



## Planning and Community Development Department

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## Mitigated Determination of Non-Significance (MDNS)

PDP2019-0015/DR2019-0036/CAP2019-0037/SEP2019-0039  
4413 Consolidation Ave.

**Date of Issuance of Threshold Determination:** 2/9/2022

**Project Name:** CityView (<http://cob.org/cityview>)

**Project Description:** A new residential multi-family project on a vacant 11-acre parcel generally north of Consolidation Avenue between Puget and Nevada Streets in the Puget Neighborhood. The submitted proposal consists of 106, 3-bed units in 3 separate buildings. Two of the buildings will be 2 ½ stories (and contain 20 units in each building) and one building will be 5 ½ stories (and contain 66 units). The proposal includes a total of 257 vehicle parking spaces and 160 bicycle parking spaces. Onsite open space is located in the southwest corner of the site. Natural open space comprises approximately 50 percent of the development; the other 50 percent is within the development footprint. Wetlands on the north side of the site will be protected; buffer averaging is proposed with mitigation onsite. Consolidation Avenue will be constructed from Nevada Street to a distance necessary to access the proposal's two driveways. Site plan attached.

Land use applications submitted for the CityView proposal include planned development, design review, environmental checklist (SEPA), and critical areas.

**Project Location:** 4413 Consolidation Avenue / Area 17, Puget Neighborhood; Residential-Multi, Planned with a 5,000 sf/unit overall density requirement.

**Proponent:** Morgan Bartlett, Jr., dba Madrona Bay Real Estate Investments, LLC; 424 W Bakerview Road, Ste. 109, Bellingham WA 98226; (360)527-2777

**Lead Agency:** City of Bellingham, Planning and Community Development Department (PCDD)

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### Environmental Information Considered:

This information is available to the public at <http://www.cob.org/notices>, <http://www.cob.org/cityview> or upon request.

- 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.
- **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

The lead agency for this proposal has determined that the project, if appropriately mitigated, does not have a probable adverse impact on the environment. An environmental impact statement is not required under RCW 43.21.C.030(2)(c). This decision was made after review of a completed environmental checklist and other reports and documents on file with the lead agency. This information is available to the public at <http://www.cob.org/notices>, <http://www.cob.org/cityview> or upon request.

- This MDNS is issued under WAC 197-11-350; the lead agency will not act on this proposal for 14 days from the date of issuance. Anyone wishing to comment on this threshold determination is invited to submit written comments to [cityview@cob.org](mailto:cityview@cob.org) by **5:00pm on 2/23/2022.**

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### **Mitigating Conditions Required for this Proposal:**

1. To mitigate for impacts on the transportation system, parking, and pedestrian safety and to reduce auto-dependency, the following mitigating measures are required:
  - a. All 15 mitigation elements and the Potential Enhancements listed in the Parking Demand Analysis (**Exhibit A.12**) shall be implemented by the development, which includes any modifications necessary to fulfill these elements, except as modified below:

- i. Mitigation Element No. 1 shall be amended to relocate the crossing at the northeast corner of the existing driveway curb cut for the apartments on E Maple Street and be fulfilled by constructing an ADA-compliant user-activated flashing crosswalk at the northeast corner of the apartment driveway and 40 feet (approx) of new curb, gutter, and sidewalk on the south side of E. Maple Street with an ADA landing at the pedestrian bridge.
    - ii. Mitigation Elements 2, 3, 4 and 15 shall be amended to prohibit imposing a separate financial fee payment for the use of any on-site bicycle facilities.
    - iii. Mitigation Element No. 4 shall be amended to require the distribution of the bicycle storage to be proportionately distributed within each building and throughout the site.
    - iv. Mitigation Element No. 5 shall be amended to require at least one unit, preferably located in Buildings A or C and in close proximity to the building's main pedestrian entrance, to be designated and signed for an on-site manager. An information sign shall be provided on each common building entrance that states the location of the manager's unit/office and hours.
    - v. Mitigation Element No. 14 shall be amended to remove the requirement for the property owner to provide a financial subsidy for residents to receive discounted bike maintenance and gear; although it is recommended. The city will not require the potential enhancement for No. 14.
    - vi. Mitigation Elements Nos. 7, 11 and 12 shall be implemented by an onsite manager.
    - vii. The property owner shall provide an annual report to PCDD to assess the effectiveness of the above required mitigation measures. This report shall analyze the parking and transportation habits (parking lot peak utilization, % own vehicles/bikes, % use vehicles/bicycles/transit, cost of unbundled parking, % students (WWU, WCC, BTC), etc.) of the development's tenants. The report shall be prepared by a qualified third party for three (3) years following occupancy of the final building and be submitted by January 1 of each calendar year. The report shall include reference to the required mitigation incorporated herein. The city may use the report data to require additional mitigation measures to be implemented if found the measures to be inadequately mitigating the impact.
  - b. Prior to building permit issuance, the developer shall mitigate its proportionate share of impacts to the Lincoln St./Maple St. intersection through a financial payment of 1.4-percent of the cost providing a fully signalized intersection at the Lincoln St./Maple St. intersection, as determined by the city.
  - c. Prior to issuance of any Certificate of Occupancy, an agreement shall be prepared by the applicant and submitted to the city for review that includes all required mitigation strategies identified above. Upon city acceptance, this agreement shall be recorded against the property at the Whatcom County Auditor's office as an obligation to implement the mitigation measures in perpetuity.
2. To mitigate for potential cumulative impacts created during the construction phase of the project, the following mitigation measures are required:
- a. Prior to issuance of any permit authorizing site disturbance, the applicant shall submit a construction management plan for review and approval by the city to mitigate for impacts associated with the construction phase of the Proposal. This plan shall be in addition to any plans, permits or approvals already required per city standards or codes for construction activities. The Planning and Community Development and Public Works

Department Directors, or designees, shall have the ability to condition the plan, which shall include at a minimum:

- i. Construction schedule, including estimated start date, anticipated duration, and the phased clearing and grading plan.
- ii. Construction worker parking, including where construction worker parking will be located and how it will be managed, the proposed number of construction workers anticipated, any nearby parking lots to be used by construction workers coming to the site, methods proposed to encourage/require carpooling, and transit and non-motorized transport. Construction workers shall not use on-street parking abutting the residential single-family neighborhood in the vicinity of the project.
- iii. Proposed right-of-way or trail corridor temporary use, including duration, material management, staging, haul routes, crane locations, street and sidewalk or trail closures.

3. To mitigate for impacts associated with an inadvertent discovery, the following mitigation measures are required and shall be placed on all plan sets:

- a. Should archaeological resources (e.g., shell midden, animal remains, stone tools) be observed during project activities, all work in the immediate vicinity shall stop, and the area should be secured. The Washington State Department of Archaeology and Historic Preservation (State Archaeologist Rob Whitlam, 360-586-3080) and the Lummi Nation Tribal Historic Preservation Office (Lena Tso, THPO 360-312-2257; Tamela Smart, Deputy THPO 360-312-2253) shall be contacted immediately in order to help assess the situation and to determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.
- b. Inadvertent Discovery of Human Skeletal Remains on Non-Federal and Non-Tribal Land in the State of Washington (RCWs 68.50.645, 27.44.055, and 68.60.055).
- c. If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity shall cease that may cause further disturbance to those remains. The area of the find shall be secured and protected from further disturbance. The finding of human skeletal remains shall be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains shall not be touched, moved, or further disturbed. The county medical examiner/coroner shall assume jurisdiction over the human skeletal remains and determine whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they shall report that finding to the DAHP who shall then take jurisdiction over the remains. The DAHP shall notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist shall determine whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP shall then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.”

4. To mitigate for impacts to slope stability, the following mitigation measures are required:

- a. The applicant shall arrange for the project geotechnical consultant to 1) review the project plans and specifications to confirm that the recommendations made in Exhibit A.3 have

been implemented and 2) evaluate site conditions during construction to ensure consistency with the report and its conclusions and recommendations.

5. To mitigate for impacts to drainage from extensive grading and earth moving activities, the following mitigation measures are required:

- a. 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.
- b. 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. An engineered clearing and grading plan shall be submitted concurrently with all construction applications associated with the subject site.

Clearing and grading shall be reviewed for each construction activity, such as installing stormwater and erosion control BMPs for the site, geotechnical analysis, buildings and parking areas, retaining walls, stormwater facilities and public infrastructure, and is not permitted without an issued building permit and/or public facilities construction agreement or as otherwise authorized by the Bellingham Municipal Code.

The city shall have the authority to limit the clearing and grading for each phase of development to ensure:

- The proposed clearing and grading limits are the minimum necessary to complete the construction activity in an efficient manner and
- A qualified professional demonstrates the impacts from the proposed clearing and grading limits are minimized to the maximum extent feasible.

The common usable space and landscape buffer, along the western property boundary, generally, 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. Exceptions to this may be permitted if demonstrated this area is needed to support or construct other proposed development activity on the site.

- c. 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.
- d. 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.

6. To mitigate for impacts from loss of 5.5 acres of forested hillside and to ensure the developer's intent to preserve 5.6 acres of forest, the following mitigation measures are required:
- a. Prior to any site disturbance, a conservation easement shall be granted to the city for the retained forested area north and east of the development footprint as depicted on the Tree Retention Plan Map (Exhibit A.6). A conservation easement protects the area in perpetuity and allows the city to enforce the terms of the conservation easement including, but not limited to, tree management.
  - b. Prior to any site disturbance, the applicant shall provide a financial surety on a form provided by the city, for all costs associated with installation, five years of maintenance, and five years of monitoring of the replacement trees and the Landscape Buffer Plan (Exhibit A.7). The financial surety shall be based on a line-item cost estimate from a mitigation contractor for all costs and shall be approved by the city prior to submitting the surety document. The party initially providing the surety shall remain responsible for maintaining it through the duration of the mitigation maintenance and monitoring period required unless the city approves, in writing, the transfer of responsibility for maintaining the surety to another party.
  - c. All replacement trees specified in the Tree Retention Plan (Exhibit A.5) and all plants specified in the Landscape Buffer Plan (Exhibit A.7) for the buffer area between the development and the existing single-family homes on Nevada Street and Marionberry Court shall be maintained and monitored for five consecutive years to ensure health and survival. The monitoring period shall commence the year after the first full growing season after all the trees and plants are installed.
7. To reduce the potential impacts associated with short-term construction noise, exterior construction activities shall be limited to between the hours of 7:30 am and 6:00 pm, seven days a week. Interior construction activities are allowed between the hours of 7:30 am and 10:00 pm.

**Appeal Rights:** Pursuant to BMC 16.20.210(D), there is no administrative appeal of this environmental determination, provided any aggrieved person may appeal the conditioning or denial of the Type II permits when the conditions or denial were based on SEPA.

**Staff Contact:**

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**Responsible Official:**

Kurt Nabbefeld, Development Services Manager  
Planning and Community Development Department  
210 Lottie Street, Bellingham, WA 98225



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Signature

**SITE PLAN**

