



CITY OF ARLINGTON NOTICE OF DECISION

Arlington Mixed Use Conditional Use Permit and Binding Site Plan

The City of Arlington has issued a Notice of Decision for a Conditional Use Permit as required by Arlington Municipal Code. The following project has been **APPROVED**, with the conditions listed in the attached Hearing Examiner Decision.

Project Name: Arlington Mixed Use CUP and BSP

Proponent: Goldstream Venture Partners

Project Number: PLN#785 and PLN#797

Description of Proposal: The applicant is proposing to develop a mixed-use project that consists of 3 residential buildings, a commercial retail frontage and associated parking both within the site and at Smokey Point Boulevard right of way. The 3.53 acres project has been split into two phases for development. Phase I includes the development of 3 residential building, consisting of one 24-unit building and two 36-unit buildings for a total of 96 units. Phase I open space and recreational opportunities for residents include an amenity building for residents, a pool area and a playground for children. Phase II includes the development of a 6,250 square foot commercial building along the frontage of Smokey Point Boulevard. Phase II includes the Smokey Point Boulevard right of way improvements, additional parking and an outdoor plaza to be enjoyed by both residents and pedestrians accessing the commercial development.

Location: The project is located at 18405 35th Avenue NE.

Hearing Examiner Decision: Approved, with Conditions

Notice of Decision Date: Thursday, August 12, 2021

End of Appeal Period: Thursday, September 2, 2021

Conditional Use Permit Expiration Date: August 12, 2023

Appeals: A Party of Record may file an appeal of this decision within twenty-one (21) calendar days from issuance of this Notice of Decision. Appeals shall be delivered to Snohomish County Superior Court at 3000 Rockefeller Avenue M/S 502, Everett, WA 98201, pursuant the Land Use Petition Act, Chapter 36.70 RCW, by **Thursday, September 2, 2021**.

Staff Contact: Amy Rusko, Planning Manager, arusko@arlingtonwa.gov, 360-403-3550

CONDITIONAL USE PERMIT
FOR
ARLINGTON MIXED USE

*This certifies that the proposed
MIXED USE DEVELOPMENT
Located at 18405 35th Avenue NE*

Meets all applicable requirements, as conditioned in the attached report, of

TITLE 20

Of the City of Arlington Municipal Code



ISSUED BY THE DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

August 12, 2021 PLN# 785

ISSUANCE DATE

Aly Bushko

SIGNATURE

FILE NO

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

In the Matter of the Application of)	Nos. PLN#785 and PLN#797
)	
Graves & Associates, on behalf of)	Arlington Mixed Use CUP and BSP
Goldstream Venture Partners)	
)	
)	
For a Conditional Use Permit and)	FINDINGS, CONCLUSIONS,
<u>a Binding Site Plan</u>)	AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit and binding site plan to allow construction of a 96-unit, multi-family housing and commercial mixed-use development, tentatively identified as “Arlington Mixed Use,” on seven parcels totaling 3.53 acres, which would be combined into one residential parcel and one commercial parcel for the proposed mixed-use development, located at 18405 35th Avenue NE, is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposal.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on July 29, 2021, using remote access technology.

Testimony:

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

Amy Rusko, City Planning Manager
Marc Hayes, City Community and Economic Development Director
Jon Graves, Applicant Representative
Eric Scott
Tiffany Brown

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, with Attachment A, Site Plan with Phase I & II; Attachment B, Binding Site Plan; Attachment C, Zoning Map; Attachment D, Regulating Plan: Place Type Neighborhood Corridor; Attachment E, Regulating Plan Place Types; and Attachment F, Code Requirements
2. Permit Decision Deadline Extension Email, dated July 13, 2021

*Findings, Conclusions, and Decision
City of Arlington Hearing Examiner
Arlington Mixed Use CUP and BSP
Nos. PLN#785 and PLN#797*

3. Land Use Application – Conditional Use Permit, dated December 15, 2020
4. Project Narrative, dated December 15, 2020
5. Cover Sheet (Sheet AG001), revised April 20, 2021
6. Site Plan Phase 1 (Sheet AS100), undated
7. Site Plan Phase 2 (Sheet AS101), undated
8. Architectural Plans (Sheet A-3), dated December 14, 2020
9. Architectural Plans (Sheet A-4), dated December 14, 2020
10. Architectural Plans (Sheet A-5), dated December 14, 2020
11. Architectural Plans (Sheet A-6), dated December 14, 2020
12. Architectural Plans (Sheet A-7), dated December 14, 2020
13. Architectural Plans (Sheet A-8), dated December 14, 2020
14. Architectural Plans (Sheet A-9), dated December 14, 2020
15. Architectural Plans (Sheet A-10), date illegible
16. Architectural Plans (Sheet A-11), dated December 14, 2020
17. Architectural Plans (Sheet A-12), dated December 14, 2020
18. Phase One Landscape Plan (Sheet L-1.0), dated November 24, 2020
19. Phase Two Landscape Plan (Sheet L-1.1), dated November 24, 2020
20. Binding Site Plan (Sheet 1 of 3), dated November 16, 2020
21. Binding Site Plan (Sheet 2 of 3), dated November 16, 2020
22. Binding Site Plan (Sheet 3 of 3), dated November 16, 2020
23. Certificate of Water and Sewer Availability Letter, dated October 6, 2020
24. Complete Streets Checklist, received April 29, 2021
25. SEPA Environmental Checklist, dated October 2020
26. Traffic Impact Analysis, Transportation Engineering NorthWest, updated March 19, 2021
27. Traffic Mitigation Offer to Snohomish County, dated April 28, 2021
28. Preliminary Stormwater Management Report, TerraVista NW, LLC, dated December 15, 2020
29. Preliminary Geotechnical Report, Sondergaard Geosciences, PLLC, revised October 12, 2020
30. Arlington Municipal Airport Avigation Easement, dated December 14, 2020
31. Aerial Site Photograph, dated September 18, 2020
32. Notice of Public Hearing, published July 14, 2021, with Site Plan and Binding Site Plan Map; Notice of Public Hearing for publication in *The Everett Herald* on July 14, 2021; Affidavit of Posting, dated July 14, 2021; Ad Confirmation email, dated July 12, 2021
33. Comment from Snohomish County Department of Public Works, dated July 9, 2021
34. Comment from Washington State Department of Archaeological and Historical Preservation, dated June 28, 2021
35. Comment from Snohomish County Public Utility District, dated June 28, 2021
36. Comment from Washington State Department of Transportation, dated July 2, 2021
37. SEPA Agency Distribution List, undated
38. Notice of Application, Mitigated Determination of Nonsignificance (MDNS), and Neighborhood Meeting, dated June 15, 2021; Affidavit of Posting, dated June 18, 2021;

Ad Confirmation, for publication in *The Daily Herald* on June 18, 2021, dated June 16, 2021; SEPA Agency Notice Emails, dated June 18, 2021

39. Mailing Labels and 500-foot Radius Map

40. Comment from Washington State Department of Transportation, dated June 29, 2021

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Graves & Associates, on behalf of Goldstream Venture Partners (Applicant), requests approval of a conditional use permit (CUP) and Binding Site Plan (BSP) to allow construction of a multi-family housing and commercial mixed-use development known as “Arlington Mixed Use.” The proposed mixed-use development would include a 2,780 square foot commercial building, with space for up to five units along the property’s frontage with Smokey Point Boulevard and 35th Avenue NE; three, three-story residential buildings totaling 95,529 square feet located behind the commercial building; and a 2,780 square foot recreation building. The proposed residential buildings would provide a total of 96 dwelling units consisting of 27 one-bedroom units, 9 one-bedroom units with dens, and 60 two-bedroom units. Associated improvements and amenities would include drive aisles, 150 surface parking spaces, a swimming pool, a playground area, two flex space areas, open space areas, and an outdoor public plaza. The 3.53-acre property consists of seven vacant parcels, six of which were previously developed with single-family residences that have since been demolished. The BSP would combine the seven existing parcels into two parcels. One of the proposed parcels would measure 18,839 square feet and would contain the proposed commercial building and an associated parking lot and community open space area. The second parcel would measure 136,017 square feet and would contain the three proposed residential buildings and associated parking lots, the recreation building, recreational amenities, open spaces, and flex spaces. The property is located at 18405 35th Avenue NE.¹ *Exhibit 1, Staff Report, pages 1 through 4; Exhibits 3 through 22; Exhibit 31.*
2. The City of Arlington (City) determined that the application was complete on January 13, 2021.² On June 15, 2021, the City provided notice of the application and associated neighborhood meeting by mailing or emailing notice to property owners within 500 feet

¹ The property is identified by tax identification numbers 31052100200100, 00729800000100, 00729800000200, 00729800000300, 00729800000400, 00729800000500, and 00729800000100. *Exhibit 1, Staff Report, page 4.* A legal description of the property is included with the proposed binding site plan. *Exhibit 20.*

² On July 13, 2021, the Applicant granted the City’s request to process the application beyond the 120-day timeframe for permit decisions typically required under Arlington Municipal Code (AMC) 20.16.280. *Exhibit 2.*

of the site and to reviewing departments and agencies, publishing notice in *The Herald*, and posting notice on-site, with a comment deadline of July 2, 2021. On July 14, 2021, the City provided notice of the open record hearing associated with the application by mailing or emailing notice to property owners within 500 feet of the site and to reviewing departments and agencies, publishing notice in *The Herald*, and posting notice on-site. The City did not receive any comments from members of the public in response to its notice materials. The City, however, received several comments from reviewing agencies that were specific to the environmental review for the proposal, which are discussed in detail below. *Exhibit 1, Staff Report, pages 3, 6, and 7; Exhibit 3; Exhibits 32 through 40.*

State Environmental Policy Act

3. The City Department of Community and Economic Development (DCED) acted as lead agency and analyzed the environmental impacts of the proposal under the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington. DCED reviewed the Applicant's Environmental Checklist and other information on file and determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. Accordingly, DCED issued a Mitigated Determination of Nonsignificance (MDNS) for the proposal on June 15, 2021. The MDNS conditions, as summarized below, require the Applicant to:
- Implement Best Management Practices (BMPs) during and after construction in accord with Washington State Department of Ecology (DOE) requirements for Stormwater Pollution Prevention and Temporary Erosion and Sediment Control (TESC).
 - Submit a Construction Management Plan to ensure dust control measures are implemented during construction.
 - Follow the current edition of the DOE Stormwater Management Manual for Western Washington.
 - Comply with current code requirements for reducing or controlling environmental health hazards.
 - Comply with the City noise ordinance during construction.
 - Comply with requirements for the Airport Protection District Overlay, Subdistrict B.
 - Design the exterior of the buildings to consist of a variety of materials, including horizontal clapboard siding, vertical board and batten, and asphalt composition shingles.
 - Install light fixtures that are down shielded to mitigate for potential light pollution.
 - Provide required on-site usable open space recreation areas and pay required community park mitigation fees.

- Stop construction activity, notify local authorities, and follow the submitted unanticipated discovery plan if any potential evidence of archeological resources is discovered on the site.
- Construct frontage improvements as approved on the Civil Construction plans.
- Pay traffic and school mitigation fees.
- Connect to City water and wastewater systems.

Exhibit 1, Staff Report, pages 1, 2, and 7; Exhibit 25; Exhibit 38.

4. The City provided notice of the MDNS with the notice of application, with a combined application and SEPA comment deadline of July 2, 2021. The MDNS was not appealed within 21 days following the comment period, but the City received the following comments from reviewing agencies during the SEPA process:

- The Washington State Department of Archaeology and Historic Preservation submitted a comment requesting that an Inadvertent Discovery Plan be created and kept on-site during construction.
- Snohomish County Public Utility District No. 1 (PUD) submitted a comment noting that it currently has sufficient electric system capacity to serve the project but that existing PUD facilities in the area may require upgrading. PUD also noted that the Applicant would be required to provide PUD with suitable easements on all parcels where electrical facilities would be installed to serve the proposed development.
- Snohomish County Public Works submitted a comment noting that the proposal may be required to mitigate for traffic impacts to county roads or county capital improvement projects under an interlocal agreement between Snohomish County and the City. Snohomish County Public Works later commented that it would agree with the mitigation determination under the Applicant's Traffic Impact Analysis (TIA), which established that the project would not be required to pay traffic impact fees to the County.
- The Washington State Department of Transportation (WSDOT) Aviation Division provided a comment noting that, due to its proximity to the airport, the property could experience low-flying aircraft, aircraft engine and propeller noise, vibrations, and exhaust fumes that could be perceived as a nuisance to future residents.
- WSDOT submitted a comment noting that the Applicant's TIA contained a minor discrepancy for calculating the traffic impact fees that the Applicant would be required to pay to WSDOT under an interlocal agreement. WSDOT stated, however, that it would accept the TIA's estimated traffic mitigation offer because the minor discrepancy did not significantly affect the traffic impact fee calculation.

Exhibit 1, Staff Report, pages 3, 6, and 7; Exhibit 2; Exhibit 26; Exhibit 27; Exhibits 33 through 38; Exhibit 40.

Comprehensive Plan and Zoning

5. The City Comprehensive Plan designates the property as within the “Commercial Corridor District,” which is located along Smokey Point Boulevard from approximately 175th Street to 200th Street. *City Comprehensive Plan at 5-27*. The purpose of the Commercial Corridor District designation is to provide for both retail and high-density housing. *City Comprehensive Plan at 5.27*. The proposed project would establish the first mixed-use development on the east side of Smokey Point Boulevard within the Commercial Corridor District. City staff determined that the proposal would be consistent with the following policies of the City Comprehensive Plan:

- Building architecture in residential and commercial developments should be human-scaled (i.e., pedestrian friendly) and conducive to social interaction. [PO-6.1]
- Mini Parks should be required in new residential developments. [PO-6.3]
- Land-use developments should be conducive to social interaction. [PO-6.4]
- Public and private civic spaces should be included in both commercial and residential neighborhoods to ensure adequate gathering places. [PO-6.5]
- Design standards should be enforced to ensure that all new developments are in harmony with the desired character of each subarea. [PO-6.6]
- Multifamily housing should be located close to commercial centers. [PH-2.1]
- Utilize mixed-use mechanisms to incentivize housing within close proximity to commercial uses. [PH-2.3]
- Higher density residential areas should be located around commercial areas. [PL-7.2]
- Where commercial and residential areas abut, new development should include the design and construction of walkways, sidewalks, or other non-motorized features to integrate and link commercial activities to neighborhoods. [PL-9.1]
- Require developers to construct those streets directly serving new development and pay a fair-share fee for specific off-site improvements necessary to mitigate any adverse impacts. [PT-1.9]
- All developments in all zoning districts shall provide sufficient parking spaces to accommodate the number of vehicles that are likely to be attracted to the development. [PT-4.8]
- Require new construction to construct sidewalks, bicycle storage/parking facilities, and access to mass transit where possible and in proportion to the proposal. [PT-4.10]
- All public streets shall be constructed with curb, gutter, sidewalk, landscape strips, and street trees. [PT-4.13]
- Provide ramps and curb cuts that comply with the Americans with Disabilities Act. [PT-5.6]
- Protect existing mass transit rights-of-way. [PT-5.11]
- New residential developments should be required to mitigate impacts to park, recreation, and open space through property improvements. [PP-1.4]

- New residential developments should provide adequate on-site park space. [PP-1.12]
- The City should require that new developments mitigate traffic impacts through at least two of the following methods as deemed acceptable by the City: dedication of right-of-way, frontage improvements, or traffic mitigation fees. [PS-1.7]

Exhibit 1, Staff Report, pages 3 through 5, 14, and 15.

6. The property is located in the City’s Commercial Corridor (CC) zoning district. Mixed-use, multi-family housing developments containing 50 or more residential dwelling units are an allowed use in the CC zone with a conditional use permit, subject to compliance with mixed-use development regulations under Chapter 20.110 Arlington Municipal Code (AMC).³ As discussed in more detail below, the Applicant proposes to utilize the City’s mixed-use overlay, which allows properties along the Smokey Point Boulevard corridor and other commercially zoned properties in the city to site residential development together with commercial, retail, and specific light manufacturing uses. *AMC 20.36.080. Exhibit 1, Staff Report, pages 5, 8, 9, 16, and 17, and Attachment C; Exhibit 30; Exhibit 38; Testimony of Amy Rusko.*
7. The City has adopted mixed-use development regulations to “establish clear policies, implementation strategies, and design standards to guide public and private investment in a coordinated manner.” *AMC 20.110.012(a)*. In doing this, the City has adopted an “alternative approach to conventional zoning called ‘Form Based Code,’” a concept that reinforces “walkable, sustainable mixed-use environments and development that builds upon community character.” *AMC 20.110.012(b)*. The purpose of form-based codes is to “foster predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code.” *AMC 20.110.012(b)*. The project site is located within a “Place Type” that is designated “Mixed Use Neighborhood Corridor.” *AMC 20.110.014(c)(1)*. Under the form-based code, Place Types are further categorized by “Use Intensity Transects.” The property is located within Transect 4 – Main Street (T4-MS). Key features of the T4-MS place type include a “Primary Street with medium intensity commercial activity, along with medium to high density residential, decreasing in intensity toward the adjoining residential neighborhoods.” *AMC 20.110.014(c)(1)*. The intent of the T4-MS area is to provide “a

³ The City’s official zoning map, included with the City staff report as Attachment C, indicates that the City Council recently established the CC zoning district pursuant to Ordinance No, 2020-019, effective September 30, 2020. *Exhibit 1, Staff Report, Attachment C*. It appears, however, that the municipal code’s table of permissible uses, AMC Table 20.40-1, does not yet reflect this change as the CC zone is not represented in the table. Although the table of permissible uses does not specifically reference the CC zone, it provides that mixed-use, multifamily housing developments are allowed within all commercial zones with a conditional use permit. *Table 20.40-1*. Accordingly, in finding that the proposed mixed-use development is allowed in the CC zone with a conditional use permit, the Hearing Examiner relies on the permissible use table’s reference to the City’s other commercial zoning districts, as well as the analysis included in the City staff report and the testimony of City Planning Manager Amy Rusko. *Exhibit 1, Staff Report, pages 5 and 9; Testimony of Ms. Rusko.*

vibrant main street mixed use residential and commercial environment that serves as the focal point for the surrounding neighborhood and provides access to day-to-day amenities within walking distance in urban form.” *AMC 20.110.014(c)(1)*. The T4-MS area of the Mixed Use Neighborhood Corridor “will likely develop into a series of smaller, walkable centers along Smokey Point Boulevard which will ultimately provide sustainable transit service along the route.” *AMC 20.110.014(c)(1)*. *Exhibit 1, Staff Report, pages 2, 13, and 14, Attachment D, and Attachment E*.

8. The City’s mixed-use development regulations (AMC 20.110.014) provide specific guidelines on appropriate building types and frontages, with specific standards related to blocks, rights-of-way, thoroughfares, parking, civic and open spaces, landscaping and screening, low-impact design (LID) for stormwater management, outdoor lighting, and architecture. City staff analyzed the proposal and determined that these requirements would be met, noting:
- The Arlington Mixed Use project would be located in the T4-MS use intensity transect, which allows for a mix of commercial and residential uses with a small to medium footprint, for buildings at or near the right-of-way and with a diverse mix of frontages.
 - The project would be consistent with the stated intent of the T4-MS area.
 - The project would be consistent with permissible uses in the T4-MS area of the Mixed Use Neighborhood Corridor place type.
 - The proposed development would be required to construct frontage improvements along 183rd Place NE, Smokey Point Boulevard, and 35th Avenue NE alignments that would include new sidewalks and planter strips. In addition, the project would install new on-site drive aisles and sidewalks, which would improve pedestrian, bicycle, and vehicular access to and within the site. The proposed frontage improvements and landscaping would meet the intent of the Shopfront and Awning frontage type under AMC 20.110.014(d).
 - The proposed buildings are similar in character to the Main Street Building and Stacked Flat building forms listed as acceptable in the T4-MS area. The Main Street building form is described as a small- to medium-sized structure intended to provide a vertical mix of uses with ground floor retail or service uses and upper floor service or residential uses. The Main Street building form makes up the primary component of a neighborhood main street and portions of a downtown main street and, therefore, is a key component to providing walkability. The Stacked Flat building form is described as a medium- to large-sized structure consisting of multiple dwelling units accessed from a courtyard or series of courtyards. Each unit may have its own individual entry or may share a common entry. The Stacked Flat building type is appropriately scaled to fit adjacent to neighborhood-serving main streets and walkable urban neighborhoods.
 - The proposed development would meet applicable right-of-way and thoroughfare standards.

- The T4-MS transect of the Mixed Use Neighborhood Corridor place type requires a minimum of one parking space per 1,000 square feet of residential uses and one parking space per 1,000 square feet of retail or service uses greater than 3,500 square feet. The Applicant proposes to install 150 parking spaces, exceeding the minimum 99 parking spaces required for the project.
- The proposed development would include a plaza at the southwest corner of the parcel, which would provide a formal open space at the commercial business frontage consistent with applicable civic and open space standards.
- The Applicant would provide a landscape buffer along the north property line that would meet the screening standards of AMC 20.110.014(i). The landscaping would provide screening between the proposed three-story multifamily apartment complex and a single-family residential subdivision to the north.
- The project would be required to comply with the outdoor lighting standards for the LZ-4 lighting zone, which allows for very high ambient lighting due to areas of activity with high light levels.
- The proposed buildings are architecturally designed from all sides. The residential building designs incorporate horizontal clap board, vertical board and batten, asphalt composition shingles, metal roofing, and tight knot cedar deck railing. The commercial building design includes cement fiber board, brick veneer, metal roofing, metal awnings, and metal accents. The buildings would have pitched roofs, parapets, and exposed rafters with varying elevations, while incorporating windows, gutters, and downspouts seamlessly in the façade. The commercial street front would provide welcoming customer entrances and large plaza for shoppers and pedestrians.

Exhibit 1, Staff Report, pages 13 and 14.

9. The property is also located within Subdistrict B of the Airport Protection (AP) District Overlay. The purpose of the AP district overlay is to protect the viability of the Arlington Municipal Airport as a significant resource to the community by encouraging compatible land uses and densities, reducing hazards to lives and properties, and ensuring a safe and secure flying environment. *AMC 20.38.010(a)*. The Applicant would ensure that the project complies with requirements for development within Subdistrict B of the AP district overlay. The Applicant prepared an avigation easement over the subject parcels that would be reviewed by the Arlington Municipal Airport and would be recorded and submitted to the City as a condition of the MDNS. The Auditor's recording number for the easement would be placed on the Binding Site Plan prior to recording. *Exhibit 1, Staff Report, pages 5, 8, 9, 16, and 17, and Attachment C; Exhibit 30; Exhibit 38.*

Existing Site and Proposed Binding Site Plan

10. The 3.53-acre property is primarily flat and does not contain any mature trees. As noted above, the property consists of seven vacant parcels, six of which were previously developed with single-family residences that have since been demolished. Sondergaard

Geoscience, PLLC, prepared a preliminary geotechnical report for the proposed development, revised October 12, 2020, which determined that the subject property does not contain any geologic hazard areas. No other critical areas were identified on or near the subject property. The preliminary geotechnical report provided recommendations for temporary erosion and sediment control measures during construction, as well as recommendations for site preparation, foundation support, slab-on-grade flooring, and drainage. The property is bounded by Smokey Point Boulevard and 35th Avenue NE to the west, 183rd Place NE to the south, single-family residential development to the north, and vacant Arlington Airport property to the east. *Exhibit 1, Staff Report, pages 2, 3, 5, and 6; Exhibit 28, Exhibit 29; Exhibit 31.*

11. As noted above, the Applicant seeks approval of a CUP and BSP to allow construction of a 96-unit, multi-family housing and commercial mixed-use development consisting of a commercial building along the property's frontage with Smokey Point Boulevard and three, three-story residential buildings with associated amenities located behind the commercial building. The Applicant submitted a project narrative, which notes that the proposed development would be completed in two phases. Phase one would include development of the three residential buildings, as well as associated improvements and amenities that would include parking areas, drive lanes, internal pedestrian walkways, a recreation building, a swimming pool, a children's playground area, and open space areas. Phase two would include development of the commercial building and associated parking area and publicly accessible plaza. Additional conditions for project development, including the timing for phased development, would be provided under a development agreement between the Applicant and the City that would be approved by the City Council. *Exhibit 1, Staff Report, pages 1 through 3, and 16; Exhibits 4 through 22.*
12. Properties to the north of the subject property are zoned Residential Moderate Capacity and are developed with single-family residences. Property to the east is zoned Business Park and consists of Arlington Airport. Properties to the south are zoned CC and are developed with single-family residences. Properties to the west are zoned CC and Residential High Capacity and are developed with single-family residences and the Stillaguamish Senior Center. *Exhibit 1, Staff Report, page 5.*

Stormwater

13. TerraVista NW, LLC, prepared a Preliminary Stormwater Management Report for the Applicant, dated December 15, 2020. All stormwater runoff would be fully infiltrated on-site. Stormwater runoff from pollution-generating surfaces would be routed to a gravel infiltration trench with 18 inches of underlying sand for water quality treatment. The City would review the Applicant's final stormwater management plan for compliance with the requirements of the 2012 Washington Department of Ecology Stormwater Management Manual for Western Washington (as amended in 2014) at the

time of civil permit review and approval. *Exhibit 1, Staff Report, pages 11, 14, and 16; Exhibit 28.*

Access and Traffic

14. Vehicular access to the commercial portion of the site would be provided from Smokey Point Boulevard and 35th Avenue NE. Vehicular access to the residential buildings would be provided by internal drive aisles within a parking area that would connect to 183rd Place NE at two locations. The parking area would contain pedestrian walkways providing safe pedestrian access to and from all three residential buildings and amenity spaces to 183rd Place NE and Smokey Point Boulevard. An existing Community Transit bus stop located adjacent to the project site at the southwest corner of the parcel would be relocated further north on Smokey Point Boulevard. The Applicant completed a complete-streets checklist, addressing requirements related to channelization, pavement conditions, pedestrian infrastructure, bicycle infrastructure, transit infrastructure, freight infrastructure, street trees and landscaping, and urban design and planning, which was approved by the City on July 21, 2021. City staff reviewed the Applicant's proposed street and sidewalk design and determined that it would comply with code requirements for street classification, lot access, street entrances, the relationship of streets to topography, street intersections, and right-of-way improvements. *Exhibit 1, Staff Report, pages 2, 6, 9, and 10; Exhibit 6; Exhibit 7; Exhibit 22; Exhibit 24.*
15. Transportation Engineering NorthWest prepared a Traffic Impact Analysis (TIA) for the Applicant, updated March 19, 2021. The TIA noted that the proposed development would generate 621 new average daily trips with 35 AM peak-hour trips and 53 PM peak-hour trips.⁴ The TIA determined that all studied intersections currently operate at an acceptable level of service (LOS), with the exception of the intersection at Smokey Point Boulevard and 172nd Street NE, which operates at LOS E. The TIA further determined that the studied intersections would continue to operate at acceptable levels of service with the proposed development, except for the Smokey Point Boulevard/172nd Street NE intersection, which is expected to continue to operate at LOS E with or without the proposed development. Because this intersection would continue to operate at LOS E with the proposed development, no off-site traffic mitigation for impacts to the intersection is proposed. The TIA also determined that the project would not impact county roads or county capital improvement projects, and, therefore, the Applicant would not be required to pay traffic impact fees to the County pursuant to an interlocal agreement between the City and the County. As noted above, Snohomish County Public Works reviewed the TIA and agreed with its determination. In addition, the TIA determined that the Applicant would be required to pay traffic impact fees to WSDOT, calculated at \$36 for each new average daily trip generated by the proposal, for a total of \$22,356. As discussed above, WSDOT reviewed the TIA and ultimately accepted the

⁴ The TIA's trip generation estimate was reduced to account for trips generated by the former single-family residential use of the property. *Exhibit 26.*

TIA's estimated traffic mitigation offer. The Applicant would also be required to pay traffic impact fees to the City, which are currently calculated at \$177,815. *Exhibit 1, Staff Report, pages 6, 7, 12, and 17; Exhibit 26; Exhibit 27; Exhibit 33; Exhibit 38; Exhibit 40.*

Landscaping and Open Spaces

16. City staff reviewed the Applicant's site and landscaping plans and determined that the project would satisfy code requirements for the provision of recreational facilities and open space areas, screening, street trees, and tree shading. *Chapter 20.52 AMC; Chapter 20.76 AMC.* The property does not contain any significant trees that would be removed as part of the proposed development. The Applicant would be required to pay community parks impact fees currently calculated at \$143,712. *AMC 20.90.400. Exhibit 1, Staff Report, pages 9, 11, 12, and 17; Exhibit 6; Exhibit 7; Exhibit 18; Exhibit 19.*

Utilities and Services

17. The City would provide water and sewer services to the property. The City provided the Applicant with a water and sewer availability letter on October 6, 2020, indicating that that the City has sufficient water and sanitary sewer to service the project. Waste Management NW would provide garbage service, Frontier Communications would provide telephone service, Cascade Natural Gas would provide gas service, and Snohomish County PUD would provide electricity service. As noted above, Snohomish County PUD indicated that it currently has sufficient electric system capacity to serve the project but that existing PUD facilities in the area may require upgrading. The property would be served by the Lakewood School District, and the Applicant would be required to pay school impact fees, currently calculated at \$114,480, under AMC 20.90.230. Compliance with requirements for utility service infrastructure, fire hydrants, and fire protection would be reviewed upon submission of site civil construction drawings. *Exhibit 1, Staff Report, pages 5, 10 through 12, and 17; Exhibit 23; Exhibit 35; Exhibit 38.*

Conditional Use Permit

18. Mixed-use, multi-family developments with 50 or more residential dwelling units are allowed in the CC zone with a conditional use permit. *Chapter 20.40 AMC.* As noted above, the Applicant requests a CUP to allow construction of a construction of a 96-unit, multi-family housing and commercial mixed-use development utilizing the City's mixed-use development regulations under Chapter 20.110 AMC. City staff reviewed the application materials and determined that, with conditions, the criteria for a CUP would be satisfied, noting:
 - The City Comprehensive Plan identifies this area as Commercial Corridor District, and the subject property is zoned Commercial Corridor District. The property is also identified as within the T4-MS transect of the Mixed Use Neighborhood Corridor place type under the mixed use regulations of Chapter 20.110 AMC. The T4-MS transect allows for Main Street Building structures

with commercial store fronts on the first floor and service or residential uses on the upper floors and for Stacked Flat building types for residential units.

- The City determined the application to be complete on January 13, 2021. Subject to conditions, the application contains all the information necessary for the City to decide whether the development, if completed as proposed, would comply with all requirements under Title 20 AMC.
- The City issued an MDNS on June 15, 2021. The MDNS was not appealed, and comments from reviewing agencies have been addressed.
- The requested CUP, as conditioned, would be consistent with all Title 20 AMC requirements; permit processing procedures; and all other applicable plans, regulations, and policies.
- The project would not materially endanger public health or safety.
- The project, as mitigated and conditioned, would not materially harm adjoining or abutting property.
- The design the proposed development would be compatible with surrounding residential land uses.

Exhibit 1, Staff Report, pages 14 and 15; Testimony of Ms. Rusko.

Testimony

19. City Planning Manager Amy Rusko testified generally about the proposal and about how, with conditions, it would comply with the City Comprehensive Plan, zoning ordinances, mixed-use development regulations, and the criteria for approval of a CUP and BSP. She explained that the residential component of the proposed mixed-use development would consist of three, three-story residential buildings, totaling 95,529 square feet, that would include 27 one-bedroom units, 9 one-bedroom units with dens, and 60 two-bedroom units. Ms. Rusko stated that the project would provide various amenities on-site, including a recreation building, swimming pool, playground area, open space areas, an outdoor public plaza, and bicycle stalls by the commercial building. She noted that the proposed development would provide 150 surface parking stalls, which would include 7 ADA van spaces. Ms. Rusko described the existing conditions of the property, noting that six of the seven lots comprising the 3.53-acre site contained single-family homes that have been demolished and that the site is primarily flat and does not contain any mature trees. She stated that the property is designated Commercial Corridor District and is within the Commercial Corridor zone. Ms. Rusko explained that the proposed multi-family housing and commercial mixed-use development is allowed in the CC zone subject to compliance with the City's mixed-use development regulations and that a CUP is required because the proposal includes more than 50 residential dwelling units. She stated that the Applicant's TIA determined that the project would generate 53 PM peak-hour trips when discounting for the 6 PM peak-hour trips generated by the former single-family residential use of the property. *Testimony of Ms. Rusko.*
20. City Community and Economic Development Director Marc Hayes testified that the timing for the phased development would be addressed under a Development Agreement

between the Applicant and the City that would be approved by the City Council. He noted that utility infrastructure required for the entire development would be completed during phase one and that phase two of the development would include construction of the commercial building and public plaza, as well as the required frontage improvements along Smokey Point Boulevard and 35th Avenue NE. Mr. Hayes explained that the project's anticipated traffic impacts to the already failing intersection at Smokey Point Boulevard and 172nd Street NE would be minimal and would not require mitigation. He noted that the City is conducting an analysis of the Smokey Point Boulevard corridor that would address ways to improve the level of service for the Smokey Point Boulevard/172nd Street NE intersection. *Testimony of Mr. Hayes.*

21. Applicant Representative Jon Graves testified that he agrees with City staff's analysis as provided in the staff report and at the hearing. He noted that the Applicant's architectural plans include an analysis of how the proposal would meet all requirements of the City's mixed-use design standards. Mr. Graves confirmed that the proposed development would include bicycle parking facilities within the public plaza. He also confirmed that access for the residential portion of the project would be provided from two locations along 183rd Place NE and would be completed during phase one. Mr. Graves stated that the Applicant is considering adding living units above the commercial space during phase two of the development. Ms. Rusko testified that the Applicant would have the ability to revisit the proposal to include additional residential units above the commercial space. She explained that the addition of residential units above the commercial space could be addressed with an administrative amendment to the development agreement, which would not require approval by the Hearing Examiner. *Testimony of Mr. Graves; Testimony of Ms. Rusko.*
22. Civil Engineer Eric Scott of TerraVista NW, LLC, testified that all stormwater would be fully infiltrated on-site, noting that stormwater runoff from roofs and pollution-generating surfaces would be routed to infiltration facilities throughout the site that would provide water quality treatment. He explained that the proposal would meet all low-impact development measures required under the 2012 Washington Department of Ecology Stormwater Management Manual for Western Washington, as amended in 2014. *Testimony of Mr. Scott.*
23. Tiffany Brown of Goldstream Venture Partners testified that the Applicant is looking forward to beginning construction on the project. She explained that development projects are currently facing complications due to resource allocation issues that make it difficult to predict when this project could begin and be completed. Ms. Brown stated that these construction timing issues would be addressed through the development agreement with the City. *Testimony of Ms. Brown.*

Staff Recommendation

24. City staff, having determined that the proposed development would comply with the City Comprehensive Plan and all applicable development regulations, recommends approval of the Applicant's request for a CUP and BSP, with conditions. Mr. Graves testified that the Applicant understands and would comply with City staff's recommended conditions. *Exhibit 1, Staff Report, pages 15 through 18; Testimony of Mr. Graves.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted the authority to hear and decide the applications for a conditional use permit and a binding site plan. *Revised Code of Washington (RCW) 36.70.970; AMC 20.12.210; AMC 20.12.230; AMC 20.16.170; AMC 20.16.352; AMC 20.16.353.*

Criteria for Review

Conditional Use Permit

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

- (1) The hearing examiner shall consider whether the application is complete. If no evidence is presented that the application is incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the hearing examiner that the application is complete.
- (2) The hearing examiner shall consider whether the application complies with all of the applicable requirements of this title. If a finding to this effect can be made, the hearing examiner need not make further findings concerning such requirements. If such a finding cannot be made then a finding shall be made that the application be found not in compliance with one or more of the requirements of this title. Such a finding shall specify the particular requirements the application fails to meet. Separate findings may be made with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the hearing examiner to be unsatisfied through this process.
- (3) If the hearing examiner concludes that the application fails to comply with one or more requirements of this title, the application shall be denied. If the hearing examiner concludes that all such requirements are met, he shall issue the permit unless he denies the application for one or more of the reasons set forth in Section 20.16.140 (Special Use Permits and Conditional Use Permits). Specific findings for such a denial must be made, based upon the evidence submitted, justifying such a conclusion.

AMC 20.16.170(e).

Subject to Subsection (d) [of AMC 20.16.140], the designated decision-maker shall issue the requested permit unless it concludes, based upon the information submitted at a hearing if there is a hearing or by signed letter if there is not, that:

- (1) The requested permit is not within its jurisdiction according to the table of permissible uses, or
- (2) The application is incomplete, or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this title (not including those the applicant is not required to comply with under the circumstances specified in Chapter 20.32, Nonconforming Situations), or
- (4) The proposed project has not complied with SEPA, or
- (5) The proposed project is not in conformance with the comprehensive plan, transportation plan, or other adopted plans, regulations, or policies.

AMC 20.16.140(c).

Even if the permit-issuing authority finds that the application complies with all other provisions of this title, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially endanger the public health or safety, or
- (2) Will materially harm adjoining or abutting property,
- (3) In terms of design and use will not be compatible with the area in which it is located.

AMC 20.16.140(d).

Binding Site Plan

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

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

RCW 58.17.035.

Binding site plans are subject to the following standards:

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

AMC 20.16.352.

“Binding site plans follow the standard subdivision submittal, review, resubmittal, final approval process and recording requirements as that of the standard subdivision per Chapter 58.17 RCW.”
AMC 20.16.353.

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

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

The criteria for review adopted by the Arlington City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

- 1. With conditions, the proposal would satisfy the requirements for approval of a binding site plan.** The Applicant's submitted binding site plan demonstrates that the proposed commercial and residential lots would continue to function as one site with respect to access, circulation, open space, landscaping, stormwater drainage facilities, facility maintenance, and parking. The submitted binding site plan identifies the location of streets, roads, improvements, utilities, open spaces, parking areas, landscaped areas, and building envelopes. The final binding site plan would be required to depict all required dedications and easements as a condition of binding site plan approval. City staff reviewed the proposal and determined that, with conditions, it would comply with all applicable zoning regulations, including mixed-use development regulations pertaining to blocks, rights-of-way, thoroughfares, parking, civic and open spaces, landscaping and screening, low-impact design for stormwater management, outdoor lighting, and architecture. The Hearing Examiner concurs with this assessment. No critical areas or associated buffers were identified on or near the subject property.

The City Department of Community and Economic Development (DCED) analyzed the environmental impacts of the proposal and determined that, with mitigation measures, the proposal would not have a probable significant impact on the environment. Accordingly, DCED issued an MDNS for the proposal that was not appealed. Compliance with the MDNS conditions has been made a condition of issuance of the CUP. The City provided reasonable notice and opportunity to comment on the proposal and on the MDNS. The City did not receive any comments on the proposal or MDNS from members of the public, and the MDNS was not appealed. The City received several comments on the MDNS from reviewing agencies. The Snohomish County Public Works department confirmed that no mitigation would be required under an interlocal agreement between the City and Snohomish County. The Washington State Department of Transportation (WSDOT) agreed to accept the traffic mitigation fee offer described in the Applicant's traffic impact analysis, which has been made a condition of CUP approval. A condition of the MDNS requiring that the project stop construction, notify local authorities, and follow an unanticipated discovery plan addresses comments provided by the Washington Department of Archaeology and Historic Preservation. In response to comments from the Aviation Division of WSDOT, the Applicant prepared an aviation easement over the subject parcels that would be reviewed by the Arlington Municipal Airport and would be recorded and submitted to the City as a condition of the MDNS. Snohomish County PUD noted that it has sufficient electric system capacity to serve the project.

The Applicant would ensure that the project complies with requirements for development within Subdistrict B of the AP district overlay. The Applicant's Preliminary Stormwater Management Report indicates that all stormwater runoff would be fully infiltrated on-site in accordance with applicable stormwater management requirements. The City would review the Applicant's final stormwater management plan for compliance with the requirements of the 2012 Washington Department of Ecology Stormwater Management Manual for Western Washington (as amended in 2014) at the time of civil permit review and approval. The Applicant's traffic impact analysis (TIA) determined that the proposal would generate 53 new PM peak-hour trips, and the Applicant would be required to pay traffic impact fees to the City based on the new PM peak-hour trips. The TIA also determined that all studied intersections would operate at an acceptable level-of-service (LOS) following completion of the proposed development, apart from the intersection at Smokey Point Boulevard and 172nd Street NE, which would operate at LOS E with or without the proposed development. City staff determined that the proposal's impacts to the Smokey Point Boulevard/172nd Street NE intersection would be minimal and would not require additional mitigation. City Community and Economic Development Director Marc Hayes testified at the hearing that the City is conducting an analysis of the Smokey Point Boulevard corridor that would address ways to improve the intersection's LOS. The City reviewed the Applicant's complete streets checklist and determined that the proposed development would meet City complete-street standards. There are adequate public services, including water, sanitary sewer, and electricity, available to serve the proposed development. As detailed below, conditions are necessary to ensure that the proposal complies with MDNS conditions and with all requirements associated with approval of a binding site plan. *Findings 1 – 4, 7 – 24.*

2. **With conditions, the proposal would satisfy the requirements for approval of a conditional use permit.** Mixed-use, multi-family housing and commercial developments containing 50 or more residential dwelling units are an allowed use in the CC zone with a conditional use permit, subject to compliance with the City's mixed-use development regulations under Chapter 20.110 AMC. The elements necessary for a complete application are defined by the City, and the City has discretion to suit the requirements to the specific project. *AMC 20.16.040.* The proposal to construct a 96-unit, multi-family housing and commercial mixed-use development is an appropriate use in Transect 4 – Main Street of the Mixed Use Neighborhood Corridor place type and, with proposed landscaping that would provide screening from adjacent single-family residential uses to the north, would be compatible with surrounding development. As discussed above in Conclusion 1, with conditions, the proposed development would comply with all applicable zoning regulations, including mixed-use development regulations pertaining to blocks, rights-of-way, thoroughfares, parking, civic and open spaces, landscaping and screening, low-impact design for stormwater management, outdoor lighting, and architecture. The proposal would be consistent with goals and policies of the City Comprehensive Plan encouraging mixed-use, high-density residential and commercial development within the Commercial Corridor District that is designed to

be pedestrian friendly and conducive to social interaction, while appropriately mitigating for impacts to parks, open space, and traffic. DCED issued an MDNS for the proposal on June 15, 2021, which was not appealed. As conditioned, the proposed development would not materially endanger the public health or safety and would not materially harm adjoining or abutting property. As detailed below, conditions are necessary to ensure that the proposal complies with MDNS conditions and with all requirements associated with approval of a conditional use permit. *Findings 1 – 24.*

DECISION

Based upon the preceding findings and conclusions, the request for a conditional use permit and binding site plan to allow construction of a 96-unit, multi-family housing and commercial mixed-use development on seven parcels totaling 3.53 acres, which would be combined into one residential parcel and one commercial parcel, at 18405 35th Avenue NE, is **APPROVED**, subject to the following conditions:⁵

1. All development shall be in substantial conformance with the Project Site Plan and Binding Site Plan received on April 29, 2021, subject to any conditions or modifications that may be required as part of the permit and construction plan review.
2. The approved Conditional Use Permit shall expire two years after the date of issuance per AMC §20.16.220.
3. Recordation of the Binding Site Plan (PLN#797) shown as a part of this application, after approval from the Community Development Director, which depicts all required dedications and easements.
4. A Development Agreement is being utilized as part of this project, which specifies any agreed to changes relating the design and materials for proposed buildings and the future use of commercial buildings affronting Smokey Point Boulevard.
5. The development shall meet all Title 20 AMC regulation requirements.
6. The developer shall meet all local, state, or federal code requirements. Attached as Attachment F to the Staff Report is a list of code requirements that are specifically called to the developer's attention. It is in no way intended to be a complete list of code requirements, but a general checklist of major steps and issues.
7. The developer shall clear any outstanding Planning Division permit-processing accounts with the City within 60 days of issuance of this permit.

⁵ Conditions include those required to reduce project impacts required under the SEPA MDNS, as well as those required to meet City codes.

8. No permits and/or construction pursuant to the Conditional Use Permit shall begin or be authorized until 21 days from the date of the decision.
9. To mitigate for potential impacts to ground water, the Applicant shall employ best design practices meeting the current Department of Ecology's Stormwater Management Manual for Western Washington.
10. To mitigate for potential impacts to water runoff, the Applicant shall follow the current edition of the Department of Ecology's Stormwater Management Manual for Western Washington and Best Management Practices used to protect groundwater.
11. The Applicant shall comply with current codes to reduce or control environmental health hazards. A spill prevention plan shall be in place according to local, State and Federal policies.
12. City of Arlington noise standards found in AMC 9.20.060 shall be complied with. Specifically, in section 9.20.060(8) noises resulting from any construction or development activity or the operation of heavy equipment from 7:00 PM to 7:00 AM Monday through Saturday shall be prohibited. The project will generate short term noise associated with construction activities. Construction hours will conform to City requirements. Noise from light vehicle traffic will be generated during business hours at project completion.
13. The Applicant shall comply with the Airport Protection District Overlay within AMC 20.38. The property is located within Subdistrict B and shall comply with the Federal Aviation Regulations (FAR) Part 77 and complete a Federal Aviation Administration form 7460. An Avigation Easement over the subject parcels shall be reviewed by the Arlington Municipal Airport. The recorded easement shall be submitted to the City and the Auditor's Recording Number shall be placed on the Binding Site Plan prior to recording.
14. The height of the proposed building will be approximately 45' (3-story). The exterior of the building will consist of a variety of materials, including horizontal clapboard siding, vertical board & batten, and asphalt composition shingles.
15. To mitigate for potential light pollution, the Applicant will be required to install light fixtures that are down shielded. The property is located within the Arlington Airport Protection District – Subdistrict B.
16. A variety of on-site common open space recreation areas are proposed, that will include a swimming pool, playground, plaza, and resident amenity building. Each residential development shall pay a Community Park Impact fee of \$1,497 per multi-family dwelling unit for a total of \$143,712 in Park Mitigation fees for 96 units. Every Development shall

be developed so that at least 5 percent of the total area remains permanently usable open space. In this instance, the open space requirement equals to a total of 7,744 sq ft of required open space, where the Applicant has provided 7,744 sq ft of common use open space. 3,982 sq ft of the open space shall be constructed with Phase I and 3,762 sq ft of the open space shall be constructed with Phase II.

17. If historical, cultural, or archaeological sites or artifacts are discovered in the process of development, work on that portion of the site shall be stopped immediately, the site secured, and the find reported as soon as possible to the planning director. The property owner also shall notify the Washington State Department of Archaeology and Historic Preservation and affected tribes.
18. The proposal is required to construct frontage improvements as approved on the Civil Construction plans.
19. Trip generation has been calculated at 53 PM Peak Hour Trips (PMPHT) and 621 Average Daily Traffic (ADT) trips per the Traffic Impact Analysis that was submitted by Transportation Engineering Northwest, dated March 19, 2021. The analysis includes the traffic calculation for 96 multi-family residential units and 6,250 square feet of commercial space. The proposal is eligible to receive credit for six (6) single family homes that are to be removed for the subject project. The City traffic mitigation fee is \$3,355 per PMPHT for a total of \$177,815 in traffic mitigation fees. The WSDOT traffic mitigation fee is \$36 per ADT for a total of \$22,356. All City and WSDOT traffic mitigation fees shall be paid prior to building permit issuance.
20. The proposal is within the Lakewood School District and will be required to pay \$2,022 for every 1- and 2-bedroom multi-family dwelling unit for 96 units, for a total of \$194,112 in school mitigation fees. The Applicant shall provide the City a copy of payment/receipt to Lakewood School District prior to building permit issuance.
21. The Applicant shall connect to the City of Arlington water and wastewater systems.
22. Prior to any construction activities, the Applicant shall file and receive approval of site civil construction plans which comply with all requirements of the Land Use Code, International Building Code, International Fire Code and Public Works Construction Standards and Specifications. Said plans shall address all site improvements, either required or voluntarily provided.
23. The Applicant shall construct all existing, extended, and new electrical power lines (not to include transformers or enclosures containing electrical equipment including but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, cable television, and other communication and utility lines in or adjacent to any land use or building permit approved after the effective date of this chapter shall be

placed underground in accordance with the specifications and policies of the respective utility service providers and located in accordance with the administrative guideline entitled “Public Works Construction Standards and Specification.” Even in the event the distribution line originates from a point opposite any public roadway from the new construction, the service lines shall be placed beneath said roadway by means of boring or surface excavation across said roadway.

24. Prior to issuance of the building permit, the Applicant shall complete all required or voluntary improvements unless otherwise secured and authorized by the City Engineer.
25. The Applicant shall submit building plans meeting the architectural standards of AMC 20.110.
26. Business Licenses for all contractors working on the site shall be required to obtain a City of Arlington Business License.

DECIDED this 12th day of August 2021.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center