



Planning and Community Development Department

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**Consolidated Permit
for
Planned Development, Residential Design Review and Critical Areas
Type II
PDP2019-0015/DR2019-0036/CAP2019-0037/SEP2019-0039**

4413 Consolidation Avenue

I. SUMMARY OF DECISION

Proposal (Attachment A): A new residential multi-family project on a vacant 11.15-acre parcel generally north of Consolidation Avenue between Puget and Nevada Streets in the Puget Neighborhood (Proposal). The submitted Proposal consists of 106, 3-bed units in 3 separate buildings. Two of the buildings will be 2 ½ stories, containing 20 units in each building and one building will be 5 ½ stories containing 66 units. The Proposal includes a total of 249 vehicle parking spaces and 54 bicycle parking spaces. Onsite open space is located in the southwest corner of the site, near the Consolidation Avenue entrance. Consolidation Avenue will be constructed from Nevada Street to a distance necessary to access the Proposal's two driveways. Public and private utilities will be provided compliant with the Bellingham Municipal Code (BMC). A public trail will be constructed from the Consolidation Avenue improvements east to 46th Street.

Approximately 50% of the site will be cleared for the development and the remainder of the site is proposed to be retained in its current forested condition. The Proposal does not include impacts to the onsite wetlands; however, it does propose to average the buffer of the onsite Category IV wetland. Substantial landscaping is proposed to meet requirements and to buffer neighboring residential development.

A SEPA mitigated determination of non-significance (MDNS) was issued for the Proposal on February 9, 2022, and the mitigating conditions are incorporated herein (**Attachment B**).

Applicant/Owner: Morgan Bartlett, Jr., dba Madrona Bay Real Estate Investments, LLC; 424 W. Bakerview Road, Suite 109, Bellingham, WA 98226; 360-527-2777

Decision: Approval, with conditions.

Date of Decision: April 19, 2022.

II. PROPERTY DESCRIPTION

Legal description: Tract F, Cedar Ridge Plat Division 2 as recorded under AF# 2020703650.

Address: 4413 Consolidation Avenue, Bellingham WA 98229

Whatcom County Parcel Number: 380332 172175 0000

III. PERMIT PLANS

This approval includes the following documents, subject to any modifications and conditions contained in Section V of this permit:

Attachment A – Application materials, inclusive of Attachments A.1-A.3.

- Att. A.1 – Site Plan
- Att. A.2 – Preliminary Building Elevations, Floor Plans and Rendering
- Att. A.3 - Height Limitation Area

Attachment B – SEPA Mitigated Determination of Nonsignificance, dated January 9, 2022, inclusive of all environmental information considered as follows:

- SEPA Environmental Report Record, dated February 8, 2022
- Exhibit A: Environmental SEPA checklist, dated February 26, 2020 and revised March 12, 2021, and the following supplemental documents and reports:

Ex A.1 - Critical Areas Report: Wetlands & Habitat Conservation Areas for the CityView Project (Miller Environmental Services, 6/12/19)

Ex A.2 - Critical Areas Mitigation Plan: CityView Apartments Project (Miller Environmental Services, 1/8/20)

Ex A.3 - Geotechnical Engineering Report (GeoEngineers, 3/8/21)

Ex A.4 - Preliminary Stormwater Site Plan (Cascade Engineering Group, P.S., Inc., Revised 3/21)

Ex A.5 - Tree Retention Plan: CityView (Tree Guys, Inc., Revised 1/25/21)

Ex A.6 - Tree Retention Plan Map (Cascade Design Group, Revised 3/4/21)

Ex A.7 - Updated CityView Landscape Buffer Plan & Cross Sections (Landscape Buffer Plan) (Cascade Design Group, 3/4/21)

Ex A.8 - Updated Landscape Plan, Conservation Easement, & Lighting Plan (Landscape Plan) (Revised 3/4/21)

Ex A.9 - CityView Apartments Grading Plans (Cascade Engineering Group, P.S., Inc., (3/4/21)

Ex A.10 - Updated CityView Preliminary Engineering Plan (Cascade Design Group, 3/4/21)

Ex A.11 - Project engineer letter response to city's RFI (Cascade Design Group, 3/4/21)

Ex A.12 - Parking Demand Analysis (Nunes/Ueno, undated; submitted to the City on September 30, 2021)

Ex A.13 - Transportation Impact Analysis (transpogroup, January 2020), as revised by Memorandum prepared by transpogroup, March 2, 2021.

NOTE: Attachments A and B represent the full compilation of documents submitted by the applicant for review of this Proposal.

- Exhibit B: Notice of Incomplete Application, August 10, 2019.
- Exhibit C: Notice of Complete Application, March 9, 2020
- Exhibit D: Notice of Application, April 24, 2020
- Exhibit E: Public Comment
- Exhibit F: Request for Information, July 6, 2020
- Exhibit G: Applicant's March 12, 2021 Response to Public Comment
- Exhibit H: Bellingham Planning Commission recommendations
- Exhibit I: Request for Information, June 24, 2021
- Exhibit J: Revised site plan, submitted on September 30, 2021

Attachment C – Area 17, Puget Neighborhood Zoning and Comprehensive Plan designations

Attachment D - Cedar Ridge Preliminary Plat Approval, Resolution No. 19-94

Attachment E - Cedar Ridge Final Plat Approval, Resolution No. 2002-24

Attachment F - Cedar Ridge Division No. 2 Final Plat, AF#202070360

Attachment G - Extension requests from applicant, dated Nov. 7 and Dec. 9, 2019

Attachment H - Extension request from applicant, dated October 27, 2020

Attachment I - Planning Commission Notice of Public Meeting, dated May 19, 2021

Attachment J - Public Comment received in response to issued March 9, 2022 MDNS

Attachment J.1 – Public Comment received from February 24, 2022-April 18, 2022

Attachment K – Density bonus request, May 11, 2020

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The subject site is vacant and has an area of approximately 11.15 acres (485,694 SF).
2. The property is located in Area 17 of the Puget Neighborhood and zoned Residential-Multi, Planned with an overall 5,000 square-foot density. Area 17 of the Puget Neighborhood has a Residential Multifamily Medium density land use classification.¹ (**Attachment C**) This area has been zoned Residential Multi since at least 1980 with adoption of the Puget Neighborhood in *The Bellingham Plan*.
3. The Proposal requires land use approval of a Type II Consolidated Permit for planned development, residential design review and critical areas and issuance of a SEPA environmental threshold determination. Type II land use applications are reviewed and decided administratively by the Planning and Community Development Director (director), or designee, pursuant to the review process outlined in BMC 21.10.110. A SEPA environmental threshold determination is issued by the SEPA Responsible Official pursuant to Chapter 16.20 BMC.

Background – Cedar Ridge Plat (aka Hawley’s Replat)

4. The Cedar Ridge Preliminary Plat (previously known as Hawley’s Replat) application, consisting of 46.71 acres, received preliminary plat approval for a phased development on May 10, 1994 by Resolution No. 19-94 (Attachment D). The gross site area of the 46.71-acre preliminary plat yielded a maximum of 406 units under the zoned 5,000 square-foot density. This unit count was distributed within the preliminary plat boundary in phases, identified as Phases 1 and 2.
5. The preliminary plat phases were identified as: Phase 1 consisting of 123 units that included of a mix of single family and multifamily lots and Phase 2 consisting of a reserve tract for future development and a 15-acre open space tract.
6. The 123 units in Phase 1 included a specific lot layout for 64 single-family lots, 1 duplex lot, 1 triplex lot, 1 fourplex lot and a 50-unit multifamily tract, however not all of these lots were included in the final platting of Phase 1.
7. Phase 1 of the preliminary plat included with 123 units and left a balance of 283 units for development within Phase 2, which was identified as the reserve tract for future development and is the Project Site.
8. The preliminary plat phases were approved in divisions, Division 1 and 2, through the final plat process as follows:

¹ The Proposal is subject to the land use controls in place on the date the land use applications were deemed complete. Subsequent to the determination of completeness, the City Council adopted Ordinance No. 2021-10-044 which changed the zoning of the Area 17, Puget Neighborhood, to a Medium density designation which establishes a maximum density at 3,600 square feet per unit and a minimum density of 7,201 square feet per unit. An application received under the current zoning for the property, notwithstanding the approved final plat, would allow a maximum of 134 units and require a minimum of 67 units.

9. Division 1: Only included 7 single-family lots out of the 123 units allocated in Phase 1.
10. Division 2: included 47 single-family lots, one duplex lot (Lot 12), one triplex lot (Tract D), one four-plex lot (Tract E), 50-unit lot (Tract C), a 176-unit lot (Tract F – Project Site) and two stormwater tracts (Tracts A and B).

NOTE: These two divisions included a combined total of 289 units, which is 117 units less than the preliminary plat's allowed 406 units. This means the area was substantially underdeveloped then what was originally intended by the residential multi zoning and the preliminary plat.

11. The preliminary plat was appropriately conditioned to require additional site plan review for the 50-unit site given its planned designation. The preliminary plat was also appropriately conditioned to require additional public review prior to development of the reserve tract since it lacked a specific development proposal at the time of preliminary plat review.
12. The preliminary plat authorizes the creation of the subject site through the final plat process with a unit count compliant with, and less than, the preliminary plat approval. The City Council acknowledged its authority to include the subject site in the Cedar Ridge Division No. 2 final plat by its approval of Resolution No. 2002-24 (Attachment E) and ordered the filing of the final plat. Cedar Ridge Division No. 2 was filed for record under AF# 2020703650 (Attachment F) and identified the subject site as Tract F with a surveyed site area of 11.15 acres and an allowed unit count of 176 units.

Procedural History of Land Use Applications for Proposal

13. May 24, 2019: Applicant applied for a pre-application conference with the city of Bellingham pursuant to BMC 21.10.110(A). The Applicant met with city staff on June 25, 2019. The city issued its final review comments on the pre-application materials on July 2, 2019. This procedural step has been met.
14. July 8, 2019: BMC 21.10.110 (B) requires the applicant conduct a pre-application neighborhood meeting. The applicant sent timely notice of this meeting and held the neighborhood meeting at Carl Cozier Elementary School. Public comment received included concerns about occupancy status (rentals, student housing), traffic, density, building scale and design and drainage on / off the site.
15. July 19, 2019: Pursuant to BMC 21.10.110(D), the applicant submitted land use applications for planned development, residential design review, critical areas, and a SEPA checklist for the Proposal.
16. August 10, 2019: Pursuant to BMC 21.10.190(B) and within 28 days from the date of application submittal, the City determined the land use applications were not sufficient to continue review and issued a Notice of Incomplete Application and Request for Information (First RFI) requesting additional information. **Attachment B - SEPA MDNS Exhibit B** In accordance with BMC 21.10.190(B), the applicant has 120 days to submit a response to the NOIA to avoid the applications becoming null and void unless the director extends the response period beyond the 120 days upon an approved schedule

with specific target dates for submitting the required information. The deadline for a response was December 9, 2019.

17. November 7 and December 12, 2019: The applicant requested and received two extensions of the deadline for responding to the First RFI, which established a deadline of March 9, 2020. **Attachment G**
18. February 26, 2020: The applicant submitted a response to the city's First RFI. The applicant revised the Proposal by reducing the unit count from 136 to 106 and contained supporting application materials for the revised unit count.
19. March 9, 2020: The city determined the applicant's response sufficiently addressed the issues identified in the First RFI and deemed the applications complete. (**Attachment B - SEPA MDNS Exhibit C**)
20. March 20, 2020: In response to the rapidly emerging COVID-19 global pandemic, the city requested and the applicant agreed to a 30-day stay of time for continued application review including delayed issuance of the public notice of application.
21. April 24, 2020: The city issued a Notice of Application which commenced a 14-day public comment period. (**Attachment B - SEPA MDNS Exhibit D**).²
22. May 1, 2020: The Planning and Community Development Director and the Planning Commission chair exercised their authority in BMC 21.10.110(E)(2)(b) to require a public meeting before the Planning Commission.
23. July 6, 2020: The city issued a second Request for Information (Second RFI) based on public comments received and the city staff's review of the land use applications. (**Attachment B - SEPA MDNS Exhibit F**)
24. October 27, 2020: The city granted the applicant's request to extend the 120-day time limit for providing a response to the Second RFI, which established a new deadline of April 2, 2021. **Attachment H.**
25. March 12, 2021: The applicant submitted a response to the Second RFI. (**Attachment B - SEPA MDNS Exhibit G**) City staff continued to review the proposal based on these submitted materials.
26. May 19, 2021: The city issued the Notice of Public Meeting for the June 3, 2021, Planning Commission meeting. The staff report for the meeting reflects the public comment received through the date of the staff report. **Attachment I.**

² The 14-day comment period established by issuing the Notice of Application is the minimum required by the municipal code BMC 21.10.210 and is established to ensure the public an opportunity to comment with the certainty that all comments received within the 14-days will be considered by the city before a permit decision is issued. Comments received after this comment period are still included in the record. The city accepted public comment up until issuance of this permit decision. (**Attachment B - SEPA MDNS Exhibit E and Attachments J and J.1**).

27. June 3, 2021: The Planning Commission held a public meeting on the proposal pursuant to BMC 21.10.110(E)(2)(b) and identified issues that required additional review. **(Attachment B - SEPA MDNS Exhibit H)**
28. June 24, 2021: The city issued a Third Request for Information (Third 24 RFI), based on the Planning Commission's recommendation. **(Attachment B - SEPA MDNS Exhibit I)**
29. September 30, 2021: The applicant submitted a timely response (September 30 Response) to the Third RFI. The applicant amended the project narrative and submitted a revised site plan and a Parking Demand Analysis. **(Attachment A.1 and Attachment B - SEPA MDNS Ex. J)**
30. January 9, 2022: The city's Responsible Official issued a SEPA MDNS for the proposal. **Attachment B.**
31. The application materials included *preliminary* architectural and engineered drawings **(Attachment A.2 and Attachment B - SEPA MDNS Exs. A.3, A.4, A.9, A.10 and A.11)** which were used as reference documents for review of the land use applications. As referenced, this permit is approved with conditions that require modifications to the *preliminary* architectural and engineered drawings and the submittal of final plans. Therefore, this permit shall not be construed as final approval of the *preliminary* architectural or engineered drawings that were submitted to date. City staff shall review final architectural and engineered drawings that incorporate all conditions of this permit when the applicant submits building permit applications and a public facilities construction (PFC) agreement.
32. All procedural requirements of BMC 21.10.110 have been satisfied.

Public comment

33. The city received many public comments about the proposal. City staff requested the applicant to respond to issues identified in public comments in the Second RFI **(Attachment B - SEPA MDNS Exhibit F)**. The applicant provided a response to the public comment in the March 12 Response. **(Attachment B - SEPA MDNS Exhibit G)**

The public comments were also submitted to the Bellingham Planning Commission for their consideration of the written record, which included the applications, all materials submitted to support the applications, and public comments received in response to the application materials and at the public meeting. The Planning Commission was asked to identify and recommend to the director any substantial planning issues and matters of public interest associated with the proposal that the City should consider during its environmental and land use permit review of the proposal.

34. The Planning Commission recommended the director consider the following during the environmental and land use reviews associated with the proposal:
 - 1) Drainage and Stormwater Runoff – 1) Ensure that cumulative impacts are considered; 2) ensure the adequacy of the scope of review; and 3) ensure the adequacy of any technical responses to the proposed design of the system meets or exceeds all adopted standards.

- 2) Critical Areas and Geological Hazards - Consider both slope stability and seismic activity and implement appropriate measurements to address them.
- 3) Traffic and Pedestrian Safety – 1) Assess consistency with the City’s climate goals and policies as it relates to transportation; 2) assess the demands and limits of multi-modal accessibility to the site and the plausibility of multi-modal use; 3) ensure adequacy of street infrastructure; 4) clarify why one traffic standard is chosen over another; 5) ensure that fair-share contributions are provided; and 6) consider parking demand based on anticipated demographics.
- 4) Project Scale – Consider the concerns raised related to: 1) the adequacy of the transition and separation between the proposed project and the adjacent uses; 2) the adequacy and applicability of the multifamily design guidelines when applied to this circumstance – specific to the intent to provide a better transition between uses when they are dissimilar; and 3) acknowledging the contextual use patterns – can the scale and transitional impacts in the neighborhood be adequately mitigated to an acceptable level.
- 5) Parking – 1) Assess the adequacy of the provided off-street parking to accommodate likely demand and use and consider appropriate ways mitigation measures; and 2) consider requiring the project to enhance and encourage multi-modal use through incentives or other appropriate methods.
- 6) Comprehensive Plan Consistency – 1) Assess the comprehensive plan consistency with attention specifically directed to the friction between needing to separate because of dissimilar scale and the desire to build integral neighborhoods that are connected.
- 7) Social Behaviors (noise, garbage, parking) – 1) Assess the adequacy of solid waste and recycling facilities; 2) assess the rules related to discouraging or prohibiting disposal off-site; 3) consider strategies that can be implemented on-site to minimize some of the adverse effects; and 4) evaluate use terms for the open-space so that it minimizes off-site disruption.
- 8) Housing Affordability – Encourage alternative floor plans to accommodate a range of current and future uses.

SEPA Threshold Determination – Chapter 16.20 BMC

35. The city’s Responsible Official issued a SEPA MDNS for the proposal on February 9, 2022. **Attachment B**
36. The mitigating measures incorporated in the MDNS shall be conditions of approval of this permit and may be enforced in the same manner as any conditions of the permit under BMC 16.20.120(G).
37. The city received public comments during the 14-day comment period following issuance of the SEPA MDNS (**Attachment J**). The comments and staff’s responses to them are summarized below:

- a. Neighborhood character. Commenters suggested the use is not appropriate given the context of the neighborhood; the permit should be denied; and financial assistance should be given to the neighborhood to compensate for lost property values.

Response: The city must review land use applications based on the rules and regulations in place at the time of receiving a complete application. The proposed multifamily development is expressly permitted under the existing zoning and land use designation. Moreover, the proposal, as conditioned, will not have probable significant adverse environmental impacts.

- b. Construction impacts. Commenters objected to allowing construction seven days per week and the impacts to on-street parking during construction.

Response: The Construction Management Plan required in the SEPA MDNS mitigates these concerns with reduced hours that allow construction activity and the requirement to demonstrate how construction parking will be managed.

- c. Drainage/Stormwater runoff/Geologically hazardous areas/Critical areas: Commenters expressed concerns about how site development may alter groundwater and surface runoff leading to increased drainage issues to downhill properties during construction; decreased slope stability; and the inadequacy of geotechnical reports.

Response: The qualified professionals who draft geotechnical reports typically develop their recommendations based on a small sampling of the site. Therefore, they qualify their findings as preliminary and explain that recommendations can be finalized only by observing subsurface conditions revealed during construction. They will not assume responsibility for the recommendations unless they perform construction observation. The permit has been conditioned to require construction-phase observations by licensed geotechnical professionals. Considering the geotechnical evaluation will occur during construction, and subsequent recommendations made, the geotechnical and stormwater studies provide sufficient information at this land use enablement phase for the city to determine that the development will not have a significant adverse impact to downhill properties with the proposed mitigating conditions.

- d. Traffic, vehicular and pedestrian: Commenters expressed concerns about the increased traffic volumes that will be generated by the proposal; lack of pedestrian facilities in the neighborhood, and the safety implications of the increased traffic and lack of pedestrian facilities, specifically on 44th Street.
- e. Parking for vehicles and bicycles: Commenters expressed concerns about the proposal not providing sufficient vehicle or bicycle parking to support the development which may result in overflow parking from the development on adjacent neighborhood streets; parking demand will be higher than typical of an apartment use given the proposal's unit layout (and per-room leasing model) and the site's distance from transit. Commenters encouraged the city to ensure secure bicycle parking is provided by the applicant in a manner that encourages its use.

Response to (d.) and (e.) above: The applicant submitted reports from parking and transportation professionals that conclude the project will be less-auto dependent through implementation of the proposed mitigating conditions.

The proposed development will increase both traffic and the demand for parking. However, the Transportation Impact Analysis (TIA) demonstrates that the existing transportation network is operating at acceptable levels of service with and without the project. Also, the Parking Demand Analysis shows underutilized on-street parking in the neighborhood can absorb overflow parking from the development, if any. The proposal satisfies the city's code requirements for on-site parking.

Concerns that the trail in Consolidation Avenue may provide convenient access from the site to overflow parking on 46th was raised and partially evaluated in the Parking Demand Study (**Attachment B - SEPA MDNS Ex. A.12**). This study identified that there is underutilized parking in the general vicinity of 46th Street as well as other areas in surrounding neighborhoods and further, public right of way that are constructed appropriately should be available for public parking.

To address public comment concerning offsite overflow parking on the abutting residential street, the consultant proposed, and the city accepted, and/or modified, the Parking Demand Analysis' mitigating conditions to reduce the overall use of the automobile which will also reduce the demand for parking. Neither the TIA nor the Parking Demand Analysis concluded that the Proposal warrants offsite mitigation in form of pedestrian improvements to 44th Street, south of Consolidation Avenue.

- f. Wildlife habitat: Commenters noted that the SEPA checklist insufficiently documented the animals on-site and how the development will impact wildlife habitat.

Response: The city acknowledges the initial SEPA checklist insufficiently identified the range of animal species observed on the site and expected to be identified on the site. The city has amended the checklist to reflect the range of animal species observed on the site by the neighborhood. None of the species observed by the neighborhood are on the State's Priority Habitat and Species List and therefore, are not regulated by city code. While there will be impacts to wildlife habitat, those impacts are mitigated by the retention of approximately 50% of the site in open space, requiring the installation of native plant species in the buffer between the development and the nearby developed properties, and the overall landscape design.

- g. Scale of proposal/Privacy/Noise. Commenters expressed concerns about the project's scale being out of character with the neighborhood and the privacy of nearby residents being adversely affected by the height and proximity of the proposed buildings.

Response: The scale of the proposal's development footprint and building mass were reduced in response to expressed public concerns and comments. The

building's scale and mass abutting the established residential neighborhoods were reduced to address compatibility through design and landscaping. Privacy and noise impacts will be mitigated to a level consistent with the expected zoning by requiring a landscape buffer and the retention of vegetation between the proposal and nearby residents.

- h. Landscape buffer. Commenters expressed concerns that the size of trees in the buffer landscape plan will not be tall enough to provide effective screening for a long time; that trees planted in the development buffer should be an average of 12 feet tall to provide immediate visual separation and screening; and that the landscape buffer will not prevent loud noise from the new occupants.

Response: Installing 12-foot specimens is not recommended because the transplant survival rate is poor, they grow slowly, and, if they don't survive, then planting must start over. However, the buffer landscape plan includes at least two fast-growing species intended to create a privacy screen relatively quickly: excelsa cedar and Pacific wax myrtle. (**ATTACHMENT B - SEPA MDNS Ex. A.7**) A suitable substitute for the excelsa cedar is the "Green Giant". Like excelsa, it is a western red cedar cultivar. The plants can grow 3 feet to 5 feet per year.

The buffer landscape plan cross sections show the intended height of the trees and shrubs at different time intervals.

- i. Affordability. Commenters noted that the Proposal does not include an affordable housing component.

Response: City acknowledges the Proposal does not include subsidized affordable housing units. However, and importantly, the city does not have the authority to require the applicant to provide affordable housing as part of this proposal.

- j. Enforcement of permit conditions. The City's enforcement of the terms and conditions of this permit decision will be provided consistent with authority pursuant to the Bellingham Municipal Code.

38. After reviewing the public comments received in response to the MDNS, the SEPA Official has determined additional information is not necessary to analyze the Proposal's impact on the environment and has retained the mitigated threshold determination.

39. The City received public comment after the 14-day comment period following issuance of the SEPA MDNS (**Attachment J.1**). While these comments were not identified in the SEPA responses above, they were considered and the issues raised have been reviewed through both the issued SEPA MDNS and this permit.

Planned Development – Chapter 20.38 BMC³

³ As stated above, this Proposal is subject to the land use controls in place on the date the land use applications were deemed complete including sections of Chapter 20.38 BMC that were repealed when the City Council adopted Ordinance No. 2021-10-044.

40. The use of land within areas designated with a planned use qualifier in the applicable zoning table under Chapter 20.00 BMC are required to comply with the regulations specified in the planned development chapter, Chapter 20.38 BMC. The subject site is located in Area 17 of the Puget Neighborhood (BMC 20.00.130). It is zoned Residential-Multi and has a Planned use qualifier. Therefore, the provisions of Chapter 20.38 BMC apply to the proposal.
41. Pursuant to BMC 20.38.020(A), a planned designation is intended for areas which are adaptable to flexible development and/or where review of pending development proposals is necessary to ensure that adequate provisions are taken to minimize possible detrimental effects with a framework that:
 - 1) Permits diversity in the location of types of structures;
 - 2) Promotes the efficient use of land by facilitating a more economic arrangement of buildings, circulation systems, land use and utilities;
 - 3) Preserves to the greatest extent possible the existing landscape features and amenities and utilizes such features in a harmonious fashion;
 - 4) Addresses site-specific opportunities and concerns;
 - 5) Lessens development impacts to adjacent areas through site design and necessary mitigating measures.

The proposal is consistent with and implements the overall intent of this code subsection by:

- 1) Incorporating an additional housing choice, i.e., residential multi-family apartments, to the immediate neighborhood.
 - 2) Constructing the multi-family residential development on property zoned RM at the proposed level of density promotes the efficient use of land while relying on existing circulation systems and available utilities.
 - 3) Preserving existing landscape features by retaining approximately 50% of the site as open space. The proposal also includes a large, 40,600 square foot exterior common usable area which is substantially more than the amount of usable area required.
 - 4) Addressing identified zoning site-specific concerns related to clearing and view through retention of specific areas on site as open space and utilizing design review to minimize view impacts.
 - 5) Minimizing development impacts to adjacent properties by requiring a vegetated buffer, requiring buildings nearest established residential development to have a compatible scale with that development, requiring the specific placement of the common usable and open space areas, and through the imposition of mitigating measures in the MDNS.
42. Pursuant to BMC 20.38.020(B), the planned designation is also intended to provide flexibility in site and building design for a harmonious variety of housing choices within an environment where more usable open space or recreational opportunities are possible beyond that which could be provided within the scope of conventional regulation. The Proposal includes significantly more usable open space than is required by code, requires the dedication of land for a trail, and is located in area with ample recreational opportunities including trails, the Samish Hill open space, and the Civic Field complex.

43. Under BMC 20.38.030(A), no building or land shall be used within an area with a planned use qualifier without Planning Director approval which specifically regulates development upon the subject property pursuant to BMC 20.38.040 and 20.38.050.
44. BMC 20.38.040 components that need to be included in a permit decision provides that planned development applications shall follow the procedures in Chapter 21.10 BMC. This permit is being reviewed through a Type II application review process, as required by BMC 21.10.040(C).
45. BMC 20.38.050 identifies the standards applicable to properties having a planned use qualifier and provides broad discretion to administratively increase standards to protect neighboring properties, conform with existing development in the area, preserve natural resources or sensitive environments, provide for orderly development or conform with the comprehensive plan. This permit utilizes the discretion authorized by this section to protect the neighboring properties and preserve natural resources by addressing all those listed elements as follows:
 - a. Incorporating the conditions of the MDNS as conditions of this permit;
 - b. Imposing conditions through design review to reduce the overall impact of the Proposal's mass and scale;
 - c. Requiring approximately 50% of the site to be placed in a conservation easement for the continued protection of those portions of the site proposed to be retained in a natural state;
 - d. Requiring public infrastructure improvements necessary to serve adjacent undeveloped properties, ensure compliance with stormwater management regulations, and provide for adequate pedestrian circulation to enhance multimodal transportation and recreational opportunities; and
 - e. Demonstrating consistency with the Puget Neighborhood Plan and the Comprehensive Plan.
46. The zoning table for the Puget Neighborhood, Area 17, includes Special Conditions for Clearing and View. There are no Prerequisite Considerations or Special Regulations identified in the zoning table. The applicable Special Conditions have been addressed by minimizing the area of the site available for development and maximizing preservation through the SEPA review. Also, the conditions imposed through design review ensure the development will have minimal to no view impacts on surrounding properties.
47. The Proposal includes 106 multifamily dwelling units. Multifamily dwelling units are a permitted use under BMC 20.38.050(B)(2)(c). The proposal includes a smaller building located near the abutting single family residential buildings to help transition between uses and focuses a large scale building in the center of the site. The proposed residential use, as conditioned, is compatible with the existing residential uses in the surrounding neighborhoods.
48. Density regulates the intensity of development which may legally occur upon property within a land use area. Importantly, the allowed density for the property cannot be determined by simply dividing the total site area of 11.15 acres by the 5,000 square-foot density. Instead, the allowed density for the project site was established in 1994 and

2002, through the platting process as detailed above. The maximum allowable density for the property is 176 units.

49. In response to public comments stating that no more than 97 units should be allowed, the city's Second RFI (**Attachment B - SEPA MDNS Exhibit F**) requested additional information to substantiate the applicant's claim that the maximum allowable density for the proposal was 176 units. The applicant's response on March 15, 2021, notes that the density allocation is consistent with the city's prior findings, including the permit decision issued for the University Ridge proposal under HE-13-PL-PL-007. The University Ridge proposal included 146 units, and this land use decision by Hearing Examiner Sturwold was not appealed.⁴
50. In conclusion, the proposed 106 units is compliant with the underlying overall density allocation that established a maximum unit count of 176 units on the project site through the preliminary plat approval and the recorded final plat.
51. The municipal code limits the height of the proposed multifamily dwelling unit buildings: no structure located within 200 feet of the site plan boundary lying adjacent to any residential general use type area not designated planned shall exceed 35 feet under height definition No. 1⁵. BMC 20.38.050(b)(4)(a) **Attachment A.3** illustrates the area of the property subject to the height restriction. The only proposed building located within this area complies with the limit under height definition No. 1.

Except for the limitation above, there is no expressed general height standard for the remainder of the property and final height standards shall be determined by the planning director. BMC 20.28.050(B)(4)(b). The height limited area is intended to provide a transition of building mass from adjacent developments occurring under different zoning designations. After a thorough review of the application materials and the surrounding uses, the same height limitation of 35 feet measured under height definition No. 1 should be applied to the site plan boundaries lying adjacent to those single-family lots fronting Nevada Street and Marionberry Court. These single-family lots are located within an area having a residential-multi planned designation but are developed at a smaller scale and intensity for which this code provision would typically require a proportional transition to larger scale and more intense development.

Developing this site under the current code provision would not meet the overall intent of the height limitations and through the authority given in BMC 20.38.050(A)(1), additional height limitations are necessary to protect neighboring properties. This permit should be appropriately conditioned to limit the height of all structures within 200 feet of its site plan boundaries to 35 feet under BMC 20.08.020, height definition No. 1.

⁴ On May 11, 2020, the applicant submitted a request for a 9-unit density bonus without waiving his right to the 176 units reserved in the final plat. (**Attachment K**) Pursuant to BMC 20.38.050 (B)(3)(c), the site is eligible for requesting a density bonus. While the city agrees that the maximum allowable density is 176 units, it does appear that the applicant could satisfy the criteria to receive a 9-unit density bonus.

⁵ BMC 20.08.020 Specific definitions: Height, Building. (A). Definition 1. The vertical distance from the lowest existing grade at the wall of the building to the highest point of the coping of a flat roof or to the average height of the highest gable of a pitch or hip roof.

52. The municipal code requires a minimum of 25% of the total site area to be left as open space. BMC 20.38.050(B)(5) The Proposal satisfies this provision by preserving approximately 50% of the site in open space. This provision is met.
53. The Proposal should provide usable space on site in the amount equal to 250 square feet per unit. BMC 20.68.050(B)(6) The 106 units require 26,500 square feet of usable space. The Proposal intends to satisfy this requirement with the 40,600 square-foot common usable open space area located in the southwest corner of the site and 3,000 square feet of interior common usable space. The proposed common usable space can only be found to meet this provision if it is designed and programmed with a grade not in excess of 10% and includes some or all of the following:
- a. Walkways, patios, courtyards, decks, or a turfed area; or
 - b. Benches, cots, hammocks, or similar devices, the number of which shall reflect the number of intended users; or
 - c. Space equipped to provide recreational opportunities; and
 - d. LID facilities, meaning low impact development (LID) facilities designed in accordance with the Ecology Manual for the on-site management and treatment of stormwater, including, but not limited to, bioretention areas, rain gardens, permeable pavement, rainwater harvesters, and vegetated roofs.

The application materials demonstrate general compliance with this provision. This permit should be appropriately conditioned to require the applicant to submit a final usable space plan prior to or concurrently with the application for a building permit.

54. Planned development proposals must meet the required building setbacks under BMC 20.38.050(B)(7). The proposed setbacks are as follows:
- a. Puget Street (designated arterial): 270 feet from CL of right of way
 - b. Consolidation Avenue (flanking street): 45 feet from CL of right of way
 - c. Interior Side and Rear: 67 feet from property line

This provision is met.

55. Proposals for planned development must satisfy all parking regulations for similar uses contained in BMC 20.12.010 and no parking area can extend within 15 feet of any property line abutting a residential single zone. BMC 20.38.050(B)(8).
- a. All 106 units are proposed to have 3 bedrooms. BMC 20.12.010(B) requires 2 parking spaces for each three-bedroom unit. Therefore, the minimum number of parking spaces required for the proposal is 212. The proposal includes 257 parking spaces, with 249 of those spaces provided on-site and the remaining 8 spaces being public street parking on Consolidation Avenue. This provision is met.
 - b. BMC 20.12.010(C) establishes general provisions for all parking facilities. Parking spaces that are provided at 90-degrees to the curb must provide dimensions of 8 ½ by 17 feet with 22 feet of maneuvering. On street, parallel parking stalls are required

to provide dimensions of 8 feet by 22 feet. The proposed parking meets these dimensional standards.

- c. BMC 20.12.010(D) establishes design provisions for all parking facilities. The proposed parking facilities are not located within a required setback or within 5 feet of a property line, and they provide the minimum landscape separation areas required for on-site maneuvering. The proposal meets these design provisions.
- d. BMC 20.12.010(E) establishes improvement standards for parking facilities. The parking facilities are required to be hard surfaced and constructed of permeable pavement unless determined infeasible. The preliminary stormwater site plan submitted in support of the proposal states the site is infeasible to infiltrate its stormwater. The remaining improvement standards applicable to the proposal must be met and this permit should be conditioned to ensure compliance prior to or concurrently with building permit application review.

The Proposal complies with the above stated parking provisions if this permit is appropriately conditioned to demonstrate full compliance with the parking provisions as stated above.

- 56. The Parking Demand Study (**Attachment B - SEPA MDNS Ex. A.12**) identifies the number and general location of bicycle parking that is necessary to mitigate impacts from the Proposal. However, the Parking Demand Study did not include any standards for the design of this bicycle parking. Bicycle parking must be designed in a manner that encourages its use by residents. This can be achieved by locating bicycle parking evenly throughout the proposal, providing security through anchored bike racks where the bike can be locked to the rack with a high security, U-shaped shackle lock and rack design, and placement that allows the bike to be supported and maneuvered without interference from another bike. Incorporating these design provisions is necessary to ensure to the maximum extent possible that the mitigation identified in the Parking Demand Study will be realized and therefore, this permit should be appropriately conditioned as such.
- 57. Pursuant to BMC 20.38.050(B)(9) proposals for planned development shall satisfy all landscaping requirements for similar uses contained in BMC 20.12.030 which include provisions requiring all yards between a parking facility and any street to be landscaped and include an evergreen hedge or a screen if the adjacent zone is of a different general use type. Street trees are also a landscape requirement. The submitted landscape plan (**Attachment B - SEPA MDNS Exs. A.7 and A.8**) is sufficient to determine general compliance with the required landscaping provisions.

The only way to ensure the required street trees can be installed consistent with code and in a manner that does not conflict with existing and/or required public infrastructure, is to require the submittal of a street tree permit application for city review and approval concurrently with any public facilities construction agreement that may be required for this Proposal. This permit should be appropriately conditioned to require submittal of a final landscape plan, demonstrating compliance with all applicable provisions of BMC 20.12.030, to the city for review and approval prior to or concurrently with the application for a building permit.

58. BMC 20.38.050(B)(10) establishes the signage requirement for planned residential proposals. Signage is not proposed at this time. Signage should be provided consistent with the design review guidelines stated below and be minimized to reflect the neighborhood scale and character and have a size necessary to identify the Proposal. Sign provisions that would meet this intent are those in the Residential Multi chapter of the municipal code under BMC 20.32.100. The applicant is required to apply for and receive a separate sign permit if signage is proposed.

While not considered signage for the purposes of marketing, the permit should include a requirement to provide directional signage displaying all on-site addresses and site layout near the main driveway entrance(s) and the emergency entrance for the purpose of providing information for visitors and emergency services.

This permit should be appropriately conditioned to limit signage to that specified in BMC 20.32.100 and require the installation of direction signage at each entrance for visitor and emergency service purposes.

59. BMC 20.38.050(B)(11) provides guidance that significant drainage courses, topography, treed areas and other natural features should be saved, preserved, and enhanced. Similarly, the Puget Neighborhood Plan calls out minimizing the loss of the forested hillsides that provide scenic backdrops important to the character of Bellingham. The Environment Element of the Comprehensive Plan has numerous goals and policies on preserving trees, utilizing natural systems to manage stormwater, and using low impact development techniques in new development.

This undeveloped site is characterized as a forested hillside. According to a comprehensive tree survey and risk assessment done by an ISA-certified arborist in 2021, the site is comprised of a mixed deciduous/coniferous canopy with a well-established understory of shrubs and ground cover on a relatively steep hillside. Tree species include big leaf maple, Douglas fir, and red alder; oceanspray, sword fern, thimbleberry, and huckleberry are found in the understory (**Attachment B - SEPA MDNS Ex. A.5**).

Although the site was logged in the recent past, it appears to have been only selectively logged. Historic aerial photos show the site as forested many decades back, and today there are more deciduous trees on site than coniferous trees. The arborist noted poor structure in several trees due to a response from the past logging, making those trees at higher risk of failure. Trees posing a hazard to structures and high-use areas should be removed and replaced with native tree species suitable for the site.

The 15-acre site north of the property is comprised of a Category I forested wetland, according to the critical areas assessment (**Attachment B - SEPA MDNS Ex. A.1**). A portion of the wetland extends onto the property along with its 100-foot buffer. The 15-acre site was dedicated to the city in 1994 as part of the Cedar Ridge Plat. Located just south of this wetland and on the subject site is a small Category IV wetland with a 50-foot buffer. Both wetlands and their buffers will be preserved through a conservation easement; the buffer of the Category IV wetland will be averaged.

Areas of the eastern portion of the site are designated as landslide hazards (slopes >40%) whereas erosion hazards (slopes 30-40%) are uphill and east of the development footprint altogether (**Attachment B - SEPA MDNS Ex. A.3, Figure 3**). These

designations are in accordance with BMC 16.55.420. Most of the site does not meet the designation for landslide or erosion hazards.

Grading and construction avoid almost all the erosion hazards, and the landslide hazards are avoided altogether. The entire eastern portion of the site, approximately 5.5 acres, will remain as forested hillside. Concentrating development in the western portion of the site allows preservation and enhancement of the remaining forested hillside and keeps the north-south wildlife corridor intact.

Drainage through the site was studied by a geotechnical engineer and a civil engineer. Their reports (**Attachment B - SEPA MDNS Exs. A.3 and A.4**) include recommended best management practices and mitigation measures to address site drainage during and after construction. According to their analysis and recommendations, the Proposal will not result in an increase in runoff. To ensure there is no erosion or increase in runoff, conditions of approval include requirements on timing and phasing of the construction activity.

The Proposal complies with the Puget Neighborhood Plan and the Comprehensive Plan goals and policies with the conditions herein, including, but not limited to, preserving approximately 50% of the forested hillside, replacing hazard trees with native species, avoiding grading in designated erosion and landslide areas, and managing drainage through seasonal and phased timing restrictions.

60. BMC 20.38.050(B)(12) states that planned proposals should be designed in close coordination with the comprehensive plan. The proposal is in the Puget Neighborhood and abuts the Samish Neighborhood on its southern boundary. These neighborhood plans are components of the comprehensive plan and should be considered under this subsection of the planned development chapter. The applicant provided a written narrative explaining how the proposal is consistent with the Puget Neighborhood Plan **See Attachment A.**

The Puget Neighborhood plan identifies the need for neighborhood connectivity, pedestrian circulation, preservation of mature vegetation, drainage, and vehicular circulation. The proposal, as conditioned, is consistent with the goals and policies of the comprehensive plan including the Puget Neighborhood plan:

Neighborhood Connectivity/Footpath

The Parks, Recreation, and Open Space Plan (PRO Plan) chapter of the Comprehensive Plan identifies a proposed east-west multimodal trail corridor connecting Nevada St. to the intersection of Puget St. and Consolidation Ave. A trail terminus at Consolidation Ave. and Puget St., as generally shown in the PRO Plan, would deposit trail users at a narrow, curved street that lacks both pedestrian and bicycle facilities. Staff worked with the applicant to identify an alternative trail that provides equivalent connectivity to that shown in the PRO Plan while ensuring the safety of trail users and suitable multimodal trail terminus locations.

The applicant proposes a public trail from the end of the new segment of Consolidation Ave. connecting to the end of the 46th St. right-of-way, which is consistent with the location identified in the Puget Neighborhood Plan. (**Attachment B - SEPA MDNS Ex. A.9**) The proposed trail corridor will allow users to safely access existing Samish

Neighborhood connector trails off Byron Ave./47th St. and Racine St. The trail proposal fulfills the intent of the PRO Plan and the neighborhood plan to provide a continuous trail network and safe connection to the Samish Crest Open Space Trail network.

Final trail alignment, grades, and design will be reviewed and approved in accordance with the City's Design Standards for Park and Trail Development, specifically section 02505.01. This permit should be appropriately conditioned to require the dedication of an easement and/or land for public trail purposes as part of development of the property.

Pedestrian and Bicycle Circulation

The recent multimodal improvements to Nevada Street, north of Consolidation Avenue, enhanced the overall pedestrian and bicycle circulation in the area with bike lanes, traffic calming, and sidewalks. Pedestrian circulation from the site is also provided by a continuous network of sidewalks to both Lincoln Street and Lakeway Driveway. To fulfill the pedestrian circulation of the Puget Neighborhood Plan and provide mitigation resulting from impacts of the proposal, the applicant included the construction of safe pedestrian crossing improvements from the sidewalk on E. Maple Street to the Lincoln Creek Transportation Center. **Attachment B - SEPA MDNS Ex. A.12**

The existing and proposed improvements satisfy the overall pedestrian and bicycle circulation objectives in the Puget Neighborhood Plan by providing convenient pedestrian and bicycle access to transit, commercial service areas, and recreation amenities.

Preservation of Vegetation

The tree survey and risk assessment conducted by an ISA-certified arborist concluded that most of the forested eastern and northern portions of the site are stable but identified trees that pose a hazard to the new buildings. The hazard trees will be removed and replaced with suitable native tree species. The proposal includes approximately 5.5 acres of forested hillside to be enhanced and preserved through a conservation easement.

The project arborist, city arborist, and staff agree that the trees located between the development site and the developed lots to the west will be significantly destabilized by site development. Therefore, the applicant must replant a robust, healthy multi-storied forest buffer in that location to provide an effective screen between the proposed multifamily dwelling units and the nearby single-family homes. The applicant submitted a robust landscape plan that is incorporated into this approval. **Attachment B - SEPA MDNS Ex. A.7**

Approaches such as this, with a combination of retention and replacement, can best meet the site goals of vegetation preservation and protection of adjacent properties. Requiring five years of maintenance and monitoring of the replacement trees and the landscaped buffer between the Proposal and the existing homes provides assurances that the replanting goals to provide screening and habitat will be met.

Drainage

The development will require mitigation for stormwater quality and quantity per BMC 15.42. The proposal includes detention in an underground vault within the parking areas and a rain garden at the western edge of the site, which will provide stormwater treatment. The existing stormwater originating on the east side of the subject site will be rerouted into the proposed stormwater facilities and discharged into the city's stormwater system. The existing detention facility associated with the Cedar Ridge plat will not be used for the Proposal because it is not sized appropriately to accommodate development of the subject site.

Surface and groundwater drainage were analyzed by the geotechnical engineer who provided conclusions and recommendation for drainage controls during and after construction (**Attachment B - SEPA MDNS Ex. A.3**). The analysis, conclusions, and recommendations were used to draft a preliminary stormwater pollution prevention plan (SWPPP) (**Attachment B - SEPA MDNS Ex. A.4**).

This permit includes conditions to ensure that the proposed development will meet the stormwater management requirements in BMC 15.42.

Vehicular Circulation

This topic is further discussed in the Streets, Utilities, Access, and Dedications section below.

The proposal abuts subareas 3 and 4 of the Samish Neighborhood along its southern boundary. Area 3 has a multifamily, high density land use designation. The land use description for Area 3 acknowledges that its planned classification is compatible with that of the subject site.

Area 4 has a single-family, low density land use designation. The land use description for Area 4 does not address its interface with the subject site's multifamily planned classification. Consistency with the Comprehensive Plan will be demonstrated through compliance with the BMC.

Development regulations in the BMC implement the Comprehensive Plan. The planned development regulations address compatibility between different land use designations by imposing stricter code provisions, such as design, setbacks, landscaping and height provisions, when development with a planned designation is located within 200 feet of any residential zoned properties not having a planned designation. Demonstrating this proposal complies with the planned development chapter, with appropriate conditions, is sufficient to demonstrate consistency with the Comprehensive Plan.

The proposal is further supported by the following Comprehensive Plan goals and policies:

Land Use

- GOAL LU-5 Support the Growth Management Act's goal to encourage growth in urban areas.
- Policy LU-66 Encourage design flexibility (e.g., clustering and low impact development) to preserve existing site features, including trees, wetlands, streams, natural topography, and similar features.

Housing

- Policy H-3 Encourage well-designed infill development on vacant or underutilized properties.
- GOAL H-3 Promote sense of place in neighborhoods (see Land Use Chapter).
- Policy H-28 Protect and connect residential neighborhoods to retain identity and character and provide amenities that enhance quality of life.

Capital Facilities and Utilities

- GOAL CF-8 Promote the delivery of adequate utilities and encourage the design and siting of private utility facilities in a manner that minimizes impacts on adjacent land uses and the environment.
- Policy CF-3 Encourage and support development in areas where adequate public facilities and services exist or can be provided in an efficient manner.
- Policy CF-4 Protect public health, enhance environmental quality, and promote conservation of natural resources through appropriate design and installation of new public facilities.
- Policy CF-17 New development should pay its proportional share of the cost of new public facilities that serve the subject development.

Environment

- Policy EV-23 Protect habitat and habitat corridors used by wildlife, fish, and pollinators from the impacts of development, where feasible.
- Policy EV-26 Limit public and pet access and their impacts to the most sensitive and unique habitats and employ measures to minimize impacts from public access.
- Policy EV-28 Provide natural area and open space linkages within developed areas.

Park and Recreation Open Space Plan

Goal 1: Provide high-quality facilities and services that are accessible, inclusive and distributed equitably across Bellingham. Objectives:

- a. Provide a system of parks, trails and open space so that all residents live within one-half mile safe route of a developed park or trail.
- b. Proactively upgrade and restore existing facilities to address community needs, improve resiliency and protect long-term health of existing park assets.

Goal 4: Preserve and integrate nature, natural systems and ecological principles throughout the park system. Objectives:

- a. Protect environmental features that reflect Bellingham's natural character, including ridgelines, critical areas, forests and wildlife corridors.

Goal 6: Connect and unify the community with trail and greenway corridors. Objectives:

- a. Provide an interconnected trail system so all residents are within one-half mile of a safe route.
- c. Implement the Greenways Strategic Plan and pursue recommended future parks, open space, and trails.

5.5.1 Policy Recommendations Trails (TR)

- Coordinate with Public Works to identify opportunities for better trail, habitat corridor, sidewalk and bike route connectivity.

Review of the application materials, including the applicant's response to this code provision, and the comprehensive plan concludes this provision is met by:

- a. Providing an efficient means of development on an existing infill parcel.
- b. Adding a mix of housing opportunity to the neighborhood.
- c. Preserving a forested corridor and replanting the area nearest existing homes to provide a sustainable buffer.
- d. Providing pedestrian connectivity for the general use of the public.
- e. Locating within ¼ mile of a high-frequency transit route.
- f. Locating where pedestrian and bicycle facilities connect this proposal to the WTA park-n-ride, recreational opportunities, and shopping centers.
- g. Providing an appropriate transition between different land use designations.

61. BMC 20.38.050(B)(13) includes provisions for streets, utilities, access, and dedications.
62. BMC 20.38.050(B)(13)(a) states that streets and utilities should be designed to fulfill reasonably anticipated future need, located to enable the continued orderly and reasonable use of adjacent property and should be extended to the property line unless it is clearly demonstrated that the extension will not be needed for development of adjacent property. The submitted engineering plans for street, water, sewer and stormwater were sufficient for application review but do not constitute an approved design.

Consolidation Avenue is improved from Nevada Street to the site's western property line and is unimproved across the site's frontage. The applicant does not propose extending Consolidation to the eastern property line due to the topography within the right of way. Instead, the applicant proposes to extend Consolidation Avenue to provide access to its two driveways.

The maximum allowable grade for a residential street in Bellingham is 15% (Section 4-5.01 Street Grades, Development Guidelines and Improvement Standards). The grade of Consolidation between 45th Street and Puget Street exceeds this limit. The extension of Consolidation Avenue from Nevada Street through the intersection of 45th Street is

the only portion of Consolidation Avenue that can be constructed to city codes and fulfill reasonably anticipated future needs of adjacent properties. The final engineered design of Consolidation Avenue at the 45th/Consolidation intersection must allow the reasonable extension of 45th Street south to serve the undeveloped, platted lots to enable the continued orderly and reasonable use of the adjacent property.

The applicant proposes to construct 8 parking stalls on the north side of Consolidation Ave. The final design for Consolidation Ave. improvements shall include a vertical curb on the south side to prevent unauthorized parking in that area.

A pedestrian path could be constructed in the right of way as trails can be constructed at a steeper gradient than streets. In keeping with the objectives of the Puget Neighborhood Plan and the PRO Plan discussed above, this permit decision should be required to provide pedestrian circulation through the construction of a trail from the associated pedestrian facility east of the easterly driveway entrance to 46th Street.

Topography of the site also limits the Proposal's ability to access from Puget Street and improvements to Puget Street are not needed for development of adjacent properties.

City sewer mains with sufficient capacity for the development are located in the Consolation Ave. right-of-way. The applicant proposes a partial replacement of the sewer main during construction of Consolidation Avenue. On site sewer will be private that will connect to the public main off site.

City water mains are located near the site with sufficient pressure to provide domestic water and fire flow to the proposed development.

The applicant proposes stormwater detention in a vault under the westernmost parking facility and a rain garden at the western edge of the site to manage and treat stormwater. (**Attachment B – SEPA MDNS Ex. A.4**). The applicant must provide a final Stormwater Pollution Prevention Plan (SWPPP) under BMC 15.42

The contractor and their Certified Erosion and Sediment Control Lead (CESCL) shall monitor the site through construction to ensure the best management practices (BMPs) for managing the quality and quantity of stormwater are functioning properly. BMC 15.42.060(F)(2)(e)(xii)(E)

63. BMC 20.38.050(B)(13)(b) requires dedicated widths of rights-of-way consistent with minimum city requirements.

The current 30-foot width of the Consolidation Avenue right-of-way does not meet the city's minimum requirement of a 60-foot right-of-way. Therefore, the applicant must dedicate an additional 30 feet of land across the property's southern boundary to meet this requirement as a condition of this permit.

64. BMC 20.38.050(B)(13)(c) states streets should be improved to city standard. Consolidation Avenue requires additional improvements to serve this Proposal and provide for anticipated future development. Therefore, this permit should be conditioned to require the construction of Consolidation Avenue to $\frac{3}{4}$ city standard of a 28-foot street except as modified below:

- a. Include parallel parking along the northern edge of the site's Consolidation Avenue improvements.
 - b. Include a vertical curb along the southern edge of the site's Consolidation Avenue improvements.
65. BMC 20.38.050(B)(13)(d) requires the construction of sidewalks in all abutting rights of way and walkways within the development that link buildings to parking areas and public sidewalks, unless waived for reasons of infeasibility or impracticality. Based on the above analysis, improvements to Puget Street are impractical and should not be required. Improvements to Consolidation are warranted, with exceptions as stated above. In lieu of sidewalks within the full length of Consolidation Avenue, the intent of this provision will be met with the construction of sidewalk abutting the developed portion of Consolidation Avenue and with the construction of a public trail from these Consolidation Avenue improvements to 46th Street.

The proposal provides the necessary pedestrian pathways to satisfy the onsite pedestrian circulation needs.

66. BMC 20.38.050(B)(13)(e and f) concerning access and dedications are either met by the current design of the Proposal or are already included as required improvements for the Proposal.
67. BMC 20.38.050(B)(14) is met with the submitted of required land use applications that have been submitted in support of the Proposal.
68. BMC 20.38.050(B)(15) does not appear applicable to the Proposal.
69. Pursuant to BMC 20.38.040, the above findings and conclusions in the Planned Development section of this permit address all development aspects of Chapter 20.38 BMC that are applicable to the Proposal and will ensure that the Proposal will protect the public health, safety and welfare if appropriately conditioned.

Design Review – Chapter 20.25 BMC

70. The Proposal is subject to design review because it includes more than 3 dwelling units on a site. BMC 20.25.020. The director shall ensure consistency with the provisions of the adopted Multifamily Residential Design Handbook (Handbook). BMC 20.25.020(B)(4).
71. The following design standards are applicable to the Proposal, which should be appropriately conditioned as stated below to ensure code compliance and compatibility:
- a. Site Design – Orientation: Orient buildings to public streets and open spaces in a way that corresponds to the site's natural features and enhances the character of the street for pedestrian purposes.

Response: The Proposal meets this requirement by providing pedestrian connectivity from each building to the abutting street, Consolidation Ave., via a network of pedestrian pathways. All buildings are designed with main pedestrian entries

accessed from this network. Pedestrian circulation will be enhanced with the construction of the required sidewalk improvements and trail.

- b. Site Design - Neighborhood Connections: Provide functional pedestrian and vehicular connections to existing neighborhoods.

Response: As discussed above, the Proposal includes functional pedestrian connections to the adjacent neighborhoods.

Vehicular connection is proposed from a newly constructed section of Consolidation Ave. The property has 30 feet of frontage on Nevada Street via a pipestem. Vehicular access to Nevada Street is not proposed and will be limited for emergency access purposes.

The Proposal meets this requirement.

- c. Site Design – Parking Location and Design: Minimize the impact of parking facilities on the fronting street, sidewalk and neighborhood properties by designing and locating parking lots, carports, and garages so they do not dominate the street front.

Response: The proposal minimizes the impact of parking facilities on the fronting streets, sidewalk and neighborhood properties. The buildings and parking lots are arranged in a manner to work with the site's challenging topography. This results in a site layout that provides a mix of building, parking and recreational facilities along Consolidation Avenue.

The proposal further minimizes impacts from parking facilities by placing open space and buildings between the existing single-family residences and the parking facilities.

The Proposal meets this requirement.

- d. Site Design – Clearing and Grading: Preserve significant natural features whenever feasible and minimize changes to the natural topography.

Response: The Proposal meets this requirement through the preservation of large tracts of the wooded hillside where the topography is most extreme and terracing the development with the natural grades of the site.

- e. Site Design – Fences and Walls Adjacent to Streets: There are no proposed fences or wall identified in the application materials that are adjacent to any abutting streets. Any such walls that are determined to be necessary to address final grading should be provided consistent with this standard and constructed with an architectural or textured finish.

Response: This provision is not applicable however the permit should be conditioned to anticipate a scenario for the future need to construct retaining walls.

- f. Site Design – Open Space and Recreation: Locate and design useable space to encourage its use for leisure or recreational activities.

Response: The common usable space is centrally located and accessible to residents via pedestrian pathways. The design of the usable space area is a draft concept and will require further refinement and programming to comply with BMC 20.38.050(B)(6). Compliance with BMC 20.38.050(B)(6) will implement provisions that will additionally meet this design requirement. The Proposal meets this requirement.

- g. Site Design – Mailboxes, Site Lighting, Bus Stops: Locate and design functions such as mailboxes and bus stops to promote ease of use and safety. Provide lighting adequate for the function without creating excessive glare or light levels.

Response: The proposal did not identify the location of mailboxes or include a master lighting plan. These design elements should be addressed during building permit review for consistency with the handbook.

- h. Site Design - Trash and Recycling Storage – Provide adequate screening for trash and recycling facilities associated with multifamily developments.

Response: This design element should be addressed during building permit review for consistency with the handbook.

- i. Site Design - Landscape Design-Overall Project: Provide landscaping that is in scale with the buildings and spaces and compliments the function of the space.

Response: The draft landscape plan generally complies with this provision. To ensure this provision is met, this permit must be conditioned to ensure the following:

- 1) The draft site plan and project renderings must be reconciled with a final site and landscaping plan submitted with building permits to ensure a landscape bed will be provided at the base of the masonry wall located between Buildings A and C and Parking Lots C and D, and more specifically located between the masonry wall and the walkway adjacent to the parking lot. This bed should include medium sized trees or larger at a minimum ratio of one (1) tree per 50 feet of wall length. This will serve to break up the combined hardscape of these parking lots, sidewalks, and masonry walls.
- 2) The raised landscape beds located on the west side of Parking Lots A, B, and D should include medium sized trees or larger at a minimum ratio of 1 tree per 50 feet of parking lot frontage, to give some additional vegetative buffer between the parking lot hardscapes and the buildings.
- 3) Additional mitigation is needed to provide a visual buffer between the emergency access road off Nevada Street and the abutting residences. The final landscape plan should substitute the proposed deciduous plant material with evergreen shrubs and ground cover that have a growth pattern similar to the proposed spirea, Oregon grape holly and sword ferns as shown on **Attachment B – SEPA MDNS Ex. A.8.**

- j. Site Design – Landscape Design-Parking Areas: Use landscaping to help define, break up and screen parking areas.

Response: The draft landscape plan complies with this provision. The Proposal meets this requirement.

- k. Site Design – Signs: Minimize the amount of signage needed to identify the multifamily development.

Response: Signage is not proposed at this time. Signage should be provided consistent with the above stated design review guideline and should be minimized to reflect the neighborhood scale and character and have a size necessary to identify the Proposal. Proposed signage shall be reviewed during building permit review and should comply with BMC 20.32.100.

- l. Site Design - Sidewalk design: Design sidewalks to be consistent with the existing or proposed street design in the subject area.

Response: The proposed sidewalk design is consistent with the design found in the immediate neighborhood. This provision is met.

- m. Site Design – Site Drainage: When open stormwater facilities are proposed to be located on the site, minimize negative impacts on natural site features and incorporate them into the overall landscape scheme.

Response: The Proposal meets this requirement by including one open stormwater facility, or pond, into the overall stormwater management site plan. This facility should be landscaped in a manner that minimizes its impact. This provision is met.

- n. Building Design – Neighborhood Scale: The scale of those portions of the building facing an existing developed neighborhood shall conform to the scale established in the neighborhood or the scale identified in the district.

Response: The site is in a well-established neighborhood with a mix of residential uses at varying scales from single family to multi-story apartment buildings. Specific to this proposal, the adjacent properties are developed with single-family uses generally with a scale consisting of 1- to 2-stories, with a two-car attached garage, associated driveways for additional parking, and located on lots ranging from 5,000-11,00 square feet.

Public comment raised concerns regarding the relationship of the Proposal's scale, compatibility and privacy issues to that of the existing neighborhoods. This requirement addresses how new development should respond to a neighborhood's existing scale, be compatible with its character and ensure privacy.

In response to public comment concerning the overall size of the proposal, the applicant reduced the size and scale from one 5 ½ story building with 136 units to the current proposal that includes two smaller, 2 ½ story buildings adjacent to the single-family residences located on Nevada Street and Marionberry Court and places a taller, 5 ½ story building in the center of the site, away from adjacent residences on

Puget Street and N 46th Street. The smaller, 2 ½ story buildings provide an acceptable transition from the single-family residences to the larger 5 ½ story building with a scale that is consistent with the standard and multi-family zoning.

The siting of the 5 ½ story building below the area of the site that will not be developed and below the Puget Street elevation allows the existing vegetation and topography to create a physical transition from the residences along Puget and 46th Streets.

The overall height of the 5 ½ story building relates to the scale of the building. This building, with the proposed height and as currently designed does not conform to the scale of the neighborhood without additional design modifications. The western facing side of the 5 ½ story building should use building materials to break the building into smaller, more scalable building sections that are found in the neighborhood. These building sections could be emphasized vertically or horizontally through the appropriate use of building materials and roof forms.

This permit should be appropriately conditioned to require incorporation of the above stated design standards.

- o. Building Design – Neighborhood Compatibility: New buildings should reflect some of the architectural character of surrounding buildings when locating in a neighborhood where the existing context is well defined.

Response: The current building design lacks compatibility with the surrounding neighborhood. Design alternatives to achieve compatibility include the incorporation of the modules noted above to form distinct modules that establish human scale building elements and consistency with the established scale of the neighborhood. The building's fenestration should relate to each of these building elements for each module.

Incorporation of the design modifications recommended above under Neighborhood Scale will further the proposal's compliance with this design requirement.

- p. Building Design – Privacy: Orient buildings to provide for privacy, to the extent practical, both within the project and for adjacent residential uses.

Response: The proposed hard and softscapes in the transition area between the single-family residences on Nevada Street and Marionberry Court and the site's improvements (buildings, common usable areas, parking lots, etc.) will provide a solid, visual evergreen buffer that screens these residences from the proposal to provide for privacy. This requirement is met.

- q. Building Design – Façade and Articulation: Use architectural features that break up blank, flat walls and roofs and give the building a human scale.

Response: Incorporation of the design modifications recommended above under Neighborhood Scale will further the proposal's compliance with this design requirement.

- r. Building Design – Windows: provide articulation of the building façade by using well-proportioned and spaced windows.

Response: The proposal has a mix of vertically proportioned windows and smaller accent windows. All windows include window trim in addition to the window frames, and the window trim paint scheme varies between floors. All French balconies have accent grillwork and accent awnings. This requirement is met.

- s. Building Design – Building Foundations: Design a building foundation to blend visually with the site.

Response: The application did not include enough information to determine if the proposal meets this design requirement. This permit should be appropriately conditioned to ensure this requirement is met by employing one or more of the design guidelines for this requirement with a final determination made through review and issuance of a building permit application. This design element shall be addressed during building permit review for consistency with the handbook.

- t. Building Design – Entries: Clearly define the main entrance of a building, orient it to a pedestrian walkway and enhance safety through lighting and visibility.

Response: Each building includes a main entrance oriented to a common pedestrian walkway that is articulated with additional building detail, windows, siding material and different roof form. The building's main entries meet this requirement.

The buildings include ground floor units with direct access to a pedestrian walkway. These individual entrances should be treated with equal design details that appropriately identify the entrances using covered entries, swing doors with glazing, and lighting.

The application materials did not provide enough information concerning lighting and this permit should be appropriately conditioned to require sufficient lighting to meet this requirement.

- u. Building Design – Building Materials: Use durable exterior finish materials that provide visual detail, reduce the perceived scale of the building through texture or pattern, and appear similar to those used in the neighborhood.

Response: The proposed materials are consistent with those found in the neighborhood. The use, pattern and texture of the materials should be applied appropriately consistent with the massing and modulation discussion above concerning Building Design – Neighborhood Scale.

- v. Building Design – Garages/Accessory Building and Additions to Existing Structures are not applicable to this proposal.

72. The Proposal can be found to meet the requirements of Chapter 20.25 BMC and the Handbook only if appropriately conditioned as recommended above.

Critical Areas

73. The subject property contains the following critical areas regulated under the Critical Areas Ordinance (CAO), BMC 16.55: geologically hazardous areas and a wetland and wetland buffer (**SEPA MDNS Exs. A.1 and A.3** respectively). The critical area reports were prepared by qualified professionals, as required by BMC 16.55.
74. The critical areas report for wetlands and habitat conservation areas identifies two wetlands: Wetland A is a Category I wetland located mostly on the city-owned parcel to the north, and Wetland B is a Category IV located just south of Wetland A. Wetlands were rated and delineated in accordance with BMC 16.55.280 and 16.55.290, respectively.
75. The site includes habitat features on the Washington Department of Fish and Wildlife's Priority Habitat and Species (PHS) list. Decaying trees, dead trees, and downed logs are listed as priority habitat type favored by pileated woodpecker and the big brown bat. The preserved forested hillside will continue to provide these habitat features. Other wildlife including birds, mammals, and invertebrates, have also been observed on the site.
76. The standard buffer for Wetland A is 100 feet, and the standard buffer for Wetland B is 50 feet BMC 16.55.340(B). Buffer averaging is proposed for Wetland B (**Attachment B - SEPA MDNS Ex. A.2**). Buffer averaging criteria require the total buffer area of the averaged buffer to be the same as the standard buffer. Other criteria address protecting the wetland. The proposed Wetland B buffer averaging meets the criteria in BMC 16.55.340(C)(3).
77. The geotechnical engineering report identified slopes on-site as "landslide hazards" (>40%). These slopes are located on the uphill (eastern) portion of the site where no clearing or grading will occur. Slopes designated as "erosion hazards" (30%-40%) are scattered mostly uphill and east of the proposed grading as shown in **Attachment B - SEPA MDNS Ex. A.3, Figure 3**. Limited grading will occur in areas designated erosion hazard such as grading for construction of the public trail. Geohazards were designated in accordance with BMC 16.55.420.
78. The geotechnical engineering report indicates that the performance standards in BMC 16.55.450 will be met if the best management practices and recommendations within the report are followed.
79. Mitigation sequencing under BMC 16.55.250 was applied to avoid and minimize impacts to critical areas and buffers:
- a. Fill of the small Category IV wetland, Wetland B, was avoided. In addition, through project design the applicant was able to avoid permanent wetland buffer impacts to the Category I wetland, Wetland A, and to average the buffer for the Category IV wetland, Wetland B, thereby not losing any buffer area.
 - b. Site grading avoids all landslide hazards and minimizes grading in erosion hazards.

- c. Site development avoids impacts to wetland hydrology.
 - d. Snags and downed logs in the forested east half of the site will remain, continuing to support wildlife that depends on these features.
80. The wetlands and their buffers, along with the forested hillside in the eastern portion of the property will be protected in perpetuity in a conservation easement. BMC 16.55.190.
 81. Fencing and signage to prevent future impacts to the wetland and wetland buffer will be installed at the wetland buffer. BMC 16.55.230.
 82. A line-item estimate for all costs of the a) wetland buffer mitigation plan described in **(Attachment B - SEPA MDNS Ex. A.2**, b) tree replacement plan described in **Attachment B - SEPA MDNS Ex. A.5**, and 3) landscape buffer plan described in **Attachment B - SEPA MDNS Ex. A.7** should be provided prior to the issuance of a building permit.
 83. Based upon the technical reports, environmental information submitted, the provisions of BMC 16.55 and if properly conditioned, the proposal complies with the critical areas ordinance.

V. DECISION AND CONDITIONS OF APPROVAL

Based upon the Findings of Fact and Conclusions of Law, the Director of the Planning and Community Development Department (PCDD) or designee, approves the Planned Development, Design Review, and Critical Area Permit subject to the following conditions:

A. GENERAL

1. Use of the site shall be limited as stated in the project description stated in Section I of this permit on the property legally described in Section II of this permit and shall be developed generally consistent with the permit plans listed in Section III, and all other conditions contained in this permit.
2. Development of the property shall be consistent with all applicable provisions of the BMC and with the mitigating conditions of the MDNS.
3. Prior to approval of any building or construction permits, the City shall determine compliance with application provisions of the BMC and the conditions of this permit.
4. A public facility construction agreement shall be obtained from the City prior to installation of any public infrastructure required by this permit. Installation of private infrastructure shall occur concurrently with the development of the residential uses. Infrastructure includes, but not limited to, street, water, sewer, stormwater, and trails.
5. All applicable impact fees in an amount approved by City ordinance in effect at the time a complete building permit application is accepted by the City shall be paid prior to building permit issuance.

B. PHASING

Construction of the Proposal may be phased. Each phase of development shall satisfy all applicable conditions of this permit necessary to support that phase, except the construction of Consolidation Ave. and the public trail, which shall be completed in the first phase of development.

C. SITE PLAN

The site shall be developed generally with the site plan shown on **Attachment A.1**, except for revisions necessary to comply with the BMC and the conditions of this permit. A final site plan shall be submitted, reviewed, and approved through the building permit application review process and shall include, at a minimum, the following:

1. Proposed phasing boundaries.
2. Clearing and grading limits.
3. Buildings.
4. Yards/setbacks.
5. Parking facilities.
6. Driveway location.
7. Critical areas and associated buffers.
8. Conservation easement boundaries.
9. Continuous internal pedestrian connectivity from each building on site to the sidewalk in Consolidation Avenue.
10. Landscaping
11. Location of any open stormwater facility.
12. Location of all usable and open spaces.
13. Mailboxes in a design and location as approved by the United States Postal Service.
14. Refuse areas for garbage and recycling in a location and design approved by Sanitary Services Company.

D. DENSITY

The density of the subject site is restricted to a maximum of 106 residential units, and no unit shall contain more than 3 bedrooms.

E. HEIGHT/OPEN SPACE/USABLE SPACE/YARDS

Prior to the issuance of a building permit for any phase of the proposal, the overall proposal shall demonstrate consistency with the height, open space, usable space, and yard regulations pursuant to BMC 20.38.050(B)(4)-(7) and the applicable findings and conclusions of law herein this permit.

F. PARKING

1. All parking facilities shall satisfy all parking and loading area regulations for multifamily housing uses contained in BMC 20.12.010 and 20.38.050(B)(8).
2. Bicycle parking shall be provided as required by the MDNS and the Parking Demand Study (**Attachment B - SEPA MDNS Ex. A.12**), including both short and long-term spaces, and

distributed proportionally throughout the site based on building size and designed for the convenience and security of the user. The following standards shall apply:

- a. Bicycle parking shall be provided with either a rack or locker that is anchored to the floor and/or wall.
- b. The rack or locker is designed to ensure bicycles may be securely locked without undue inconvenience and will be reasonably safeguarded from intentional or accidental damage.
- c. All forms of bicycle storage shall provide a method that allows the bicycle frame and/or one wheel to be locked to the rack with a high security, U-shaped shackle lock if both wheels are left on the bicycle.
- d. Each bicycle parking space shall be accessible without moving another bicycle, the area devoted to bicycle parking shall be hard surfaced, and there shall be an aisle at least five feet wide behind all required bicycle parking to allow room for bicycle maneuvering.

G. LANDSCAPING

1. All landscaping shall be provided consistent with BMC 20.38.050(B)(9). Landscaping, including soft and hardscapes, shall be required as shown in (**Attachment B - SEPA MDNS Exs A.7 and A.8**) and the following:
 - a. Street trees shall be provided at a rate of one tree for every 50' of improved street frontage abutting Consolidation Avenue. A street tree permit application shall be submitted concurrently with any public facilities construction agreement that may be required for this Proposal.
 - b. A landscape bed shall be provided at the base of the masonry wall located between Buildings A and C and Parking Lots C and D, and more specifically located between the masonry wall and the walkway adjacent to the parking lot. This bed should include medium size trees or larger at a minimum ratio of one (1) tree per 50 feet of wall length.
 - c. The raised landscape beds located on the west side of Parking Lots A, B, and D should include medium sized trees or larger at a minimum ratio of 1 tree per 50 feet of parking lot frontage.
 - d. The open stormwater facility shall be landscaped generally as shown in the above reference exhibits.
 - e. The final landscape plan shall substitute the deciduous plant material proposed along the full length of the emergency access road off Puget Street with evergreen shrubs and ground cover that have a growth pattern similar to the proposed spirea, Oregon grape holly and sword ferns.

H. SIGNS

1. Signage shall be limited to that specified in BMC 20.32.100 for Residential-Multi development.
2. An additional sign shall be provided displaying all on-site addresses and site layout, near each main entrance and the emergency entrance for the purpose of providing information for visitors and emergency services.

I. DEDICATION, STREETS, UTILITIES, AND TRAIL

1. Dedication. Dedication of 30 feet of land across the site's southern boundary is required for public right of way purposes for Consolidation Avenue.
2. Streets. A public facilities construction agreement shall be obtained for the following infrastructure improvements:
 - a. Consolidation Ave. shall be constructed from its existing terminus to the proposal's eastern entrance to $\frac{3}{4}$ city-standard of a 28-foot residential street with parallel parking on the north side of the right of way and vertical curbs on the south side right of way. These improvements shall be provided for a distance necessary to establish the intersection at Consolidation Ave. and 45th Street and provide 8 parallel parking spaces consistent with the Parking Demand Analysis. The final engineered plans for Consolidation Avenue shall be designed in a manner that allows for the reasonable extension of the platted alley between 44th and 45th Streets and 45th Street south of the Consolidation Avenue improvements to serve the undeveloped, platted lots along 45th Street as determined feasible by the city engineer.
 - b. Water. The existing public water main abutting the western property line shall be extended east in the Consolidation Ave. right of way through and across the intersection at Consolidation Ave. and 45th St. This public water main shall be further extended as a looped system through the site in a manner that provides adequate water service for the proposal and fire hydrants.
 - c. Sewer. Any impact to the existing public sewer main resulting from the construction of Consolidation Avenue shall be replaced in a plan approved by the city engineer.
 - d. Stormwater. All required public stormwater mains shall be constructed in a manner consistent with the BMC as approved by the city engineer.
 - e. Public trail. A trail shall be constructed to city-standard from the constructed eastern terminus of the required sidewalk in Consolidation Ave. required by this permit to the intersection at Consolidation Ave. and 46th St., generally as shown on **Attachment B - SEPA MDNS Ex. A.9**. Final trail alignment, grades, and design will be reviewed and approved in accordance with the City's Design Standards for Park and Trail Development, specifically section 02505.01 and shall be guided by the environmental documents submitted in support of the trail location to minimize grading and clearing to construct and maintain the trail. A dedication of land or a public trail easement, meeting the requirements of Park and Trail Development standard 00000.10, is necessary to fulfill the obligations of the comprehensive plan.

- f. Any retaining wall determined necessary to support street improvements shall be constructed with an architectural or textured finish.
- 3. Public easements shall be provided as required by the city for all required public infrastructure not located within a public right of way.
- 4. No additional frontage improvements are required for Nevada, Puget or 46th Streets.

J. STORMWATER MANAGEMENT

The preliminary stormwater drainage report was sufficient for application review but does not satisfy the requirements for compliance with Chapter 15.42 BMC. A final "Stormwater Site Plan" SSP shall be submitted for review and approval with the first application for development of the infrastructure or buildings under BMC 15.42

Any open treatment and detention systems, including swales, rain gardens, and rock vaults, shall be designed to fit within the natural surroundings to the maximum extent practicable and be accessible for maintenance. Landscaping for these systems shall be designed by a licensed landscape architect and/or wetland biologist in accordance with those specifications listed in this order. The facilities shall be designed to accommodate vegetation that will visually buffer the facilities from adjacent residential properties as proposed in the application landscape plan.

K. DESIGN REVIEW

The site plan and elevations shall be generally consistent with the information shown on **Attachment A** and shall be modified, as necessary, to comply with the BMC and the following:

1. Site Design

- w. Mailboxes. The final location and design shall be approved during building permit review, including approval by the United States Postal Service.
- x. Site Lighting. A lighting plan shall be submitted for review and approval by the city prior to or concurrently with the first building permit application. Outdoor lighting on the buildings shall be provided to illuminate all pedestrian walkways and exterior entries and shall be provided for the parking areas. All outdoor lighting shall be sized, shielded, and directed to avoid adverse impact and spillover onto adjacent properties, the offsite wetland, and its associated buffer. Upward directed light is prohibited. To demonstrate the lighting plan meets these requirements, the plan shall include and/or specify the following:
 - i. A photometric site plan, drawn to scale, showing all buildings and parking areas, fixture and pole height, and include all proposed exterior lighting fixtures and foot-candle spread.
 - ii. Design specifications for all proposed exterior lighting fixtures shall include photometric data, cutoff devices, bulb wattage/type, and other descriptive information.
 - iii. Foot-candles for all outdoor lighting. Exterior lighting shall not exceed a 1.5 foot-candle per IES minimum lighting standards at the edge of the constructed footprint of the site.
 - iv. The lighting must also be, as much as physically possible, contained to the site area.
 - v. All lighting shall be shielded and directed away from the wetland buffer.
- y. Refuse Areas: The final location of the refuse area for garbage and recycling shall be approved during building permit review, including approval by Sanitary Services Company.

The refuse areas shall be screened on at least three sides and be construction a durable material that is consistent with and complimentary to the materials used on the buildings.

- z. Retaining walls. The design of any retaining wall supporting public or private infrastructure, on or abutting public streets, that are constructed of concrete or block material exposed greater than two (2) feet above grade shall be submitted for review and approval of the City. Concrete walls shall be finished with a material that will hide form panel seams and tie holes and be designed to blend visually with the site. Any block wall shall be precast or textured in a manner approved by the City.

2. Building Design

- a. Neighborhood scale, compatibility, façade and articulation. All buildings permitted in this decision shall be constructed and finished with the level of detail shown on **Attachment A.2**, or as conditioned in this permit, including, but not limited to building modulation, siding material and direction, roof pitch, window wrap, trim, window size and placement, main and private entry details, and color scheme, except as modified by this decision. The proposed height of the building does not conform to the scale of the neighborhood without additional design modifications. The western facing side of the 5 ½ story building shall be modified to include building materials to break the building into smaller, more scalable building sections that are found in the neighborhood. These buildings sections may be emphasized vertically or horizontally through the appropriate use of building materials and roof forms.
- b. Foundations. Any foundation wall greater than 2 feet in height above finished grade shall incorporate one or more of the following design guidelines:
 - 1) Use a finish material on foundation walls that will complement the siding such as a colored or scored concrete or stone, or
 - 2) Use landscaping of a sufficient size, specie and spacing to cover it.

L. INTERNATIONAL FIRE CODE

The development shall comply with all applicable fire flow and fire code standards as adopted by the City pursuant to Chapter 17.20 BMC and approved by the Fire Marshal.

M. IMPACT FEES

School, park, and traffic impact fees, in an amount established by ordinance, shall be paid prior to building permit issuance.

N. Critical Areas, Tree Preservation/Restoration, and Drainage

- 1. Prior to the issuance of any building permits and prior to any site disturbance, a conservation easement for the forested hillside and wetland/wetland buffer shall be recorded with the Whatcom County Auditor's Office (see the contiguous green area on **Attachment B - SEPA MDNS Ex. A.6**). For the easement, the following shall be prepared by a licensed surveyor: legal description of the parent parcels (titled 'Exhibit A'), legal description of the conservation easement areas (titled 'Exhibit B'), and legal drawing of the conservation easement areas (titled 'Exhibit C'). A lot closure report and subdivision guarantee shall also be provided for review with the above materials. The city will prepare

the text. If the proposed public trail is approved for the location, the easement will include language allowing public access.

2. Prior to the issuance of any building permits and prior to any site disturbance, a line-item estimate of all costs of the a) wetland buffer mitigation plan described in **Attachment B - SEPA MDNS Ex. A.2**, b) tree replacement plan described in **Attachment B - SEPA MDNS Ex. A.5**, and 3) landscape buffer plan described in **Attachment B - SEPA MDNS Ex. A.7** shall be submitted to the PCDD for review and approval. The line-item costs shall include plants, mulch, soil amendments, site preparation, five years of at least two-times-per year maintenance, watering and/or irrigation, as-built report, five years of monitoring and annual monitoring reports, fencing the averaged wetland buffer, and Native Growth Protection Area signs along the conservation easement boundary.
3. Prior to the issuance of any building permits and prior to any site disturbance, a financial surety, using a form provided by the city for an assignment of funds or surety bond, shall be submitted to the PCDD for the approved line-item costs for wetland buffer averaging, tree replacements, and landscaping. The estimates are only valid through 2022. Each January 1st in subsequent years beginning in 2023, an updated surety estimate shall be provided if the surety has not yet been submitted to, and accepted by, the city.
4. The party initially providing the surety shall remain responsible for maintaining the surety through the duration of the mitigation maintenance and monitoring periods required by the city unless the city approves, in writing, the transfer of responsibility for maintaining the surety to another party. If the applicant sells or transfers the property to another party, that party shall be informed by the applicant about the requirement for consecutive years of maintenance and monitoring described above.
5. Prior to issuance of each building permits and prior to any site disturbance for each construction phase, a site visit shall be scheduled by the applicant and include the applicant, city environmental planner, wetland biologist, arborist, landscape architect, and the mitigation contractor. A copy of the tree replacement plan (**Attachment B - SEPA MDNS Ex. A.5**) and landscape plan (**Attachment B - SEPA MDNS Ex. A.7**) shall be at these site visits. The following shall be reviewed:
 - a) Surveyed clearing limits and erosion controls
 - b) Grading limits
 - c) Equipment access locations
 - d) Equipment and materials staging and stockpiling for duration of the construction
6. The applicant shall arrange for the project geotechnical consultant to 1) review the project plans and specifications to confirm that the recommendations made in **Attachment B - SEPA MDNS Ex. A.3** have been implemented and 2) evaluate site conditions during construction to ensure consistency with the geotechnical engineering report (**Attachment B - SEPA MDNS Ex. A.3**) and its conclusions and recommendations. Confirmation of this review shall be provided to the city as requested.
7. Clearing and grading shall be restricted to the dry season, defined in BMC 15.42 (Stormwater Management) and BMC 16.55 (Critical Areas) as May 1st—September 30th, to avoid erosion, sedimentation, equipment track-out, and to protect neighboring properties from increased drainage problems. Limited exceptions may be made in writing by the city for extended dry periods outside the dry season.

8. Clearing and grading for site development shall be phased to avoid drainage and erosion problems, reduce construction traffic impacts on the neighborhood, and to maintain the forested areas until ready for development. The common usable space and landscape buffer shall be in the last phase to maintain a visual and functional buffer between the development and the adjacent properties except that the temporary construction exit and construction-phase stormwater BMPs can be installed. The Planning and Public Works Directors may allow exceptions to this requirement due to site specific and exceptional situations.

Clearing and grading activities shall not occur until:

- The first building permit is issued for a multi-family building.
 - The building permit is issued for the stormwater vault. The extent of grading for the vault shall be limited to the vault and the area necessary to access the vault.
 - The PFC is issued for public infrastructure.
9. A revised grading plan shall be submitted to the city showing phased clearing and grading to reflect the above conditions.
 10. The SWPPP shall identify and utilize existing conveyances and natural drainage patterns, to the maximum extent feasible, that consist of overland flow, swales, and depressions that are not otherwise regulated under BMC 16.55 in order to avoid constructing an artificial drainage system. Engineered conveyances shall be properly stabilized to minimize erosion and downslope impacts.
 11. Engineering calculations shall be made and included with the SWPPP for the design of such BMPs as temporary erosion sediment ponds, conveyances, diversions, and waterways, as well as calculations for runoff and stormwater detention design (if applicable). Said engineering calculations must bear the signature and stamp of an engineer licensed in the state of Washington.

VI. AMENDMENTS

Amendments to this Permit may be requested by the owner and approved by the Director in writing, provided such amendments do not substantially change or alter major elements of the project.

VII. EXPIRATION

This combined approval for design review is valid for two (2) years pursuant to BMC 21.10.260 (C)(1). The approval for planned development and critical areas is valid for five (5) years pursuant to BMC 21.10.260 (C)(2).

Pursuant to BMC 21.10.260 (C)(3), if a complete building permit application is filed prior to the expiration of the land use permit, the vested status of the permit shall be automatically extended for the time period during which the building permit application is pending prior to issuance; provided, that if the building permit application expires or is cancelled, the vested status of the permit or approval shall also expire or be cancelled. If a building permit is issued and

subsequently renewed, the vested status of the subject permit or approval under the permit shall be automatically extended for the period of the renewal.

VIII. EFFECTIVE DATE

The Critical Area Permit shall be effective after the close of the appeal period, or if an appeal is filed, after the withdrawal of, or final decision on an administrative appeal (BMC 21.10.240 (C)(3)). Therefore, the effective date of this permit is **May 3, 2022**, unless an appeal is filed.

IX. APPEAL

Pursuant to BMC 21.10.110(K), this combined permit may be appealed within 14-days from the date of the Notice of Decision to the City's Hearing Examiner. Procedures for appeal to the Hearing Examiner are contained within BMC 21.10.250. Any appeal must be filed with the Planning and Community Development Department on the appropriate forms and be accompanied by a filing fee as established by the City Council prior this established appeal period.

Prepared by:



Kathy Bell, Sr. Planner

DEPARTMENTAL APPROVAL:



Kurt Nabbefeld, Development Services Manager
Planning and Community Development Department