a parking analysis that demonstrated that the parking demand for the proposal would be between 138 and 161 parking spaces under City guidelines and between 99 and 141 parking spaces under the Parking Generation Manual, 5th Edition, published by the Institute of Transportation Engineers. The proposed development would provide 143 parking spaces, including 111 standard stalls, 19 compact stalls, five ADA-accessible stalls, and eight EV stalls. City staff indicated that parking is the responsibility of the owner or covenants of the property and that, if parking issues arise, it is the responsibility of the owner to limit the number of cars a tenant can have on the site. City staff also indicated that the City would move forward with prohibiting parking on Woodlands Way.

The Applicant is required to provide commercial retail space on the project site. City staff indicated that in five years, the Applicant could complete a market analysis in order to demonstrate that retail commercial was not viable at that location. The Applicant testified that it would like the option of placing office space in the areas identified for commercial development with the proposal and believes the municipal code may allow for this. The Hearing Examiner notes that this issue is beyond the scope of the current decision but the municipal code would allow for the administrative appeal of any final determination made by the Director associated with this matter should the project move forward.

The properties do not contain any critical areas, and the Applicant would be required to ensure that the project complies with requirements for development within Subdistrict C of the AP district overlay. The Applicant's preliminary stormwater drainage report indicates that stormwater runoff would be fully infiltrated on-site in accordance with applicable stormwater management requirements. The City would review the Applicant's final stormwater management plan for compliance with the requirements of the 2012 Washington Department of Ecology Stormwater Management Manual for Western Washington (as amended in 2014) at the time of civil permit review and approval. As proposed and conditioned, the project would meet

or exceed applicable development regulations related to parking, lot access, street entrances, mini parks, recreational amenities, and open space. The project’s compliance with the City’s mixed-use development standards and with other applicable development regulations would ensure that the mixed-use development would be compatible with the surrounding area.

Finally, it is clear from the record that the earliest iteration of this proposal, wherein Tract A-32 belonging to the Gleneagle Homeowners’ Association would become “Brierwood Loop” and provide one of the two primary access points to the site, would alleviate most of the concerns raised about safety, traffic flow, etc. While the Hearing Examiner lacks the authority to require the Gleneagle HOA to work with the subject property owner in allowing use of the tract, it should be noted that the Hearing Examiner is amenable to reopening this hearing should the Applicant and the HOA determine that this is the best path forward.

That said, as conditioned, the proposed development would not materially endanger the public health or safety and would not materially harm adjoining or abutting property (despite the potential for a less impactful option as detailed above). As detailed below, conditions are necessary to ensure that the proposal complies with MDNS conditions and with all requirements associated with approval of a conditional use permit. *Findings 1 – 35.*

### **DECISION**

Based upon the preceding findings and conclusions, the request for a conditional use permit to allow construction of an up to 102-unit, multi-family housing and commercial mixed-use development, identified as the “Ironwood Place” proposal, on two parcels totaling 2.5 acres, located at 18725 67th Avenue NE and 18620 Woodlands Way, is **APPROVED**, subject to the following conditions:

#### Land Use Approval:

1. All development shall be in substantial conformance with the Project Site Plan received on August 3, 2023, Architectural Plans received on July 12, 2023, and Landscape Plans received on March 13, 2023, subject to any conditions or modifications that may be required as part of the permit and construction plan review.
2. The developer is vested under the code in place at the time of Complete Application on January 18, 2022.
3. The approved Conditional Use Permit shall expire two years after the date of issuance per AMC 20.16.220.
4. The development shall meet all Title 20 AMC regulation requirements.
5. The developer shall meet all local, state, or federal code requirements. Attached as Attachment A to the staff report is a list of code requirements that are specifically called

to the developer's attention. It is in no way intended to be a complete list of code requirements, but a general checklist of major steps and issues.

6. The developer shall clear any outstanding Planning Division permit-processing accounts with the City within 60 days of issuance of this permit.
7. No permits and/or construction pursuant to the Conditional Use Permit shall begin or be authorized until 21 days from the date of the decision.
8. Prior to the removal of trees along Woodlands Way, the developer shall provide a clear surveyed property line staked on the ground to ensure that no trees are removed from the property owned by Gleneagle Homeowner Association in Tract A-32.
9. The developer is required to pay full city traffic impact fees and install a four-way stop intersection at 67th Avenue NE and 188th Street NE. The intersection improvements include new stop signs on all sides, new stop bars on 67th Avenue, repainting existing stop bars on 188th Street, and repainting of existing crosswalks. These improvements are required to be installed prior to the final occupancy of either building.
10. The property owner is responsible for managing all parking for residents and commercial uses on the site with the proposed amount of parking stalls. The City requires that the property owner establishes a parking permit system for tenants to show who is allowed to park in the private parking lot and to track compliance with parking. The proposed tandem parking spaces are required to be assigned to specific units that will utilize both spaces. If parking issues arise it is the responsibility of the property owner to limit the number of cars a tenant can have on the site. Parking is not allowed off-site unless a parking agreement is reviewed and approved by the city and recorded.
11. The final location of the driveway access from Woodlands Way to the site shall be determined and approved with the Civil permit.
12. The Applicant shall notify the Stillaguamish Tribe of Indians prior to ground disturbance associated with the construction of this project.

SEPA MDNS Conditions:

The developer shall comply with all conditions of the SEPA MDNS issued on November 7, 2022.

13. **(B)(1) Earth:** The Applicant proposes an estimated grading of 6,000 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.

14. **(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.
15. **(B)(3)(b) Ground Water:** To mitigate for potential impacts to ground water the Applicant shall employ best design practices meeting the current Department of Ecology's Stormwater Management Manual for Western Washington
16. **(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.
17. **(B)(4)(b) Plants:** To mitigate for the removal of significant trees on the site the Applicant shall replant at a ratio of 3:1 for every significant tree removed. If the required amount of trees cannot be replanted on site, then a tree in-lieu fee shall apply.
18. **(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.
19. **(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 7:00pm 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.
20. **(B)(8) Land and Shoreline Use:** The Applicant shall comply with the Airport Protection District Overlay within AMC 20.38. 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 Easement over the subject parcels shall be reviewed by the Arlington Municipal Airport and recorded at the Snohomish County Auditor's Office.
21. **(B)(10)(c) Aesthetics:** The height of the proposed building will be approximately 34 feet (3-story). The project shall comply with the design requirements set forth in the Mixed-Use Development Regulations of AMC Chapter 20.110. The exterior of the building will

consist of a variety of materials, including horizontal lap siding, vertical board & batten siding, brick siding, cedar wood trim, and class B composition roofing.

22. **(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.
23. **(B)(12)(c) Recreation:** A variety of on-site common open space recreation areas are proposed to meet the mini-park requirement with the development and includes a playground, sport court, and plaza area. Each residential development shall pay a Community Park Impact fee of \$1,497 per multi-family dwelling unit for a total of \$152,694 in Park Mitigation fees for 102 units. Every Development shall be developed so that at least 5 percent of the total area remains permanently usable open space. In this instance, the open space requirement equals to a total of 5,443 square feet of required open space, where the applicant has provided 6,600 square feet of common use open space.
24. **(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.
25. **(B)(14)(d) Transportation:** The proposal is required to construct or repair frontage improvements along 67<sup>th</sup> Avenue NE, Woodlands Way, and Brierwood Loop as approved on the Civil Construction plans. The Traffic Impact Analysis, that was submitted by Gibson Traffic Consultants, Inc. dated November 2021, states that the level of service (LOS) at the intersection of 188<sup>th</sup> Street NE and 67<sup>th</sup> Avenue NE currently operates at a LOS E and is anticipated to operate at LOS F with the development of the proposed project under current intersection conditions. The City of Arlington 6-Year Transportation Improvement Plan (TIP) shows improvements to the intersection that convert the intersection from a 2-way stop to a controlled intersection with a traffic signal. The traffic impact analysis states that with a signalized intersection and the proposed project the subject intersection would operate at a LOS B. Discussion between the developer and the city is required prior to issuance of the land use permit to determine the timing and construction details of the improvements to the intersection. The use of a Development Agreement may be required to address the signalized intersection.
26. **(B)(14)(f) Transportation:** Trip generation has been calculated at 77 PM Peak Hour Trips (PMPHT) and 876 Average Daily Traffic (ADT) trips per the Traffic Impact Analysis that was submitted by Gibson Traffic Consultants, Inc., dated November 2021. The analysis includes the traffic calculation for 102 multi-family residential units and

12,870 square feet of commercial space. The city traffic mitigation fee is \$3,355 per PMPHT for a total of \$258,335 in traffic mitigation fees. The Traffic Impact Analysis identified that the project impacts the Snohomish County intersection of 67<sup>th</sup> Avenue NE and 152<sup>nd</sup> Street NE, under project INT-007. Snohomish County bases mitigation fees from Peak Hour Trips (PHT). The required traffic mitigation for this intersection is \$185 for 55.5 PHT and \$157 for 32.1 PHT for a total of \$15,307.20. All City and Snohomish County traffic mitigation fees shall be paid prior to building permit issuance.

27. **(B)(15)(b) Public Services:** The proposal is within the Arlington School District and will be required to pay \$3,455 for every 2-bedroom multi-family dwelling unit for 21 units, for a total of \$72,555 in school mitigation fees. The Applicant shall provide the City a copy of payment/receipt to Arlington School District prior to building permit issuance.
28. **(B)(16)(a) Utilities:** The Applicant shall connect to the City of Arlington water and wastewater systems.

Civil Construction:

29. Prior to any construction activities, the Applicant shall file and receive approval of civil construction plans which comply with all requirements of the Land Use Code, International Building Code, International Fire Code and Public Works Construction Standards and Specifications. Said plans shall address all site improvements, either required or voluntarily provided.
30. All stormwater is required to meet the 2012 Stormwater Management Manual for Western Washington, with 2014 Updates. The final drainage plan shall be approved with the Civil permit.
31. The Applicant shall construct all existing, extended, and new electrical power lines (not to include transformers or enclosures containing electrical equipment including but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, cable television, and other communication and utility lines in or adjacent to any land use or building permit approved after the effective date of this chapter shall be placed underground in accordance with the specifications and policies of the respective utility service providers and located in accordance with the administrative guideline entitled "Public Works Construction Standards and Specification." Even in the event the distribution line originates from a point opposite any public roadway from the new construction the service lines shall be placed beneath said roadway by means of boring or surface excavation across said roadway.
32. If irrigation is proposed on the site, the Applicant is required to submit irrigation plans with the Civil Permit.

Building:

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

**DECIDED** this 12<sup>th</sup> day of September 2023.



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ANDREW M. REEVES  
Hearing Examiner  
City of Arlington