

**THE WOODS AT VIEWCREST**  
**A 38-LOT PRELIMINARY PLAT**  
**PROJECT NARRATIVE**

**I. Subject Site / Properties Information**

**Address:** 352 Viewcrest Road, Bellingham, WA 98229

**Tax Parcel Number(s):** 370212 030004 0000, 370213 075542 0000,  
370213 083499 0000, 370213 113550 0000

**Owner:** Ann C Jones Family, 807 Chuckanut Shore Road, Bellingham, WA 98229

**Applicant:** Same as Agent

**Agent(s):** Ali Taysi, AVT Consulting LLC, 1708 F Street, Bellingham, WA 98225

**II. Subject Site / Property Description**

The subject property is located at 352 Viewcrest Rd, extending from the shoreline of the Chuckanut Bay Tidelands- on the north end of Chuckanut Bay- to Viewcrest Rd and extending from Sea Pines Rd to South Clarkwood Dr (the “Property”). The Property is approximately 37.7 acres in size, irregular in shape, and consists of four contiguous Assessor tax parcels. Notably, the Property has long been located in a residential single-family zone (RS). Presently, the RS zoning at the site has a gross density of 1 unit per 20,000 square feet, however there is no minimum lot size in this zone. No changes to this density accompany this application. The Property has approximately 82 total densities. Several unopened platted rights-of-way bisect the Property.

The site has been planned for development for some time but is presently undeveloped and is predominantly forested with mature evergreen and deciduous trees, understory shrubs and ground cover. The topography is varied across the site but is characterized by steep slopes, especially near the shoreline and in the northwest corner, where there are large, exposed rock faces. Several bands of moderately steep slopes exist throughout the Property and generally span from southwest to northeast. There are level areas near Viewcrest Road and throughout the northern 1/3<sup>rd</sup> of the Property. There are several old skid roads traversing the site, reflective of prior logging activity. There are no structures or other improvements on the site. There are four small wetlands located on the property (Wetlands A-D). All of these wetlands, and their buffers, are located on the proposed Reserve Tract, and no impacts to these wetlands or their buffers is proposed. Wetland A is the largest wetland on site, at 12,358 square feet in size, and is rated a Category IV wetland (lowest quality). Water from this wetland flows into a man-made ditch and then off-site through a culvert on a neighboring property, and ultimately to Chuckanut Bay. Wetland B is 9,476 square feet in size and is also rated a Category IV wetland. Water from this wetland flows into the adjacent forested upland areas and infiltrates on-site. Wetland C is the smallest wetland on site, at 991 square feet in size, and is also rated a Category IV wetland. Water from this wetland flows into the adjacent forested upland areas and infiltrates on-site. Wetland D is 1,813 square feet in size and is also rated a Category IV wetland. Water from this wetland flows south to a rock formation near the primary grade break above Chuckanut Bay, however there is no surface connection to

Chuckanut Bay. Chuckanut Bay itself abuts the entire south boundary of the property. There is a very steep, rocky bank that extends north from the Bay, covering the southern 1/3<sup>rd</sup> of the site. Water from Chuckanut Bay flows southeast under the BNSF railroad trestle and ultimately into Bellingham Bay. The Shoreline Master Program (SMP) designates this area as Reach 19, with a Marine Natural designation, and a 200' buffer from the OHWM. The entire 200' shoreline buffer is proposed to be in two Open Space Tracts, to be preserved in perpetuity. As such, no future development is proposed within the "Natural" shoreline designation. Additional details on the site topography, vegetation and wildlife are presented in various reports prepared for the project, attached as Exhibits.<sup>1</sup>

The Property is accessible from two public rights of way, Viewcrest Rd to the north, and Sea Pines Rd to the east. Viewcrest Rd is in a 60' right of way and is improved with an approximately 22' wide asphalt surface, with no concrete curb, gutter or sidewalk (this improvement is typical of the Edgemoor Neighborhood). The primary Property frontage is along Viewcrest Road. Sea Pines Road is in a 60' right of way and is improved with an approximately 27' wide asphalt surface, with parking one side, concrete curb and gutter, but no sidewalk. This road terminates in a cul-de-sac at the east Property line; however, the right of way extends west from the cul-de-sac to abut the Property. There are public water and sewer mains located in both Viewcrest Rd and Sea Pines Rd. Fire hydrants front the Property along the opposite side of Viewcrest Rd at several locations. There are storm water conveyance utilities in both Viewcrest Rd and Sea Pines Rd. Private utilities such as power, cable and internet are installed along both roads as well. The attached plans, reports and supplemental documents provide additional information on the Property existing conditions.

Properties to the west, north and east are all developed with single family subdivisions, predominantly built out, with similarly sized lots and similar infrastructure improvements, and to the south is Chuckanut Bay.

### **III. Project Description**

The proposed project is the development of a 38 Lot Single Family Long Subdivision, located on an approximately 37.7-acre property. In addition to 37 single family lots, the project includes a Reserve Tract (Lot 38, with 1 building site), two large Open Space Tracts containing all of the shoreline buffer area, construction of two new public roads, four shared private driveways, public and private water, sewer and storm water infrastructure, pedestrian improvements to abutting public street frontages, and other accessory improvements. The attached plans, reports and supplemental documents provide additional information on the project proposal.

The density for this area is 1 unit per 20,000 square feet, but there is no minimum lot size. Therefore, the proposed lots will vary in size from approximately 10,040 square feet to approximately 53,480 square feet in size, with an average lot size of approximately 21,400 square feet. More than ½ of the lots will exceed 20,000 square feet in size, and lots on the

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<sup>1</sup> The applicant's exhibit list is found at page 29 of the application packet.

perimeter of the project have been designed to be consistent in size and frontage with adjacent residential lots (along Viewcrest and along the west property line).

Lots 1-7 front Viewcrest Rd and will have private driveways accessing the public right of way, Lot 25 takes access from an easement over a neighboring property to the west, and Lot 37 fronts Sea Pines Road and will take access from a private driveway at the terminus of the existing public cul-de-sac. When developed, Lot 38 (the Reserve Tract) will take access from a private driveway extending down an existing right of way to connect to Viewcrest Road. The remaining lots will take access from the two internal public roads (unnamed but referred to herein and on the Preliminary Plat plans as the East Road and West Road), or from private shared driveways extending from these public roads. Each lot contains a 60' x 60' building envelope that is outside of critical areas (wetlands, shorelines, geohazards) and their buffers, as reflected on the Vegetation Management Plan exhibit. *See Exhibit L.* The building envelopes depicted on the Vegetation Management Plan are illustrative of a potential development area but are not the only areas on each lot that could accommodate a single-family residence in the future.

The two proposed rights of way will each be 60' in width, improved with new public roads, as shown on Sheet 4 of the Project Plan set. *See Exhibit A.* These roads are proposed at a reduced standard to minimize necessary cuts and fills, clearing and grading, impervious surface and environmental impact. These roads are proposed with a 28' wide asphalt drive surface, curb, gutter and sidewalk one side, and thickened asphalt edge on the opposite side. Each road terminates in a 70' cul-de-sac. Private shared driveways will extend from these public roads to serve various lots; the use of private shared driveways further reduces the necessary cuts and fills and clearing and grading required to serve all the lots with access. Lots 8-11, 19 and 20, 21, 22, and 25-30 are served by shared private driveways. These driveways are proposed with a 20' total width, with a 16' asphalt drive surface and a 4' flush concrete sidewalk, with asphalt thickened edge on the opposite side. This design will reduce overall impervious surface necessary for construction of these roads and is supported by the Fire Department for safe access purposes (appropriate fire turnaround areas will be provided). Frontage improvements are also proposed along Viewcrest Road. The existing 22' asphalt travel surface will be maintained, and a setback sidewalk is proposed along the south (frontage) side of the road. This sidewalk is proposed in pervious concrete due to the existing underlying soils, which are well draining. A trail easement is proposed through the site from Viewcrest Road to Sea Pines Road, for future trail construction by the City. Many of the historic existing unopened rights of way within the Property will be vacated and new rights of way will be dedicated to replace them. See discussion of street vacation proposal in Section VII below.

Public water and sewer mains will be extended into the site from existing infrastructure in Viewcrest Road to serve Lots 1-36. Lot 37 will make direct connection with private utility services to the existing public infrastructure in Sea Pines Road. Lot 38 will make direct connection with private utility services to the existing public infrastructure in Viewcrest Road. Due to site topography, some of the lower lots along the East Road will require private sewer pumps to push sewage up to the proposed mains, which will then gravity flow to Viewcrest. No new water or sewer infrastructure is proposed or necessary along Viewcrest Road. New fire hydrants will be installed throughout the project along both

new public roads. Runoff from the completed project will be generated from the new roads, sidewalks, driveways, building roofs and other impervious surfaces incidental to single family development. This runoff will be captured in an engineered storm water management system, via downspouts and roof drains, roadside curbs and gutters and other similar features. This runoff will be routed through piped conveyance systems to three discharge points. Runoff from the northern portion of the site will be routed to a treatment module near the project entry road, then to a detention vault located along Viewcrest Road, then will tie into the existing City stormwater conveyance pipes in Viewcrest Road. The proposed pedestrian improvement along Viewcrest Road will be constructed with pervious materials and runoff from this improvement will infiltrate into the surrounding soils. Runoff from a small section of the internal road will be routed to a treatment module and then to a level spreader discharging above grade of the buffer of Wetland B (designed to maintain the hydrology of this wetland). Runoff from the southern portion of the site will be routed to a treatment module and then via a piped conveyance down the bank to the stormwater outfall energy dissipater located above the beach grade. See the attached Preliminary Storm Water Site Plan for additional details; *See Exhibit F.*

As designed, the project will limit impacts to sensitive areas on the site and reduce clearing, grading and impervious surfaces. No impacts are proposed to wetlands or their buffers. Each lot will have a building envelope outside of geohazards, and several variances are requested to reduce infrastructure requirements, contributing to less geohazard impacts. The entire 200' shoreline buffer will be placed in two permanent Open Space tracts for preservation. The only activity proposed within any critical area is the construction of a necessary storm water outfall and energy dissipater. This infrastructure will be designed to limit impacts within the buffer as much as possible, with a surface mounted pipe, and an energy dissipater located above the beach and OHWM. The project will retain approximately 80% of the existing site vegetation.

Development of the project is proposed in three Phases. *See Exhibit I.* Lots 1-7, 24, 37 and 38 are proposed to be developed in Phase 1. These Lots all front on Viewcrest Road or Sea Pines Road and do not require internal site access (Lot 24 takes access from an existing driveway to the west, via an existing easement). Viewcrest Road improvements are proposed to be made with Phase 1. Lots 8-20 & 23 are proposed to be developed in Phase 2. These Lots all front on or take access from the proposed new West Road, with connection to Viewcrest. West Road improvements and associated utility improvements are proposed to be made with Phase 2. Lots 21, 22, and 25-36 are proposed to be developed in Phase 3. These Lots all front on or take access from the proposed new East Road. East Road improvements and associated utility improvements are proposed to be made with Phase 3. See Phasing Plan, *Exhibit I.*

The project includes a Preliminary Plat application, Critical Areas Permit application, SEPA Checklist, Preliminary Plat variance, Street Vacation Petition, Shoreline Substantial Development Permit and Shoreline Conditional Use Permit. We are requesting consolidated review of these various applications.

#### **IV. Preliminary Plat**

The proposed project includes a Preliminary Plat application to subdivide the Property into

more than 9 lots. Preliminary Plats are regulated by BMC 23 and must be found to be consistent with the Plat Design, Lot Standards and Improvement Standards in BMC 23.08.030-080, and the Decision Criteria for Preliminary Plats in BMC 23.16.030.

Specific Performance Standards are outlined in BMC 23.08.030. The project is consistent with these Performance Standards, as follows:

### B. Community Design

*The City of Bellingham has adopted neighborhood plans for each of its 25 unique neighborhoods. Each applicant for a subdivision must make reference to the applicable policies for the neighborhood as outlined in the appropriate neighborhood plan and describe how the proposed adjustment or land division addresses the policies within the neighborhood plan.*

The Property is in the Edgemoor Neighborhood, Area 7. The Plan has long identified Area 7 as Residential Single, Low Density, intended for detached residential single-family development. The Plan includes policies related to Open Space, Public Facilities and Utilities, and Circulation. Relevant Open Space policies encourage the retention of natural vegetation along the steep slopes adjacent to Chuckanut Bay and the provision of marine shoreline access. The proposed project design includes preservation of the entire 200' shoreline buffer along Chuckanut Bay in two permanent Open Space Tracts. Approximately 80% of the total site area is proposed to be retained in natural vegetation, with development areas avoiding impacts to critical areas and buffers. A proposed trail easement from Viewcrest Road to Sea Pines Road will provide public connectivity from the Edgemoor Neighborhood to the existing public access to Chuckanut Bay. This access is in place and creating connection to this access (instead of installing a new direct pedestrian access to the Bay) will reduce the potential for environmental impacts from the project. Sidewalk improvements are proposed along the Viewcrest frontage of the Property, consistent with these Policies. There are no Public Facilities and Utilities Policies that are directly relevant to the project. Relevant Circulation Policies discuss improvements to Viewcrest Road within Area 7, suggesting that road improvements should include 24' travel lanes with thickened edges. The project proposes to retain the existing 22' travel lanes width, with thickened edge, but add a setback pedestrian facility along the frontage (south) side of the road; this will provide equivalent or better function for vehicles and pedestrians when compared to the recommended improvement standard in the Policy (see Variance discussion in Section V). See *Exhibit K*.

### C. Natural Features

*Natural features, that may or may not be regulated by other code provisions, including but not limited to trees, topography, shorelines, streams, wetlands, habitat, geologically hazardous areas, and associated critical area/shoreline buffers, should be incorporated into the overall land division design through preservation to the extent feasible.*

As discussed throughout this project application narrative, and in the associated professional reports prepared for the project, the design takes into consideration all natural

features, including wetlands, steep slopes, the shoreline area, habitat, and the mature forest cover on the site. Impacts to these unique features are predominantly avoided, with no impacts proposed to wetlands or their buffers, with reasonable building envelopes provided on each lot outside of geohazards, and with preservation of the entire 200' shoreline buffer area (apart from a stormwater outfall facility, which is designed to limit impacts as much as possible). Roads and infrastructure improvements have been designed to limit cuts and fills and clearing and grading activity to the minimum necessary. Variances are requested from several improvement standards, with the intent to further reduce impacts from infrastructure. *See Exhibits A-L.* All these conscious design efforts result in approximately 80% of the site area retained in natural vegetation.

#### D. Clearing and Grading

1. *In addition to demonstrating compliance with the land clearing, grading, and Lake Whatcom Reservoir regulatory provisions, as applicable, the proposed layout of a land division should include the following standards:*
  - a. *Clearing and grading limits are established to avoid impacting critical areas and/or their associated buffers, natural features as identified in subsection (A) of this section and adjacent properties;*
  - b. *Good engineering practices have been implemented to ensure the proposed grading:*
    - i. *Is the least necessary to protect slope stability and prevent erosion;*
    - ii. *Will not result in the excessive use of retaining walls and/or rockeries along lot lines, project's exterior boundaries, streets and the exterior boundaries of the plat;*
    - iii. *Establishes suitable building sites, driveways, public streets, pedestrian corridors, and utilities that are not located on fill. The city may impose a condition of preliminary approval requiring the submittal of a geotechnical report prepared by a Washington State licensed geologist or geotechnical engineer for city review and approval; and*
    - iv. *Will not distribute site material resulting from grading to areas within the land division that would cause additional clearing or grading that would otherwise be unnecessary.*

The proposed development plan limits grading to only that which is necessary for new roads, utilities and building foundations. *See Grading Plan, Exhibit A.* Preliminary grading has been designed by a licensed civil engineer and considers the site soils, topography, critical areas and other relevant factors. Clearing and grading limits will be established, and all critical areas and buffers will be avoided, except for the storm water outfall to Chuckanut Bay. *See Exhibit A.* The design of this outfall limits impacts by placing the pipe on the surface of the ground (with anchoring) and by locating the energy dissipater component above the OHWM/beach, to avoid direct impacts to the shoreline. Construction plans will meet all local, State and Federal regulatory requirements and will include a SWPPP and TESC. BMP's will be implemented during construction, and a DOE NPDES construction storm water permit will be acquired. A CESCL will be employed on site during construction to monitor activity and file required reports. No unnecessary

clearing or grading is proposed.

#### E. Dedication

*Land dedicated for public infrastructure, including but not limited to right-of-way, utility, and parks and recreation purposes, is incorporated in the land division as necessary to:*

- 1. Rights-of-Way and Utilities. Serve all lots proposed within the subdivision and to provide for orderly extension of public infrastructure for anticipated development in accordance with BMC Title 13 and the comprehensive plan; except this requirement may be waived if the city engineer determines that additional right-of-way will not be necessary for the future traffic circulation of the city, or for future road widening to accommodate anticipated development in the vicinity.*
- 2. Parks and Recreation. Provide open space, trail, and recreation facilities pursuant to the adopted parks, recreation, and open space plan of the comprehensive plan and construct the facilities according to the city's design standards for park and trail development, as amended.*

The project includes the dedication of new public rights of way, intended to serve all the lots with access and utilities. *See Exhibit A & J.* New public roads, new public utilities, and new private shared driveways are proposed to be constructed. A New public trail easement is proposed to create connectivity through the site to existing public pedestrian infrastructure, and to facilitate access to nearby public Parks and open spaces. The site is a “dead-end” site in that there are no future connectivity plans for roads or utilities through the site, so that all proposed infrastructure will terminate within the Property. Several variances from Title 13 standards (through a Title 23 variance request) are proposed; these variances are intended to allow alternatives from the standard improvement requirements to reduce cut and fill, clearing and grading, impervious surfaces and environmental impacts. *See Exhibit K.*

#### F. Pedestrian Features

*Incorporate pedestrian features into the overall plat design that provide for networks of walking and bicycle facilities that create access to community services and amenities such as schools, parks, shopping centers, public transportation stops, bicycle and pedestrian corridors identified in the city's bicycle and pedestrian master plans within the proposed land division and to adjoining property that is not subdivided. Pedestrian features should be spaced at 500-foot intervals unless such an interval is not feasible due to a physical hardship that is not a result of the overall plat design.*

The project design includes new internal sidewalks that will connect all lots to the existing public roads (Viewcrest Road). *See Exhibit A.* New public sidewalk is proposed along the frontage of the Property on Viewcrest Road. A new public trail easement is proposed through the site to provide connectivity to existing public pedestrian infrastructure in the vicinity.

## G. Streets

*In addition to demonstrating compliance with BMC Title 13, Streets and Sidewalks, and the city's development guidelines and public works standards, the overall street layout for a division of land should incorporate the following:*

1. *Compliance with Comprehensive Plan and Neighborhood Plan. The alignment of arterial streets should be included in a location as nearly as possible with that shown in the most recently adopted city of Bellingham comprehensive plan, the appropriate neighborhood plan and zoning table.*
2. *Vehicular and Pedestrian Circulation. Streets and trails proposed within a land division should:*
  - a. *Extend to and connect with existing streets abutting its perimeter to provide for the logical extension of streets and utilities for coordinated development of contiguous tracts or parcels of undeveloped land.*
  - b. *Include a street network that provides multiple routes within and in/out of a proposed division of land with a grid pattern or a network modified grid of curvilinear streets and/or alleys unless there are physical limitations including critical areas, significant natural features, conflicts with the existing built environment, or adverse topography that prevents such a street pattern.*
  - c. *Avoid single points of access, cul-de-sacs, and dead-end streets, unless the city determines such extension is not necessary due to physical conditions that exist on or adjacent to the site.*
  - d. *Public and private trails should also be considered in the design of a street network.*
3. *Access to Local and Arterial Streets. The land division should show all access locations for all lots and proposed streets to maximize safety consistent with BMC Title 13.*
4. *Safety. Street layouts shall be designed to maximize safety for all modes of transportation. The applicant shall provide, to the extent feasible, a street layout that promotes visibility and reduces user conflicts through the placement of parking areas and the use of curb bulb-outs, landscaping strips, meandering sidewalks and other means of ensuring pedestrian safety and reducing vehicular speed through residential areas.*
5. *Street Trees. The overall street network is designed to accommodate street trees that can be evenly spaced through all existing and proposed street frontages. To ensure the location of these trees will not conflict with proposed utilities, the required street tree permit and landscape plan shall be reviewed concurrently with the public facility contract application for the required infrastructure. If a location conflict arises, the priority is to redesign the utility location first to ensure a consistent planting schedule for the required street trees. An alternative planting plan should only be allowed if the city determines that there are no other alternative utility designs that would avoid a conflict between the utilities and trees.*

The proposed site design incorporates vehicular and pedestrian design components to



ensure safe travel for all modes of transportation. New public roads and private shared driveways provide safe connectivity to the existing public street network. Sidewalks within the project connect to Viewcrest Road. New sidewalk is proposed along Viewcrest Road on the Property frontage. A New public trail easement is proposed through the site. The project design does incorporate dead-end streets, but due to the location of the Property within the neighborhood, and the site conditions, there is no need for through connectivity for roads or utilities.

In addition to the specific Performance Standards in BMC 23.08.030, a preliminary plat must meet various other standards and regulations in BMC 23.08. The project is consistent with these criteria, as follows:

The Maximum Number of Lots in BMC 23.08.040.A. This section addresses density calculations. For a standard preliminary plat (not clustered or using a bonus) density is calculated using a gross analysis, dividing the total property size by the density allocation in the neighborhood zoning table. In this instance the Property is 37.7 acres, and the density allocation is 1 unit per 20,000 square feet of gross land area. This results in a maximum gross density of approximately 82 lots. The proposed project includes 38 developable lots, well below, and less than one-half, the allocated density. There is no minimum density requirement in this section of code.

The Minimum Lot Size Standards in BMC 23.08.050. This section addresses minimum lot size. In Section 050.A.1, when no lot size is designated (as is the case in Area 7) the applicant may designate the lot size. In this instance the applicant has chosen to create lots that are similar in size to the surrounding development pattern, with an average lot size of 21,400 square feet, and with lots around the perimeter of the site that have the same or similar size to abutting subdivided properties. No lot line adjustments, lot averaging, cluster provisions or non-conformity is proposed.

The Lot Design Standards in BMC 23.08.060. This section addresses specific lot design dimensional standards. All the proposed lots have logical boundaries with no awkward or unnecessary jogs. All lots have building areas located outside of critical areas and buffers, meet bulk and dimensional standards, and can be reasonably developed. There are no proposed alleys in the project. Specifically, 060.D requires a minimum building envelope for each lot. In this case, with lot sizes averaging greater than 10,000 square feet, the minimum allowable building envelope is 60' x 60'. As designed, each lot in the proposed subdivision will have a minimum building envelope of 60' x 60' exclusive of critical areas and designated geohazards. For Vegetation Management Plan, *See Exhibit L, Vegetation Management Plan.* Section 060.E discusses infrastructure abutment requirements. All lots in the subdivision meet the abutment requirements, either on an existing or proposed public right of way, or via a shared private access easement. A variance is requested for Lots 21-22, and 25-30 from the requirements in 060.E.2, allowing 8 lots to take access from a shared easement (maximum in code is 4 lots). *See Exhibit K.* This variance is discussed in greater detail in Section V below in this narrative. All private driveways will be constructed to meet minimum surfacing and width requirements. Appropriate easements will be provided for all shared access driveways.

The Public Infrastructure, Dedication, and Improvement Standards in BMC 23.08.070.

This section addresses public improvement requirements and dedications. Appropriate dedications will be made for new public rights of way, new public roads and for all public utilities, as well as trail facilities. Variances are requested from two improvement standards within Title 13 (BMC 23.08.070.B), related to the frontage improvement along Viewcrest Road and the internal public road standards. These variances are discussed in greater detail in Section V below in this narrative. Appropriate water, sewer, and storm water management infrastructure, designed to meet applicable City standards, is incorporated into the project design. The two proposed public streets have not yet been named but it is the property owners' intent to comply with all naming and addressing requirements. Provisions for private utilities will be incorporated into the final plat design. There are no park and recreation facilities identified in the PRO plan for the upland areas of the Property, but a new trail easement is proposed through the Property from Viewcrest Rd to Sea Pines Road, with exact location to be determined in consultation with City staff.

The Landscaping and Design of Infrastructure Standards in BMC 23.08.080. This section addresses landscape and design requirements related to streets, parks, retaining walls and other infrastructure. The project will be designed to address general landscape requirements, street tree requirements, retaining walls and other infrastructure design components, consistently with the requirements in this section. Pursuant to BMC 23.08.080.G, a detailed site plan demonstrating compliance with the requirements in this section shall be provided with a public facility construction agreement submittal. Nothing in the preliminary plat as designed would preclude compliance with these requirements.

Preliminary Plats are also required to show compliance with Decision Criteria identified in BMC 23.16.030. The project is consistent with the Decision Criteria, as follows:

*A. Preliminary plats shall be given approval, including preliminary plat approval subject to conditions, upon finding by the hearing examiner that all of the following have been satisfied:*

- 1. It is consistent with the applicable provisions of this title, the Bellingham comprehensive plan and the Bellingham Municipal Code;*

The Cluster Long Subdivision has been designed to be consistent with the applicable provisions of Title 23, the Comprehensive Plan, and all applicable sections of the BMC, including but not limited to those related to lot size, setbacks, building envelope, performance standards, utility and road abutment, environmental, and others, with the singular exception being the requested variances from the road improvement requirements. A full discussion of the proposed variance is provided in Section V below. *See also Exhibit K.* The project represents context sensitive infill, with sensitivity to environmental constraints, in an area serviced with infrastructure. This is consistent with our Comprehensive Plan Goals and Policies related to Land Use, Housing, Transportation and the Environment.

- 2. It is consistent with the applicable provisions of Chapter 23.08 BMC;*

The proposed Cluster Long Subdivision is consistent with the provisions of Chapter 23.08 BMC, apart from the proposed variances. Detailed discussion of this consistency is provided in the preceding section of this narrative. Plans and other relevant information provided with this application illustrate compliance in greater detail. The full discussion of the proposed variances is provided in Section V below.

- 3. The division of land provides for coordinated development with adjoining properties or future development of adjoining properties through, where appropriate, the extension of public infrastructure, shared vehicular and pedestrian access, and abutment of utilities;*

Due to the unique site constraints and the location of the Property within the neighborhood there is no need to create road or utility infrastructure connectivity to neighboring properties. The project does include a public trail easement to create through connectivity from Viewcrest Road to Sea Pines Road for access to existing public pedestrian facilities to Chuckanut Bay. Proposed phasing takes into consideration the logical expansion of road and utility infrastructure; Phases build into the site, and no lots are left isolated.

- 4. Each lot in the proposal can reasonably be developed in conformance with applicable provisions of the BMC, including but not limited to critical areas, setbacks, and parking, without requiring a variance that is not processed concurrently with the subdivision application pursuant to Chapter 23.48 BMC;*

Each lot can be reasonably developed and meet applicable development criteria within the BMC, as discussed in this narrative and illustrated in the attached project plans, reports and supplemental information. Three variances are requested from the provisions of BMC 23.08, all related to road infrastructure improvement standards. *See Exhibit K.* These variances have been requested and are being processed concurrently with the subdivision application pursuant to BMC 23.48.

- 5. There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools; and*

All provisions listed are adequately met. The project will provide adequate dedication of right of way, open space, stormwater management, private access, and sidewalks for safe walking conditions. New sidewalk infrastructure within the site and along the property frontage is proposed. The site is served by Happy Valley Elementary School, Fairhaven Middle School, and Sehome High School. The Property is approximately 2.7 miles from Happy Valley Elementary School, 1.2 miles from Fairhaven Middle School, and 3.0 miles from Sehome High School. These schools all have bus service, with pickups located on Viewcrest Road, and at Chuckanut Drive.

- 6. It will serve the public use and interest and is consistent with the public health, safety, and welfare. The director shall be guided by the policy and standards and may exercise the powers and authority set forth in Chapter 58.17 RCW, as amended.*

The proposed project will serve the public use and interest and is consistent with public health, safety, and welfare. It is consistent with applicable zoning regulations, Neighborhood Plan standards, relevant Municipal codes and the City's Comprehensive Plan Goals and Policies, all as described in this application. It is designed to be safe for residents and the public and accommodating of environmental features in the vicinity. It provides the opportunity for additional residential housing in a portion of the City that has been long planned by the City and property owner for residential development and is adequately served with utilities and infrastructure.

**V. Preliminary Plat Variances**

As discussed above in Section IV the proposed Preliminary Plat is substantially consistent with applicable standards and regulations. However, there are several design components, all related to the public and private road infrastructure improvements, which vary from the applicable standards and regulations. As a result, the project includes a request for three variances from the standards in BMC 23.08. The following is a discussion of each variance request and the consistency of the requests with the applicable variance criteria.

Variance #1 – Maximum number of lots served by a private access easement (BMC 23.08.060.E.2).

This section of code requires that each lot in a subdivision abut either a public right of way or a Private Access Easement. Subsection a. of this section limits a private access easement to serve a maximum of four lots.

*2. Abutment by Private Access Easement. A land division that proposes to create one or more lots that do not have physical abutment on a public street shall meet the following provisions:*

*a. A maximum of four lots may be served by a private access easement;*

The proposed project design includes a private shared driveway that extends off the terminus of the East Road. This private shared driveway will be located in a private access easement and will serve 8 of the proposed lots. Lots 21, 22 and 25-30 will be served by this driveway. This exceeds the maximum allowance of 4 lots and requires a variance. *See Exhibit A.*

Variance #2 – Internal Road standard for new roads (BMC 23.08.070.B, BMC 13.04.070, and BMC 13.08.030.B.4)

This section of the subdivision code requires all rights of way within and abutting a land division to be improved in accordance with BMC Title 13.

*B. Street Standards. All rights-of-way within and abutting a land division shall be*

improved in accordance with BMC Title [13](#).

The relevant sections of Title 13, street improvements for land division, require that newly dedicated roads be improved to the full standard.

*B. Land Division. Existing public rights-of-way and newly dedicated rights-of-way associated with the following land divisions shall be improved to the following standards:*

*4. Newly Dedicated Rights-of-Way. All newly dedicated streets associated with a land division shall be improved to full standard across the full frontage of the land being divided and to minimum standard to the nearest arterial street. [Ord. 2018-12-035 § 2; Ord. 10021 § 5, 1989].*

The full standard for a residential street is identified in BMC 13.04.070, and requires, among other improvements, a 36' pavement width, parking both sides and sidewalk both sides.

*Standards for residential access streets are as follows:*

*C. Driving Lanes. Thirty-six feet of side pavement with eight feet of parking on both sides; cul-de-sac pavement width may be reduced to 32 feet if cul-de-sac is less than 600 feet in length;*

*F. Sidewalks. Five-foot-wide minimum sidewalks on both sides;*

The proposed project includes two newly dedicated public rights of way. Road improvements within these rights of way are not proposed to meet the full standard as described above. To reduce cut and fill, clearing and grading, impervious surface and environmental impacts, the two road improvements are proposed at a 28' drive lane width, with asphalt thickened edge on one side, and sidewalk one side. No on street parking is proposed. This design does not meet the standard and requires a variance. *See Exhibit K.*

Variance #3 – Frontage improvement to Viewcrest Road (BMC 23.08.070.B, BMC 13.04.070, and BMC 13.08.030.B.3)

This section of the subdivision code requires all rights of way within and abutting a land division to be improved in accordance with BMC Title 13.

*B. Street Standards. All rights-of-way within and abutting a land division shall be improved in accordance with BMC Title [13](#).*

The relevant sections of Title 13, street improvements for land division, require that existing frontage roads be improved to a  $\frac{3}{4}$  standard.

*B. Land Division. Existing public rights-of-way and newly dedicated rights-of-way*

*associated with the following land divisions shall be improved to the following standards:*

*3. All Other Land Divisions Regulated by BMC Title 23, Including Land Divisions That Include More Than Four Units. All streets shall be improved to three-quarter standard across the full frontage of the land being divided and to minimum standard to the nearest arterial street.*

The full standard for a residential street is identified in BMC 13.04.070, and a  $\frac{3}{4}$  improvement requires the abutting half of a 36' pavement width, parking and sidewalk on one side. It should be noted that the Neighborhood Plan for Edgemoor (Circulation Policies) indicates that Viewcrest Rd should be improved to a 24' asphalt width, with thickened asphalt edge on both sides, but no pedestrian facilities.

*Standards for residential access streets are as follows:*

*C. Driving Lanes. Thirty-six feet of side pavement with eight feet of parking on both sides; cul-de-sac pavement width may be reduced to 32 feet if cul-de-sac is less than 600 feet in length;*

*F. Sidewalks. Five-foot-wide minimum sidewalks on both sides;*

The proposed project has frontage on Viewcrest Road. Road improvements along this frontage are not proposed to meet the  $\frac{3}{4}$  standard. This road is currently improved with asphalt drive lanes at 22' of width, with thickened asphalt edge and no sidewalks on either side. The project proposes to add a setback sidewalk along the south side of Viewcrest from the proposed entry to the west property line (the frontage of the Property). This sidewalk is proposed to be setback for pedestrian safety and is proposed to be constructed from pervious concrete because the soils in this area can accommodate infiltration of runoff. No on street parking is proposed. *See Exhibit A.* This design does not meet the standard and requires a variance.

Variances from BMC 23 are permitted pursuant to BMC 23.48.040. A request for a variance pursuant to this code section must show that unique circumstances involve difficulties, result in an undesirable land division, or preclude a proposal from achieving zoned density *or* that a variance results in better lot design; *and*, that the variance will not be detrimental to the public welfare. The following is a discussion of the three variances consistency with these criteria.

*A. Variance. The hearing examiner may grant a variance from any term of this title, except minimum lot size, if it is shown that the proposal is consistent with the following criteria:*

- 1. a. Because of unusual shape, the location of preexisting improvements, other extraordinary situation or condition, or physical limitation including, but not limited to, exceptional topographic conditions, geological problems, or environmental constraints, in connection with a specific piece of property, the literal enforcement of this title would*

*involve difficulties, result in an undesirable land division or preclude a proposal from achieving zoned density;*

The Property is constrained by significant extraordinary conditions related to physical limitations, exceptional topography, geological problems and environmental constraints. There are steep slopes, exposed rock, wetlands and other environmentally sensitive areas spread across the Property. These physical constraints make construction of the full improvements required by the referenced codes (BMC 23 and 13) impractical, difficult, and will result in an undesirable land division. These variances would result in better lot design; however, it should be noted that the existing regulations without the variances do not necessarily prohibit achievement of the zoned density. If the number of lots served by private access easement is limited to 4 lots, if the internal public roads are required to be built to a full standard, and if the Viewcrest Rd frontage is required to be improved to a typical  $\frac{3}{4}$  standard, then the improvements will be longer, wider, and more impactful on the site than as proposed. The result will be significantly more cut, fill, clearing, grading, vegetation removal, impervious surface, and environmental impact. Compliance with the full standards is not necessary to provide safe and reasonable access to the project, and to comply with the intent of the standards. For these reasons all three variances are consistent with this criterion and should be approved.

*b. The granting of the variance will establish a better lot design resulting in a development pattern found to be consistent with the neighborhood character including, but not limited to, development orientation to the street, setbacks, lot orientation, or other contextual element associated with the proposed development;*

Comment: Although a lot design variance is not requested, for the reasons expressed above, the proposed lot design with the requested variance will result in a better lot design consistent with the surrounding neighborhood.

2. *The granting of any variance will not be unduly detrimental to the public welfare nor injurious to the property or improvements in the vicinity and subarea in which the subject property is located. [Ord. 2018-12-036 § 2 (Exh. A)].*

The variance will not be unduly detrimental to the public welfare. In fact, the variance will benefit the public welfare. Literal enforcement of this title would result in an unnecessary requirement for greater impact from the project. More cut, fill, clearing, grading, vegetation removal, impervious surface and environmental impact would occur to serve the same general site layout and number of lots. Due to the unique environmental constraints on this Property and the goal of preservation of sensitive areas and mature tree canopy on this Property, it would be particularly detrimental to the public welfare to construct infrastructure improvements that are more impactful than necessary to provide safe and reasonable access to the proposed lots. Implementation of the standard improvements would add construction cost to the project and would result in greater long term maintenance cost; the latter is borne by the public. As proposed, the design incorporates appropriate pedestrian facilities, both within the site and along the frontage, resulting in increased pedestrian accessibility, that is safer for use by residents and neighbors. There is no future need for connectivity through the project

to serve neighboring properties, or for general circulation purposes. The variance will not be unduly detrimental to the public welfare nor injurious to the property or improvements in the vicinity and will, in fact, benefit the public. For these reasons all three variances are consistent with this criterion and should be approved.

## **VI. Shoreline Substantial Development and Conditional Use Permit**

The Property has frontage along Chuckanut Bay, which is a regulated shoreline within the City of Bellingham, subject to the rules and regulations in the City's Shoreline Management Program (SMP, BMC 22). Chuckanut Bay is in Reach 19, which has a Marine, Natural designation. The SMP jurisdiction extends 200' from the OHWM of the Bay, and in Reach 19, the buffer from the shoreline also extends 200' from the OHWM. The project has been designed to avoid development and impacts within the shoreline jurisdiction to the greatest extent possible. No developable lots, roads, trails, or utility infrastructure will be located within this area, apart from a storm water outfall pipe and energy dissipator, serving a portion of the project. These are the only improvements related to the Project located within the jurisdiction of the State Shoreline Management Act and City Shoreline Management Program. As discussed in the project narrative Section III the project SSP contemplates discharge of storm water to three locations (Viewcrest, Wetland B, and Chuckanut Bay). *See Exhibit A & F.* These discharge locations are dictated by the existing topography of the site. Due to the steep slopes on the site within 300' of Chuckanut Bay, it is not possible to discharge the project storm water runoff onto the slope, outside of the shoreline jurisdiction. To avoid the risk of erosion on the steep slopes, it is necessary to extend an outfall pipe to a point near the base of the slope. This utility improvement, located within the shoreline jurisdiction, requires a Shoreline Substantial Development Permit to authorize the activity. Due to the location of the improvement within Reach 19, in a Marine Natural designated area, a Shoreline Conditional Use Permit is also required to authorize storm water facility improvements.

The storm water system within the shoreline jurisdiction will consist of a large diameter conveyance pipe, which will be anchored to the surface of the ground (to reduce clearing and grading associated with the activity), as well as the installation of an energy dissipater at the terminus of the pipe. The energy dissipater will primarily consist of gabion baskets filled with 6" – 12" quarry spall, sourced from an approved pit. The dissipater will be a rectangle approximately 15' x 12' (168 square feet) in size and will require approximately 10 cubic yards of quarry spall material to be placed within the gabion baskets. This will require excavation and fill immediately above the existing sandstone shoreline edge of the Bay, but no activity at the beach level or below the OHWM. Details on this design are provided on Sheet 5 of the Preliminary Plat plan set. *See Exhibit A.*

BMC 22.06.030 identifies the regulations applicable to all non-exempt activities within the shoreline jurisdiction. The proposed improvements within the shoreline jurisdiction do not meet the exemption criteria in BMC 22.05.020 and are therefore subject to the regulations in BMC 22.06.030. Section 030.C identifies the specific criteria that a proposal must meet in order to be approved:



*C. In order to be approved, the director must find that the proposal is consistent with the following criteria:*

- 1. All regulations of this program appropriate to the shoreline designation and the type of use or development activity proposed shall be complied with, except those bulk and dimensional standards that have been modified by approval of a shoreline variance under BMC [22.06.040](#), Variances.*
- 2. All policies of this program appropriate to the shoreline designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated. A reasonable proposal that cannot fully conform to these policies may be permitted, provided it is demonstrated that the proposal is clearly consistent with the overall goals, objectives and intent of the program.*

The proposed improvements located within the shoreline jurisdiction are entirely consistent with applicable Regulations and Policies appropriate to the shoreline designation (Marine, Natural) and the type of development activity (storm water facilities) at the Property. No variances from the bulk and dimensional standards are requested. The proposed activity is a necessary component of the proposed project, and is clearly consistent with the overall goals, objectives and intent of the SMP, and the State Act. Specifically, the project improvements within the shoreline jurisdiction are consistent with:

- The applicable General Goals and Policies identified in Section BMC 22.02,
- The applicable Sections of BMC 22.03.030.A.2.a-h, which identifies the Management Policies for shoreline reaches with a Natural designation,
- BMC 22.04, Shorelines of Statewide Significance (as discussed below),
- The applicable General Policies in BMC 22.08, which regulate specific types of development activity, including BMC 22.08.210, which regulates storm water facilities within the shoreline jurisdiction. The project as designed is consistent with the applicable storm water facility Policies and Regulations in Section .210 A and B. This includes, by reference, compliance with applicable shoreline modification/stabilization Policies and Regulations in BMC 22.08.120, water quality, stormwater, and non-point pollution Policies and Regulations in BMC 22.08.110, and applicable shoreline buffer Policies and Regulations in BMC 22.08.010,
- The Regulation in Section 22.08.010.B.4.g, which specifically authorizes the construction of storm water conveyance and outfall facilities within shoreline buffers, subject to certain requirements.
- The applicable residential Policies in Section 090.A 1-9, and the applicable residential Regulations in 090.B 1-11.

3. *For projects located on shorelines of statewide significance, the policies of Chapter [22.04](#) BMC shall be also be adhered to.*

BMC 22.03.010 identifies Chuckanut Bay as a Shoreline of the State. As such, the proposed activity is subject to Section 22.04 of the SMP. Section 22.04.030 identifies general policies applicable to the Shorelines of the State, which as applied to this Property are focused on preservation and access. As designed the project is entirely consistent with these applicable policies; preservation of the shoreline area is a cornerstone of the project design, and there will be no impact to beach access, use of the beach area, or access to Chuckanut Bay in general. The proposed trail easement connection through the site will facilitate and improve public access to the shoreline for residents of the Edgemoor Neighborhood.

In addition to compliance with the Shoreline Substantial Development Permit requirements in BMC 22.06.030, the proposed improvements are also subject to conditional use permit requirements. According to the use table in BMC 22.03.030.A.4, storm water facilities are permitted in Reach 19, as conditional uses.

BMC 22.06.050 identifies the regulations applicable to a conditionally permitted activity or improvement. There are seven criteria for review and approval of a conditional use, identified in Section 050.C:

*C. Prior to the granting of a conditional use permit, as specifically required by this program or for uses which are not classified as such by this program, the applicant shall demonstrate all of the following:*

1. *The provisions spelled out in the master program have been met and the proposed use is consistent with the policies of the Act;*

Applicable provisions spelled out in the master program have been met and no variances have been requested from the SMP. Compliance with the many applicable Regulations and Policies contained in the SMP are discussed in this narrative, above, and are reflected in the plans and reports attached with this application. The State Shoreline Management Act prioritizes single family uses along shorelines, if ecological impacts are avoided, and appropriate public access is provided. The project, as designed, fulfills these aims.

2. *The proposed use will cause no significant, adverse impacts to the shoreline environment, ecological functions, or other uses;*

The proposed development will have no significant or adverse impact on the shoreline environment or ecological functions. As noted throughout this narrative, the entire shoreline buffer area, extending 200' from the OHWM, will be set aside in two Open Space tracts intended to preserve and protect the natural environment. Impacts to upland critical areas will be avoided. All storm water discharged to the Bay will meet enhanced treatment requirements, eliminating the potential for water quality impacts to the Bay. The majority of the site (approximately 80%) will be retained in natural vegetation, reducing the risk of habitat impacts and temporal loss.

3. *The proposed use will not interfere with the normal public use of public shorelines;*

The proposed development is almost entirely located outside the shoreline jurisdiction. Development of homes, roads and utilities will be located over 300' from the OHWM of the shoreline, screened by a preserved natural forested area, and located hundreds of feet above the beach in elevation. The limited infrastructure that is proposed within the shoreline jurisdiction will be designed to reduce impacts on the land, and will terminate above the beach level, to reduce the potential for interference with normal public use of the public shoreline.

4. *That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and the program;*

There are no specific uses planned for this shoreline area under the Comprehensive Plan or the SMP. The shoreline of Chuckanut Bay is already designated as a natural area and is set aside for environmental preservation, open space and public access. No physical improvements are planned by the City or other organization along this shoreline, and none would be appropriate. As noted, No developable lots, roads, trails, or utility infrastructure will be located within this area, apart from a storm water outfall pipe and energy dissipator, serving a portion of the project. These are the only improvements relate to the Project located within the jurisdiction of the State Shoreline Management Act and City Shoreline Management Program. The project, as discussed, has no infrastructure located at the shoreline/OHWM. *See Exhibit A.* The use of the broader site is compatible with the shoreline designation, and the design of the project is sensitive to the surrounding environment, and existing public uses in the vicinity.

5. *The proposed use will not be contrary to the purpose and intent of the environment designation in which it is located and the general intent of the master program;*

The proposed infrastructure improvement is not contrary to the purpose and intent of the environment designation in which it is located (in this instance, the Marine, Natural designation), and to the general intent of the master program. The Purpose of the Natural designation is identified as:

*Purpose. To protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. Natural designated shorelines are best suited for very low-intensity uses to ensure that ecological function and ecosystem-wide processes are maintained.*

The design of the overall project, and the proposed improvements within the shoreline jurisdiction, protect the shoreline from new or increased human influence, and contribute to preservation of ecological functions and ecosystem-wide processes. The project is entirely consistent with the Management Policies identified in BMC 22.03.030.A.2 for Natural shoreline designated areas.

6. *The proposed use(s) shall provide a long-term public benefit in terms of providing public access or implementing habitat restoration that is consistent with the goals of this program; and*

The proposed project will result in improved pedestrian connectivity from the Edgemoor Neighborhood to existing public infrastructure accessing the shoreline, resulting in a long-term public benefit. The design of the project will preserve the entire shoreline buffer in perpetuity (with the limited exception of the storm water outfall infrastructure). This preservation activity will contribute to the ecological function of this area, specifically for habitat, by retaining native vegetation, and providing an intact wildlife corridor through the entire site. This will also provide a long-term public benefit.

7. *That the public interest shall suffer no substantial detrimental effect.*

The public interest will not suffer any detrimental effect. As discussed in great detail in this application, the project will result in almost no impact within critical areas or buffers, incorporates design features to limit impacts from development as much as possible, retains approximately 80% of the site in natural vegetation, including all of the shoreline jurisdiction, and all wetlands and buffers on the Property. The project provides a new public pedestrian trail easement, and pedestrian improvements along Viewcrest Road. For all of these reasons, the public interest will not suffer detrimental effect, and to the contrary, the project will generate clear public benefit.

In addition to consistency with these Conditional Use Permit criteria, BMC 22.06.050.E requires the cumulative impact of a proposal to be evaluated:

*E. In the granting of conditional use permits, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the sum of the conditional uses and their impacts shall also remain consistent with the policies of RCW [90.58.020](#) and shall not produce a significant adverse effect to the shoreline environment.*

There will be no cumulative impact from the project. The Property is the only large undeveloped property in the vicinity. There is no likelihood that a similar project will be developed in the future in this area, and therefore no cumulative impact could occur from multiple similar actions. The project proposes to connect to existing public shoreline access infrastructure in the vicinity instead of constructing separate and new public shoreline access. Due to this, and the other design components that are discussed in detail throughout this application, all of which reduce or eliminate adverse effect to the shoreline environment, there will be no risk of negative cumulative impact. To the contrary, if any future development projects are developed along this shoreline, and utilize similar approaches to design, there would be cumulative benefit to the shoreline environment, not cumulative impact.

Please reference the project plans, environmental reports, and SSP report for additional information on the proposed activities within the shoreline jurisdiction. *See Exhibit List at page 29.*

## **VII. Street Vacation**

The project includes a proposal to vacate portions of several historic unopened platted rights of way that bisect the Property. These rights of way were dedicated in the past without consideration for topography, environmental features or other site characteristics, and are not practical or necessary for the City to improve. In exchange for the vacation of these rights of way, the project includes the dedication of pedestrian access easements, new public rights of way, and the construction of public road and utility improvements within the new rights of way. The right of way vacation and right of way dedication are similar in area, with the vacation area including 113,807 square feet of right of way, and the dedication area including 76,489 square feet of right of way. The proposal is illustrated in the Right of Way Vacation Exhibit included with this application. *See Exhibit J.*

The City Council has adopted policies for review of street vacation requests. These policies are included with the street vacation request application, which is consolidated with this application. The proposed street vacation is consistent with these policies as discussed below, and the City Council should support the vacation.

### ***CITY COUNCIL ADOPTED STREET VACATION POLICIES***

*It is the policy of the City of Bellingham to grant vacation of a street right of way when it is determined both that such right of way is not needed presently or in the future for public access (including vehicular, pedestrian, and visual access) and that such vacation advances the public good. All of the following policies should be met prior to the vacation of a right of way.*

The proposed right of way vacations is consistent with the adopted policies listed below. The sections of right-of-way proposed for vacation are not needed presently or in the future for public access, including vehicular, pedestrian and/or visual access, and the vacation would advance the public good.

- 1. The proposed vacation should be determined to be necessary to the public good either in terms of needed development or when such vacation will result in a better or more desirable situation. In some instances a more desirable situation may be a better road pattern in terms of safety, or when an exorbitant amount of land is devoted to unneeded right of way.*

The vacation will allow for a better and more desirable situation while improving public access through the site. The existing rights of way are laid out in such a way that they could not be reasonably constructed, or that they generate unnecessary environmental impacts, occur within buffers, and do not connect to navigable portions of the Property. They are relics of a historic development concept for the site that cannot be reconciled

with current regulations or existing site conditions. The vacation will include the dedication and improvement of new, more functional rights of way within the Property. The new road pattern that is proposed with the project will result in a better and safer design alternative and will facilitate the proposed residential development with less infrastructure related construction impact, less environmental impact, and less construction cost. Equivalent or better vehicular access will be provided with the new public right of way dedications and road improvements, and better public pedestrian accessibility will be provided through a new trail easement from Viewcrest Road to Sea Pines Road, where existing, safe public access to Chuckanut Bay already exists. These factors will result in public benefit when compared to a development project on the Property that retained the existing rights of way. Accordingly, the proposed vacation is “necessary to the public good”.

2. *The right of way must be determined to be of no value to the circulation plan of the City either now or in the foreseeable future. The circulation plan is assumed to include vehicular pedestrian, or other modes of transportation.*

The proposed portions of right-of-way to be vacated have no value for circulation purposes at this time or in the future, for vehicular or pedestrian purposes. These rights of way bear no relationship to the land, and it would be unreasonable to construct vehicular or pedestrian improvements within them. They do not connect to other properties, and the City does not have any identified future road plans that would require the full right-of-way width to be retained.

3. *No vacation will be allowed if such action landlocks any existing parcel, lot of record, or tract. Access to a right of way of less than 30 feet in width does not constitute adequate access. One ownership of all the lots on a right of way does not circumvent this policy and in this it will be necessary to vacate lots prior or together with vacation action.*

The proposed portions of right-of-way to be vacated will not generate a scenario whereby any parcel, lot of record, or tract becomes landlocked. Neighboring properties all have access to the existing City Street system.

4. *State law (R.C.W. 35.79.035) "(1) A city or town shall not vacate a street or alley if any portion of the street or alley abuts a body of fresh or salt water unless: (a) The vacation is sought to enable the city or town to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses; (b) The city or town, by resolution of its legislative authority, declares that the street or alley is not presently being used as a street or alley and that the street or alley is not suitable for any of the following purposes: Port, beach or water access, boat moorage, launching sites, park public view, recreation, or education; or (c) The vacation is sought to enable a city or town to implement a plan, adopted by resolution or ordinance, that provides comparable or improved public access to the same shoreline to which the street or alleys sought to be vacated abut, had the properties included in the plan not been vacated. ..."*

A portion of the proposed right of way to be vacated does abut a saltwater body

(Chuckanut Bay). This right of way extends down the steep slopes from the center of the Property dead-ending into the Bay. Slopes within this right of way are extremely steep, rocky and are not safely navigable for public access purposes (vehicular or pedestrian), and do not provide public access to the shoreline. The majority of the right of way is located within critical areas (geohazards and the shoreline buffer), areas that the project habitat biologist has recommended are not improved with public access in order to preserve their ecological function. As such, the project includes a proposal to set aside the entire 200' shoreline buffer area, through which this right of way crosses, in two Open Space Tracts, subject to a Conservation Easement, in order to best protect the area. The Project does propose to provide public access through the site in a separate location, to connect to existing public access to the same beach, in the immediate vicinity. In this way, the requested vacation does provide public access, recreational and other public uses that would not otherwise exist. For these reasons the proposed right of way vacation is consistent with RCW 35.79.035(1)(b), and the City Council can conclude that the right of way is not being utilized now, and that it is not suitable for Port, beach or water access, boat moorage, launching sites, park, public view, recreation, or education purposes, but that the alternative plan is suitable for and enables public access, recreational and other public uses that would not otherwise exist.

5. *Right of way adjacent or leading to any park, open space, view, natural area, or any other natural or man-made attraction should not be vacated.*

The proposed right of way does lead to open space and natural areas (Chuckanut Bay), however, for the reasons discussed in response to Policy 4 above, it is not feasible to construct improvements within the right of way that could safely and reasonably access these areas. Existing, improved alternative means of access to the adjacent open space and natural areas at Chuckanut Bay are located on Sea Pines Road, in Chuckanut Village and at Woodstock Farm. The project includes through connectivity to these existing access facilities on Sea Pines Road. It is noted that this policy does not prohibit the vacation of a right of way leading to a natural area.

6. *Notification of street vacation requests will be sent to the Planning Commission. The Commission may choose to schedule review of street vacations that have significant issues related to land use and the implementation of the Comprehensive Plan. The Commission will hold a public meeting and make a recommendation to the City Council on these vacations.*

The petitioner is aware of this requirement and will address Planning Commission review if it is determined to be necessary.

7. *The petition should contain the approval of all the abutting property owners and proof of ownership must accompany the petition.*

The portion of right-of-way proposed for vacation is abutting the subject property only. Proof of ownership is provided with this petition.

8. *Vacation is not mandatory even though 100% of the abutting owners request the vacation.*

This criterion is noted by the petitioner, who is aware that the vacation is not mandatory and is subject to the discretion of the City Council. The property owner respectfully requests the support of City Planning, Public Works and Parks Staff, the Hearing Examiner and City Council for this vacation, for the reasons identified in this petition.

9. *Proposed or possible use of the vacated right of way is not relevant to City action (court opinion).*

This criterion is noted by the petitioner. The proposed right of way vacation is not based on the current or future use of the right of way areas, it is based on the infeasibility of constructing public vehicular or pedestrian access within the rights of way, and the provision of better alternatives for public access and recreational use that would not otherwise be available.

10. *Easements for utilities will be retained as a matter of procedure unless vacation of such easement is specifically requested by the petitioners and approved by the City Engineer.*

In this instance the petitioner specifically requests that any proposed and/or retained utility easements be relinquished or not reserved. There is no current or future value to retain utility easements within the rights of way proposed for vacation.

11. *The following may be accepted by the City Council as appropriate trade for a Street Vacation: Payment, land, or major improvements to public facilities. In all cases, fair market value of the right of way and of the item to be traded shall be established. Proposed public improvements shall be reviewed and recommended by the affected City Department(s), and shall exceed the established value of the right of way proposed for vacation. Provision of such compensation or departmental approval of proposed improvements does not mandate street vacation approval by the City Council or Mayor.*

The project includes the dedication of new public rights of way for both vehicular and pedestrian access purposes, and the improvement of new public infrastructure (road and utility), in exchange for the dedication. The petitioner is aware that a fair market value of the right of way and trade will be required and that the proposed public improvements offered in trade will require relevant City Departmental approval.

## **VIII. Public Comment**

The neighborhood meeting conducted for the project was well attended and was predominantly devoted to public question and comment. Many individuals spoke at the meeting, and others provided helpful comments to both the applicant and the City in subsequent follow up written correspondence. These public comments can be distilled into broader areas of comment. After the neighborhood meeting, during the design development process, the applicant, property owners, and design team re-engaged their review study of the site based upon the public comments. Considering the comments raised by the public, the applicant directed revisions to the project design to address these areas of comment. The resulting project design appropriately responds to key areas of



comment, reduces the potential for the project to impact neighboring property owners, and to impact the neighborhood in general.

The Property has a long history of development planning. Many different development proposals have been explored by the Jones family (the long-time property owners) over the past 25 years. A subdivision plan was explored in earnest in 2010, resulting in various environmental studies, and preliminary plans being prepared. The current planning effort began in 2019 and has developed as more site information has been procured.

The preliminary plans presented to the City and the public at the pre-application meeting in early 2020 contemplated two separate public access roads, running parallel from Viewcrest Road southwest through the Property, and serving 45 single family lots. A similar plan, with 44 lots, was presented at the neighborhood meeting. After consideration of public comment and further environmental review and site planning, the plan was further revised to reduce the access points to the site to one, and other revisions were implemented to reduce infrastructure, environmental impacts, clearing activity, and to decrease the density of the project. This design effort resulted in the current application proposal, with one access point to Viewcrest Road, 38 total lots, limited critical areas impacts, and approximately 80% vegetation retention across the Property.

The current design addresses public comments received regarding the Project, and where limited impacts do occur, appropriate mitigation is provided. A discussion of the areas of comments that were identified by the applicant and City, and where applicable, the design efforts made to address these comments are provided here.

Areas of identified public comment include:

- Density and character impacts.

Comments were made that the project was too dense and would be out of character with the existing development patterns in the area. The Property is approximately 37.7 acres in size, and the applicable zoning provides for a gross density of 20,000 square feet per unit, resulting in the site having density for approximately 82 residential lots. The current project proposal includes only 38 residential lots, or 46% of the zoned density. The City typically encourages development to try and achieve the zoned density, which is consistent with our Comprehensive Plan goals and policies related to land use and housing, however this Property is encumbered with critical areas, steep slopes, and mature forest, so it is reasonable to develop at a density lower than the zoned density. Although a plan was presented with 44-45 residential lots, this would require more infrastructure and clearing, two access points to Viewcrest, and more impact on neighboring properties. In response to public comment the property owners considered alternative designs that lowered overall density, ultimately settling on the current site layout, with one access and 38 lots. The proposed lots range in size from approximately 10,000 square feet to approximately 50,000 square feet. More than half the lots exceed 20,000 square feet in size, and the average lot size is 21,400 square feet. The design of the project has taken into consideration the existing development pattern in the area and concern from

neighbors about character impacts, with larger lots located around the perimeter, abutting and across the street from the existing developed properties to the west, north and east, and smaller lots situated on the interior of the Property. Due to modern development regulations, best design practices, and natural constraints, development will include much less clearing and much more vegetation retention than surrounding developments, limiting visual impact from the project. The density of the project, and the design, are entirely consistent with the existing and surrounding zoning and neighborhood development pattern.

- Shoreline and Environmental impacts.

Comments were received regarding the potential for impacts to the shoreline of Chuckanut Bay from the project, both to habitat and from storm water. Comments were also received regarding upland ecological impacts. The project design avoids almost all impacts within the shoreline jurisdiction and retains the entire shoreline buffer, extending 200' from the OHWM, in two Open Space tracts. No impacts are proposed within wetlands or wetland buffers, and in total approximately 80% of the site will be retained in natural vegetation. The only improvement proposed in the shoreline area is an above ground storm water conveyance pipe and energy dissipater, managing treated runoff from a portion of the site infrastructure and lots. This storm water infrastructure will be located above the OHWM and above the beach area, with limited clearing or excavation required. The design will be based on best available science and use best management practices, will be consistent with the most recent adopted State Department of Ecology storm water manual, and will incorporate enhanced treatment for all runoff. Water leaving the site will be clean, and will not disrupt ecological processes on the beach, create erosion or scour, impact recreational use of the beach, or result in a net ecological impact. Additional details on the potential for impacts to the shoreline environment, including habitat, are provided in the Wetland Delineation, Habitat Assessment report and Storm Water Site Plan report prepared for the project. *See Exhibits B, C, D and F.*

- Affordable housing.

Comments were received regarding affordable housing in the City in general, and that the proposed project would provide high end development lots that would not contribute to affordability. Like nearly all market rate development projects in the City, which do not have the access to the subsidies necessary to provide truly affordable housing, the project does not include a fixed affordable housing component. There are currently no regulations in the City that require affordable housing to be incorporated into a project. Generally, the infill of undeveloped properties within the City limits is an appropriate strategy to add to the broader housing supply, which can have a positive cumulative impact on housing affordability. The City's Comprehensive Plan acknowledges the need to provide housing supply for all segments of the market, including higher end homes.

From the Housing Chapter:

*The City must foster housing that is affordable to those at all income levels - from those who are homeless, to low-income and workforce families, and those earning higher*

wages.

*GOAL H-2 Foster housing that is safe, healthy, livable, and affordable for all income levels in all neighborhoods.*

The provision of an adequate supply of high-end housing is important to the community by providing local upward mobility and contributes to the job and tax base and the local economy.

- Transportation Impacts.

Comments were received regarding transportation impacts, including impacts from traffic on Viewcrest Road, intersection impacts at Chuckanut Drive and further afield, and impacts on pedestrians. Although the project traffic generation does not meet the threshold for a mandatory Traffic Impact Analysis (TIA), the property owners voluntarily commissioned a full TIA to evaluate the potential for traffic impacts. The TIA utilized best available science, current traffic data, and modeling to evaluate the potential for impacts and concluded that there would be no adverse impact to Viewcrest Road, Chuckanut Drive, or any roads or intersections further afield. The existing public street network is already improved to a standard that is adequate to accommodate the additional traffic from the project while maintaining adopted levels of service. The TIA recommended limited vegetation clearing at the intersection of Viewcrest Road and Chuckanut Drive, to facilitate sight distance but no other mitigating measures were deemed necessary. In the Edgemoor neighborhood, the majority of streets are improved with asphalt drive surfaces, but no vertical curb, or sidewalk for pedestrians. In response to comments, the project is proposing an alternative street improvement along the project frontage of Viewcrest Road, in order to add pedestrian facilities. In addition, the project is proposing to include a public trail easement from Viewcrest Road through the site to Sea Pines Road, to facilitate pedestrian access connection to existing public infrastructure in the neighborhood. The project design also reduced the intersection points with Viewcrest Road from two to one, to limit potential conflict points between vehicles and pedestrians and traffic entering and exiting the site.

- Vegetation removal and clearing.

Comments were received regarding vegetation removal and clearing associated with the project. Impacts from clearing on carbon sequestration, wind-fall concerns from tree removal, and impacts to Chuckanut Bay from grading and erosion were all discussed. The project as designed has reduced the number of lots to 38, which has facilitated a reduction in infrastructure requirements, and associated clearing and grading activity necessary for the project. Several variances are being requested to further reduce infrastructure impacts to the site. The proposed development areas avoid critical areas and buffers and limit clearing to approximately 20% of the total site area. Of the approximately 80% of the site that will be retained in natural vegetation, the entire shoreline buffer (200') is included, as well as all wetlands and their buffers, and the majority of the steep slopes on the site. Building envelopes for the waterfront lots are situated between 300' and 400' from the

Bay, providing a large swath of retained mature forest between the developed portion of the site and the Bay. This will significantly reduce the potential for wind-fall, erosion and other potential impacts from clearing.

- Preservation of the property.

Comments were received suggesting that the entire property should be preserved utilizing conservation futures funds, through partnership with the land trust, or through other mechanisms utilizing public funds. Public resources for preservation activities are limited and need to be allocated where they can achieve the most value. The proposed site design, as discussed above, includes preservation of approximately 80% of the site vegetation, all critical areas and buffers, a large swath of land along the Bay, and other design considerations that ensure that ecologically sensitive areas and critical habitats on the property are preserved. The proposed development will provide these measures without direct financial cost to the community, allowing the limited funds that are available for preservation purposes to be allocated where they can bring more value.

## **The Woods at Viewcrest – Exhibit List**

Exhibit A – Project Plans

Exhibit B – Critical Areas Reconnaissance & Delineation Report, Elizabeth Binney, 01.2010.

Exhibit C – Wetland Delineation Update & Critical Areas Summary, Northwest Ecological Services, 10.31.2021.

Exhibit D – Wildlife Habitat Assessment, Raedeke Associates Inc, 01.22.2022.

Exhibit E – Geotechnical Investigation & Geohazard Report, Element Solutions, 11.03.2021.

Exhibit F – Storm Water Report, Pacific Survey & Engineering, 01.22.2022

Exhibit G – Traffic Impact Analysis, TENW, 07.30.2021.

Exhibit H – Cultural Resources Report, Drayton Archaeology, 07.20.2020.

Exhibit I – Phasing Plan

Exhibit J – ROW Calculation Plan

Exhibit K – Variance Exhibits

Exhibit L – Vegetation Management Plan

Exhibit M – Subdivision Guarantee

Exhibit N – Supporting Documents

N.1 – Assessor Tax Statements

N.2 – City Maps (Shorelines, Steep Slopes, Utilities, Zoning)

N.3 – Traffic Concurrency Certificate

N.4 – Vesting Deed

N.5 – Mailing Labels

N.6 – Mailing List

N.7 – Mailing Verification

N.8 – Neighborhood Meeting Notice

N.9 – Neighboring Subdivisions