

SUB2022-0033 & VAR2023-0002: List of Attachments

EXHIBIT 1 Planning and Community Development Department Staff Report including the following Attachments:

- Attachment A Architectural and Civil Plans including Tree Preservation and Landscaping Plans dated 4/12/23
- Attachment B Consolidated Design Review Permit and SEPA review (DR2022-0023/SEP2022-0032)
- Attachment C Vicinity Map
- Attachment D Zoning and Comprehensive Plan Designation Map
- Attachment E Land Use Application materials
 - E1 Land Use Application
 - E2 Response to Variance Criteria, Subdivision Performance & Decision Criteria
- Attachment F Request for Information (RFI) dated 10/13/22
- Attachment G Applicant's response to RFI dated 1/25/23
- Attachment H Potential Retention Tree Analysis prepared by Aubrey Stargell dated 1/23/23
- Attachment I Traffic Impact Analysis prepared by Transpo Group dated February 2022
- Attachment J Notice of Application/Mailing List
- Attachment K Public Comment
- Attachment L Map of tree canopy in the vicinity
- Attachment M RFI dated 7/6/23
- Attachment N Applicant's response to RFI dated 9/18/23
- Attachment O SEPA Determination of Non-significance dated 10/4/23
- Attachment P Notice of Public Hearing
- Attachment Q Aerial Map
- Attachment R Critical Area Review Memorandum prepared by Northwest Ecological Services LLC dated 10/13/21
- Attachment S Geotechnical Report prepared by PanGeo Incorporated dated January 2022

Attachment T Preliminary Stormwater Plan prepared by Freeland & Associates dated July 2022

Attachment U Map of schools in the vicinity

CITY OF BELLINGHAM

**PLANNING AND COMMUNITY DEVELOPMENT
STAFF REPORT**

HEARING EXAMINER

October 11, 2023

PROJECT NO.: Stream Bellingham Townhomes Preliminary Plat & Variance
(SUB2022-0033 & VAR2023-002)

APPLICANT: AVT Consulting LLC, 1708 F St., Bellingham WA 98225

OWNER: Stream Real Estate Development c/o Marc Angelilo, Seattle WA
98103

I. OVERVIEW

A. PROPOSAL - Attachment A

Construction of 67 new infill toolkit townhouse units with 134 garage parking stalls and 21 surface guest parking stalls (**Attachment A**). A single access point to the project is proposed from Meridian St. located directly across from the Orchard St. intersection. The proposal includes a preliminary subdivision to place each townhouse on a fee simple lot. Based on a certified arborist's report the proposal includes preservation of approximately 65 trees on site and removal of approximately 335 trees to accommodate the proposed building footprint, surface driveways and associated utilities. The applicant has proposed to mitigate for the tree removal by planting 3 replacement trees for each tree removed with a caliper greater than 30-inches (213 replacement trees) and planting 1 replacement tree for each tree removed with a caliper less than 30-inches (264 replacement trees). A total of 477 replacement trees which includes 80 trees to meet both landscaping and street tree requirements are proposed to be planted for mitigation associated with the tree removal from the project. Finally, the proposal includes a variance from BMC 23.04.090 from the requirement to provide infrastructure improvements around the entire Bellingham Golf and Country Club (BGCC) property, however, the applicant has proposed installation of approximately 780 linear feet of sidewalk and curb and gutter along Meridian St. abutting the BGCC site to connect the existing sidewalk to the bus stop near the intersection with McLeod Rd.

The subject property was created through a short plat which received preliminary approval on 9/5/2019. The purpose of the short plat was to separate the subject property for future development purposes from the remaining BGCC Site. The BGCC is a private club which includes an 18-hole golf course, driving range, clubhouse, swimming pool, various out buildings and asphalt and gravel parking areas. The remainder of the property includes maintenance lawn areas, mature trees, multiple sand pits and ponds, maintenance areas, trails, and wooded sections.

The proposed townhouses will be served by existing water, sewer and stormwater utilities located in Meridian St. abutting the site. All lots are proposed to be served by public infrastructure as required by code. The preliminary plat would be served by a private driveway off Meridian St. Stormwater management is proposed with onsite infiltration galleries compliant with code. Emergency access will be provided on site with approved emergency turnarounds. The proposal includes dedication of right of way to facilitate a future City roundabout at the intersection of Meridian/Birchwood/Squalicum.

Development of the Proposal requires approval of an administrative decision for infill toolkit/multifamily design review and State Environmental Policy Act (SEPA) review through the Type II review process and a Type III decision on the plat and variance applications. As allowed per BMC 21.10.050, the applicant did not consolidate the review of the Type II applications with the Type III application. The Consolidated Permit for the Type II applications were issued conditionally upon the Hearing Examiner's approval of the preliminary plat and associated variance (**Attachment B**).

LOCATION

3509 Meridian St., Bellingham WA 98225. Area 5, Birchwood Neighborhood, Residential Multi zoning with a Planned use qualifier and high-density designation (**Attachment C**).

Assessor's parcel number: 380213-546133-0000

Land use and comprehensive plan designations: Land use: Residential-Multifamily; Comprehensive plan: Residential Multifamily High Density. (**Attachment D**)

II. STAFF RECOMMENDATION

Approve the Stream Bellingham Townhomes Preliminary Plat and associated variance (**Attachment E1 & E2**) with the recommended conditions in Section XI of this report.

III. JURISDICTION

The Hearing Examiner is granted authority to hold hearings and make decisions on preliminary plats and variances to the Land Division Ordinance pursuant BMC 23.08.040.

IV. BACKGROUND

A pre-application meeting with staff was held on 11/2/21.

A neighborhood meeting was held on 3/15/22, approximately 8 community members attended and raised the following concerns: traffic, critical areas, flooding, street trees, pedestrian circulation, tree preservation, noise, and abutment on a trucking route.

The subject property is a legal lot of record created by the Bellingham Golf & Country Club Short Plat recorded under AF 2022-0800206.

8/4/22: A Preliminary Plat Subdivision Application (SUB2022-0033), Infill Toolkit/Multifamily Design Review Permit (DR2022-0023), State Environmental Policy Act (SEPA) review

(SEP2022-0032) and Planned Development Permit Applications were submitted. Following a preliminary review of the application materials staff determined a Planned Development Permit was not required under BMC 20.32.010.D.2 and a refund of the application fee was processed.

10/13/22: Staff issued a Request for Information (RFI) (**Attachment F**). The RFI included revisions and/or minor modification requests to comply with infill toolkit and multifamily design review requirements. The RFI requested the applicant to provide a tree planting plan to accommodate for 335 trees proposed for removal including a 3:1 replacement ratio for trees removed with a 30" or greater diameter at breast height (DBH) and 1:1 replacement ratio for trees removed with less than a 30" DBH. Additionally, staff requested the arborist report be amended to include an analysis of the tree health, risk assessment and recommendation for preservation or removal in order to help guide opportunities for additional tree preservation and successful long term tree retention. Staff also requested the applicant consider orienting the open space internal to the site and incorporate opportunities for increased tree preservation. The RFI included revising the proposed site plan to accommodate the proposed roundabout at the intersection of Meridian/Birchwood/Squalicum and transportation impact analysis mitigation of approximately \$130,000 and SEPA mitigation of \$30,000 for 0.5% proportionate share funding contribution toward the \$6,000,000 Phase 2 capital improvements. The RFI also included additional information documenting compliance with stormwater requirements under BMC 15.42. Finally, the RFI included revisions to the proposal to comply with Fire Department requirements.

1/25/23: The applicant responded to the information requested by staff which included revisions to the proposal and additional requested minor modifications to comply with development standards (**Attachment G**). The applicant provided a detailed review of the tree preservation plan which included a site visit with City staff, the civil engineer and arborist to identify trees proposed for removal, preservation, feasibility of survival and best management practices for ensuring tree survival during construction (**Attachment H**). Additionally, the response to the RFI included a revised site plan to accommodate the proposed roundabout improvements and documentation clarifying compliance with stormwater requirements under BMC 15.42. Finally, the proposal was revised to comply with Fire Department requirements regarding access, sprinkler systems and building elevation heights. Following review of the applicant's response to the RFI, the City determined the information was sufficient to continue review of the applications.

1/25/23: A Variance Application (VAR2023-0002) was submitted.

3/24/22: The City issued a Multimodal Transportation Concurrency Certificate following review of a traffic impact analysis provided by the applicant (**Attachment I**).

5/25/23: A Notice of Application and Notice of Public Hearing was issued (**Attachment J**). 577 public comments were received regarding the proposal as of the date of writing this staff report (9/29/23) (**Attachment K**). Comments received expressed concerns regarding the following: Loss of a legacy tree stand; Reduction in the number of units to accommodate additional tree preservation; Larger units and garages do not meet the intent of the infill toolkit; Compliance with green factor score minimum requirements; Tree replacement plan lacks the necessary sureties; Adherence to best management practices on protection of critical root zones and installation of planted trees; Utilizing trees in poor condition for compliance with green factor requirements; Noise and air quality impacts; Incorporation of native trees in the landscaping

plan; Compliance with the City of Seattle's Urban Forestry Plan goals; Incorporating the native tree replacement plan into the open space tract to the maximum extent practicable for long term survival; Impacts from urban flooding; Inconsistency with the Urban Forestry Management Plan; Inconsistency with the Climate Action Plan; Heat island effects on Meridian St.; Trees as a natural carbon sink; Trees as an aesthetic and spiritual relief; Social justice issues; Loss of habitat for the environment; Bellingham as a Tree City; Too many parking stalls per unit; Gated community with one access; Incorporation of multimodal improvements to McLeod Rd to address safety issues; Affordable housing; Hospital levels of service not able to accommodate growth; Safety of housing so close to Meridian St; Loss of trees and impacts to climate change; Site layout does not comply with COB policy goals; SEPA issues are not properly addressed Determination of Significance (DS) with full Environmental Impact Statement (EIS) should be required; The proposal does not account for the trees removed as part of the proposed roundabout.

Staff response:

Many of the comments received were related to the Type II infill toolkit applications, which are not the purview of the Hearing Examiner, however staff will provide responses as some are relevant to the overall compliance with the land division criteria.

Loss of a legacy tree stand – *Based on the information provided by the applicant 52 evergreen trees and 13 deciduous trees are proposed to be retained not including the trees in the roundabout. The proposed development includes removal of 296 evergreen trees and 39 deciduous trees. Approximately 71 of the trees proposed for removal have calipers 30" or greater with the remaining 264 trees proposed for removal with a caliper less than 30". The applicant has agreed to a tree replacement planting plan which incorporates a 3:1 replacement ratio for trees removed with a greater than 30" caliper and 1:1 replacement ratio for trees removed with a caliper less than 30", totaling 477 newly planted trees.*

Reduction in the number of units to accommodate additional tree preservation – *Staff has discussed a reduction of the number of units specifically buildings 2.1, 2.2, 2.3 and 2.4 in order to accommodate additional tree preservation and the applicant has indicated elimination in the aforementioned units will make the project financially infeasible. The proposal meets the minimum required density of 50 units (179,793/3,599 sf) and there is no maximum density under the zoning. The property is near services, on a bus line, zoned for high density and an appropriate location for residential uses.*

Larger units and garages do not meet the intent of the infill toolkit – *Under BMC 20.28.140 townhouse infill toolkit housing types do not have a maximum floor area limitation but do have a maximum floor area ratio of 0.75 which the proposed development complies with. As designed the proposed garages comply with the townhouse and general infill toolkit standards which require pedestrian oriented development towards streets and common pedestrian paths.*

Compliance with green factor score minimum requirements – *Pursuant to BMC 20.28.140.D.4, townhouses require a green factor score of 0.4. Based on the information provided by the applicant the proposed development complies with the required green factor score excluding the area proposed for dedication to the City for the future roundabout.*

Tree replacement plan lacks the necessary sureties – *Environmental sureties are required under the Critical Areas Ordinance (BMC 16.55) however the subject site does not contain critical areas or buffers. Given the number of trees proposed for removal, size of the trees and overwhelming public comment received staff recommends as a condition of approval the*

applicant be required to provide an environmental surety approved by the City for the proposed tree planting plan.

Adherence to best management practices on protection of critical root zones and installation of planted trees - Given the number of trees proposed for removal, size of the trees and overwhelming public comment received staff recommends as a condition of approval the applicant be required to adhere to best management practices on protection of critical root zones and installation of planted trees.

Utilizing trees in poor condition for compliance with green factor requirements – The green factor requirement under the BMC does not distinguish a different score for retained trees based on the rated condition of the tree by a certified arborist. The City's goal is to retain as many trees as possible taking into account the footprint of the development and installation of associated utilities.

Noise and air quality impacts – There are significant trees retained within the proposed development along with trees on the BGCC site which provide a sound buffer between I-5 and residential development located south of the subject property. During construction there will be temporary impacts associated with construction activity. Noise associated with vehicle and truck traffic on Meridian St. is not dissimilar to traffic on other arterial streets within City limits (Sunset & Lakeway Dr.) or I-5. The BMC does not require sound buffering between housing units and arterial streets and higher levels of noise are anticipated in urbanized areas. The proposed landscaping will provide some buffering between the units and future owners will have prior knowledge of noise impacts associated with the proximity to Meridian St. The orientation of the units towards Meridian St. and the golf course will provide a greater variety of pricing for housing. The proposed development is anticipated to have minimal air quality impacts to surrounding properties and the City overall. The BMC does not regulate air quality regarding the proximity of residential units to arterial streets or I-5. The Northwest Clean Air Agency is responsible for compliance with air quality standards for our region which is primarily focused on air quality associated with industrial activities. The properties located across from Meridian St. from the subject property are commercial and retail in nature and not considered by staff to be significant air quality emitters.

Incorporation of native trees in the landscaping plan - Given the number of trees proposed for removal, size of the trees and overwhelming public comment received staff recommends as a condition of approval the applicant be required to incorporate native trees into the landscaping plan to the extent practicable.

Compliance with the City of Seattle's Urban Forestry Plan goals – The BMC does not give staff the authority to require the applicant to comply with requirements adopted by another jurisdiction. Bellingham is currently contracted with a consultant and has been preparing its own urban forestry management plan for public review, this plan will help guide future policy and development regulations but is not yet adopted.

Incorporating the native tree replacement plan into the open space tract to the maximum extent practicable for long term survival - Given the number of trees proposed for removal, size of the trees and overwhelming public comment received staff recommends as a condition of approval the applicant be required to give priority to planting as many required native replacement trees into the onsite landscaping plan and open space tract as determined by a landscape architect and ISA certified arborist. The remaining required replacement trees may be planted on the

BGCC site and the applicant will be responsible for their long term survival or providing an alternative planting plan approved by City staff.

Impacts from urban flooding – Based on the City’s records the subject property is not located within a FEMA regulated floodway or floodplain. There are multiple properties east of the subject site which are located within FEMA regulated floodplains associated with Squalicum Creek. There is a stormwater main located adjacent to the subject property in Meridian St. and the applicant has provided a preliminary stormwater report prepared by a qualified professional. Public Works staff has performed a preliminary review of the stormwater report and determined the information is adequate for obtaining a preliminary land use approval. The applicant will be required to provide a final stormwater report which will be reviewed by Public Works Engineering staff for compliance with BMC 15.42 prior to final plat approval. The proposal is required to match pre-existing drainage conditions on site and detain stormwater to minimize impacts on surrounding properties and the City’s public infrastructure.

Inconsistency with the Urban Forestry Management Plan - The City of Bellingham is in the process of developing an Urban Forestry Management Plan which has and will continue to undergo significant public process. A qualified consultant and staff are currently drafting the plan but it is not final and has not been adopted through a legislative action from the City Council. Upon legislative adoption of the Urban Forestry Management Plan by City Council, staff will implement the applicable goals and newly adopted development regulations required for individual projects when discretionary authority is invoked through the permit process.

Inconsistency with the Climate Action Plan – The City’s Climate Action Plan contains multiple municipal and community measures to reduce greenhouse gas emissions related specifically to land use. The City’s Critical Area Ordinance and Shoreline Master Plan protect wetland, fish and wildlife habitat conservation area, shoreline and other regulated critical areas throughout the entire city through regulatory compliance and conservation easements. Additionally, the Parks Department preserves and maintains parks and open space throughout the City which provide environmental and recreational benefits for the community. The City continues to purchase properties within the Lake Whatcom Watershed to protect the City’s drinking water source resulting in permanent preservation of significant open space tracts and associated trees. The City also restores degraded lands by planting native plants throughout multiple sites throughout the community.

The City continues to focus development on infill opportunities which are in close proximity to high frequency transit corridors and urban villages, where existing infrastructure and services can be efficiently provided. As identified in the Climate Action Plan, other urban villages that have not yet been formalized with a master plan include Birchwood/Northwest/Maplewood which is in close proximity of the subject property. The proposed development will benefit from the existing commercial shopping center and high frequency transit in close proximity consistent with the community land use measures identified in the Climate Action Plan. Additionally, the Climate Action Plan supports higher density housing and infill housing toolkit forms such as townhouses identified in the proposed development. The Climate Action Plan does not include regulations or specific policies which require tree preservation on private property.

Heat island effects on Meridian St. – The proposed development includes preservation of 65 existing trees and installation of 80 new landscaping and street trees. Additionally, the applicant will be required to plant 397 native trees on and off site. The proposal is required to provide street trees for every 50’ of street frontage, meet the green factor 0.4 score for infill toolkit

townhouse development and provide landscaping throughout the site adjacent to parking, buildings and open space areas which will reduce heat island impacts.

Trees as a natural carbon sink – The City actively preserves trees on City owned properties, including undeveloped right of way and within critical areas and associated buffers for regulatory compliance with BMC 16.55 and conservation easements granted to the City. The City has multiple policies, standards and regulations which support tree preservation on private property, however they do not specifically identify a minimum number of required preserved trees or canopy coverage nor carbon sink requirements.

Trees as an aesthetic and spiritual relief – The City supports tree preservation while balancing the need to achieve prescribed densities. Tree preservation, landscaping and significant tree planting have all been incorporated into the proposed development. The City requires street trees for every 50' of street frontage to provide multiple benefits including aesthetics. The City maintains Parks throughout the City for public access to recreation including spiritual relief for the community. One of the City's largest parks is Cornwall Park which is located across the street from the subject property.

Social justice issues – The City requires tree preservation to the maximum extent practicable with wetland, fish and wildlife habitat conservation areas, shorelines and their associated buffers which in the subject case follow Baker Creek and Squalicum Creek in the vicinity. Additionally, one of the City's largest park, Cornwall Park, is located across the street from the subject property. There has been discussion during development of the Urban Forestry Management Plan regarding adoption of canopy coverage goals by neighborhood and/or land use classifications. As a condition of approval, the applicant shall be required to plant native replacement trees within the Birchwood Neighborhood in light of the neighborhood's existing canopy coverage percentage which is lower than some neighborhoods throughout the City.

*Loss of habitat for the environment – Based on information provided from a qualified professional and the City's records there are no critical areas or shoreline buffers or priority habitats and species on the subject property. The subject property does not provide habitat for the environment that is regulated under the BMC. There is significant habitat in the vicinity primarily associated with Baker and Squalicum Creek habitat corridors which are protected under the Critical Areas Ordinance and Shoreline Master Plan. Additionally, Cornwall Park is located across the street which will be preserved open space into perpetuity. Finally, the BGCC although private and used for active recreation provides a significant amount of open space for the surrounding area and serves as habitat for the environment (**Attachment L**).*

Bellingham as a Tree City – Bellingham is a proud member of Tree City USA and supports tree preservation, planting and maintenance for trees within City Parks and developed and undeveloped right of way throughout the City. The City has a progressive Street Tree Policy which is a collaborative effort between Planning, Parks and Public Works Departmental staff. The purpose of the policy is to preserve trees within public owned property or right of way unless they are specifically identified as a life safety hazard tree by an ISA certified arborist. The City actively requires street trees with development proposals and to the greatest extent possible preserves trees in the City right of way to maintain tree canopy for the benefit of our community. The primary focus of the Tree City program is retaining and planting trees on City owned property and within the public right of way, not regulating trees on private property. The City uses policies in the Comprehensive and Neighborhood Plans, Street Tree Policy, Critical Areas Ordinance (BMC 16.55), Shoreline Master Program (BMC 22), Clearing Ordinance (BMC

16.60) and the Subdivision Ordinance (BMC 23) to require tree preservation on private properties.

Too many parking stalls per unit – BMC 20.28.050.H1 requires two approved on-site parking spaces for each dwelling unit with 1,000 sf or greater of floor area. Furthermore, BMC 20.28.050.H.1.b specifies sites with 20 or more units and the lack of abutting on street parking may be required to provide additional guest parking. Staff has recommended the proposal provide additional guest parking due to the lack of public parking within the vicinity, therefore the applicant has proposed 21 guest parking stalls. The proposal complies with the aforementioned parking requirements and provides reasonable guest parking given the lack of abutting public parking.

Gated community with one access – The BMC does not contain regulations prohibiting private access gates for residential developments. The proposed access gate has been designed to accommodate vehicle queuing to prevent vehicles from backing up traffic circulation on the abutting street.

Incorporation of multimodal improvements to McLeod Rd. to address safety issues - The site proposed for development does not abut McLeod Rd. nor depend upon it for direct access into and out of the site. In the event the BGCC site is further subdivided and/or developed the City will require further infrastructure improvements. In the meantime, the installation of sidewalks along McLeod Rd. from Meridian St. to Northwest Ave. has been identified for consideration in the Pedestrian Master Plan and Transportation Capital Improvement Plan. The applicant has requested a variance from the requirement to install sidewalks along McLeod Rd. abutting the BGCC which is further analyzed under Section X of this staff report.

Affordable housing – The BMC does not require the subject proposal to incorporate affordable housing within the project. The proposal meets the minimum density and there is no maximum specified density for Area 5 of the Birchwood Neighborhood. Due to the orientation of units towards Meridian St. and the BGCC, staff anticipates the project will provide a diversity in price ranges for individual fee simple ownership although not required to be permanently affordable under the BMC.

Hospital levels of service not able to accommodate growth – St. Joseph Hospital has an adopted Institutional Master Plan (IMP), which was recently updated to plan for the needed growth of our community and level of service needs. The purpose of the IMP is to incorporate long term service planning needs of the community in order to accommodate actual and projected growth within the community. St. Joseph Hospital is actively developing and planning expansion improvements to accommodate the current and future needs of the community including population and housing increases such as the subject project.

Safety of housing so close to Meridian St. – The BMC does not include specific safety measures for projects abutting arterial streets beyond typical street setbacks, which the proposal complies with. Multifamily development adjacent to arterial streets with 25-35 mile per hour speed limits is common throughout the City including Northwest Ave., Meridian St., E Sunset Dr., Lakeway Dr., Alabama St., Samish Way, State St., Old Fairhaven Pkwy., and Chuckanut Dr. The proposal includes fencing along Meridian St. and Birchwood Ave. which will provide a separation between the public and private space. Additionally, landscaping will be provided between the proposed townhouses and Meridian St. creating a buffer.

Loss of trees and impacts to climate change – The City has an adopted Climate Action Plan which contains greenhouse emission reduction goals for municipal operations and the community. The Climate Action Plan does not contain specific regulations that pertain to tree preservation on private property though trees can help mitigate climate change. The City relies on the Comprehensive/Neighborhood Plans, the Street Tree Policy and development regulations in the Critical Areas Ordinance (BMC 16.55), Shoreline Master Program (BMC 22), Clearing Ordinance (BMC 16.60) and the Land Division Ordinance (BMC 23) to require tree preservation on private properties. The Comprehensive/Neighborhood Plan does not contain specific policies related to the subject property. The project has been designed to comply with the Street Tree Policy based on the proposed tree preservation plan and landscaping plan. The project has been reviewed by staff for compliance with applicable development regulations. There are no regulated critical areas or shorelines on the subject property. The clearing regulations have been implemented through the tree preservation plan, landscaping plan and tree replacement planting plan which is supported by ratios established under the BMC and agreed upon by the applicant. The Land Division Ordinance contains performance standards which state natural features including trees should be incorporated into the overall land division design through preservation to the extent feasible. If properly conditioned, the proposal will meet the performance standards.

Site layout does not comply with COB policy goals – As identified by staff in the Pre-Application Meeting and the second RFI, the applicant has been directed multiple times to consider a vertically oriented project which accommodates dwelling units on a smaller footprint leading to greater tree preservation throughout the site. The zoning designation supports multifamily development on the subject property and there are not specified building height limits due to the Planned Residential Multi designation and surrounding commercial/industrial/multifamily zoning. Based on information provided by the applicant there are limitations placed on the development of the subject property by the BGCC which would prevent multifamily development above three stories. The applicant has indicated if the project was redesigned to incorporate vertically oriented units four stories or above it is unlikely the sale of the property would be completed, or the project executed.

The City's Comprehensive Plan and development regulations (BMC 20.32) strongly support infill development opportunities and achieving minimum densities for multifamily zoned properties. Though not constructed with taller buildings, the proposal meets the required minimum density. Bellingham's population continues to grow with limited new dwelling units available for sale and low rental vacancy rates creating economic challenges for potential new home buyers and renters. Planning staff as directed in City Council adopted plans, policies and regulations continues to actively plan and permit new housing units and specifically infill toolkit projects on vacant or underutilized properties to provide opportunities for people desiring to live in our community.

SEPA issues are not properly addressed. DS with full EIS should be required – The applicant has provided a completed SEPA checklist which has been reviewed by staff and the SEPA Responsible Official. Furthermore, staff has created an environmental record supplemental report reviewing and analyzing whether the proposal requires additional mitigation measures in order to issue a Determination of Non-significance. Following review of the proposal including the SEPA checklist, it was determined that an Environmental Impact Statement is not required, and the issuance of a Determination of Non-significance is likely as identified in the optional DNS/NOA issued 5/25/23. The proposal is not out of character or scale with other projects throughout the City which have been issued either an MDNS or DNS. The size, scale and project specifics do not warrant a determination of significance, which would require an EIS.

The unique nature of the property containing 71 trees with a DBA 30" or greater proposed for removal is subject to adopted plans, policies and regulations. Following a review of the information provided by the applicant to date, staff believes the proposal as conditioned meets the City's requirements. It is clear based on the public comment provided there is significant concern regarding the existing tree preservation regulations not being adequate to protect our community given the rising climate change impacts we are all experiencing. Bellingham actually has a relatively high tree canopy for similar sized Washington communities. Staff supports public engagement through the development of the Urban Forestry Management Plan and possible future changes to the Clearing Ordinance through a legislative process and City Council approval. In the meantime, staff does not have the authority to recommend denial of the proposal based on the strict application of the BMC and strives to balance tree preservation and planting with development of additional housing for our community particularly infill toolkit housing within multifamily zoning.

The proposal does not account for the trees removed as part of the proposed roundabout – The City has required the applicant to dedicate property at the intersection of Meridian and Birchwood in order to accommodate a future capital roundabout improvement project which is identified on the approved Transportation Improvement Plan. The City will be responsible for all permitting and development including tree removal on the portion of the property dedicated to the City for vehicular and multimodal improvements. The preliminary plat will dedicate this property to the City therefore this property should not be used to benefit or burden the development proposal on the subject property.

7/6/23: Staff issued a second Request for Information (**Attachment M**). The RFI requested the applicant respond to a number of concerns expressed during the public comment period including but not limited to increased tree preservation, decreasing the number of units, reducing the proposed footprint and building units vertically oriented, compliance with the intent of infill toolkit regulations, tree replacement sureties, best management practices for tree preservation, utilizing trees in poor condition for compliance with green factor requirements, noise and air quality impacts, incorporation of native trees in the landscaping plan, compliance with the City of Seattle's Urban Forestry Plan goals and incorporating the native tree replacement plan into the open space tract to the maximum extent practicable for long term survival.

9/18/23: The applicant responded to the information requested by staff as identified in **Attachment N**. Based on the information provided by the applicant the majority of larger trees on site are likely between 70-80 years old. The existing trees are spread across the property in a way that limits the net benefit of designing around them. The applicant has indicated revising the proposed design to accommodate the number of units vertically would not necessarily result in substantial tree preservation beyond what is proposed. In response to the RFI, the applicant agreed to a financial surety associated with implementation, monitoring and maintenance of the tree replanting plan and incorporation of best management practices for preservation of existing trees and the success of newly planted native trees. Following review of the applicant's response to the requested information the City determined the information sufficient to continue review of the applications.

10/4/23: The city issued a SEPA threshold determination of non-significance (SEP2021-0025 **Attachment O**).

9/27/23: The Public Hearing notice was issued by the Hearing Examiner's department staff and mailed in accordance with BMC 21.10.200(D) (**Attachment P**).

V. EXISTING SITE CHARACTERISTICS

A. LAND USE AND ZONING DESIGNATION

The property is located in Area 5 of the Birchwood Neighborhood and zoned Residential-Multi with a Planned use qualifier and high-density designation. The land use designation of the subject site is Residential Multi, High Density.

Area 5 of the Birchwood Neighborhood (BMC 20.00.020) contains special conditions for access.

B. EXISTING CONDITIONS

The Proposal includes a request to subdivide a 4.12-acre lot into 67 lots for development of individual townhouses on fee simple lots (**Attachment A**).

The property to the north and west is located within the same Multifamily zoning as the subject property and developed with a private golf course. The property to the east is located within Area 3 of the Cornwall Park Neighborhood and zoned Light Industrial. Cornwall Park is located to the southeast of the subject property. The property to the south across Squalicum Parkway is within Area 1 of the Columbia Neighborhood and zoned Residential Single.

The Whatcom Transit Authority provides bus service in Meridian St. abutting the subject property.

Meridian St. is an arterial constructed to full city standard, except for a small area north of the project site and will provide access to the site. Public water, sewer and stormwater mains are located in Meridian St.

VI. CRITICAL AREAS

Following a review of the City's records there are no critical areas or associated buffers which impact the subject property. However, the subject property is heavily forested with significant trees (**Attachment Q**).

The applicant submitted a Critical Areas Review Memorandum from Molly Porter of Northwest Ecological Services LLC dated 10/13/21 indicating no wetlands, streams, wildlife conservation areas, or protected species or habitats were identified in the immediate vicinity of the subject property (**Attachment R**). The applicant submitted a Geotechnical Report prepared by PanGeo Incorporated dated January 2022, which indicated there are not any geologically hazardous areas on site (**Attachment S**).

VII. APPLICATION

Please refer to **Attachment E1 & E2** for the submitted land use application.

VIII. PRELIMINARY PLAT – Chapter 23.16 BMC

Pursuant to BMC 23.16.010(A), any action which will result in the division of any lot that utilizes creation of 10 or more lots shall require preliminary plat approval based on the criteria and procedures pursuant to BMC 23.16.030 and be subject to approval by the City Hearing Examiner.

Pursuant to BMC 23.48.010, any action which will result in the subdivision of any lot, tract, parcel, or plot of land including a request to modify a requirement of Title 23 shall be processed as an administrative departure or variance under BMC 23.48 subject to a Type IIIA process.

Pursuant to BMC 23.08, preliminary plats shall be given approval, upon finding by the Hearing Examiner that all of the following have been satisfied:

23.08.030 Performance standards

Staff analysis: Staff concurs with the applicant's analysis and would like to add the following information to the record. The following is staff's code compliance review of Chapter 23.08 BMC.

The proposed design incorporates 67 infill toolkit townhouse units, private lanes, surface parking, landscaping and open space areas on a portion of land underutilized by the BGCC. The proposal orients approximately half of the units towards the amenities of the golf course while also orienting the remaining half of the units towards Meridian St. in accordance with Infill Toolkit and Multifamily Design requirements.

The subject property is heavily forested as is much of the BGCC. The site is undeveloped and in a natural state, therefore tree removal is necessary to develop the site, but the overall design takes into account these trees and where feasible trees are proposed for retention. This includes along all property lines, in open space areas and along Meridian St. Where tree removal is necessary mitigation in the form of new tree plantings, both on site and on the adjacent golf course is proposed. The applicant and staff have spent considerable time during all stages of the project to maximize tree preservation into the proposed design. In addition to incorporating significant tree preservation into the design the applicant has incorporated a tree replacement planting into the proposal which is supported by ratios under the BMC.

Although there are no documented critical areas on the subject site staff in consultation with the ISA certified arborist and project engineer have taken every measure practical to ensure survival of the proposed preserved trees.

The zoning of the property supports high density residential development while the zoning across Meridian St. is industrial/commercial and composed of a variety of medical/dental offices and laboratories, farm supply retail sales, real estate offices, etc. The existing buildings within the industrial/commercial zone along Meridian St. are a variety of architectural styles ranging from commercial to industrial. The architectural style along the subject section of Meridian Street is not specifically well-defined lending itself to diversity in architectural character.

Meridian St. is a designated arterial street which has access spacing limitations under Title 13 of the BMC. The proposal aligns the driveway access to the site with the platted

W Orchard Dr. right of way across the street to facilitate coordinated access and alignment with existing development in the vicinity.

23.08.040 Maximum number of lots:

The density for the site allows for high density and must meet the minimum density of one unit per 3,599 sf of gross land area per residential unit. The proposal includes 67 units on a 179,793-sf lot which exceeds the minimum required underlying density of 50 units. Infill toolkit townhouse units are an allowed use within Residential Multi Planned zones and there is no maximum density pursuant to BMC 20.32.040.B.2.a.i.

23.08.050 Minimum lot size:

There are no minimum lot dimensions, lot sizes or minimum street frontage requirements for infill toolkit projects in accordance with BMC 20.28.050.C.

23.08.060 Lot design standards:

(A & B) Logical Boundaries/Reasonable Use. The proposal provides logical boundaries and accommodates reasonable use of the property.

(C) Alley Access. The Proposal is undeveloped land and does not contain platted rights-of-way.

(D) Building Envelope. Infill toolkit housing forms are exempt from building envelope requirements.

(E) Abutment – Public Infrastructure. Infill toolkit uses shall provide access to a public right of way whether directly or by easement or other means acceptable to the Planning Director in accordance with BMC 20.28.050.C.

The subject property abuts water, sewer and stormwater mains in Meridian St.

23.08.070 Public infrastructure, dedications and improvement requirements:

(A) Dedication. The Proposal is located adjacent to the existing platted right-of-way in Meridian St. Meridian St. is an 80-110 foot wide right of way and is developed with two travel lanes going each way, a center turn lane and sidewalks on each side of the street. There are no sidewalks on the west side of Meridian St between the northern portion of the subject site and I-5.

(B) The City of Bellingham's Transportation Improvement Plan identifies a roundabout improvement project at the intersection of Meridian/Birchwood/Squalicum. The applicant shall be required to dedicate right of way as depicted on the plan set in **Attachment A** to facilitate the capital transportation improvement. Based on the Transportation Concurrency Application the applicant is required to pay a Transportation Impact Fee of approximately \$130,000 and an additional \$30,000 for the 0.5% proportionate share funding contribution towards the \$6,000,000 Phase 2 roundabout. The Transportation Improvement Fee shall be required at the time of Building Permit issuance. As determined by the Public Works Department if applicable the value of the dedicated right of way could discount the Transportation Impact Fee as a future rebate.

- (C) Street standards. The proposed development will be served by Meridian St. which is developed to an arterial street standard except for a portion on the west side that does not include sidewalks.
- (D) Access. The proposal includes a new access driveway aligned with W Orchard Dr. as recommended by staff during the Pre-Application Meeting. The BMC limits access points on an arterial street and encourages use of combined access points where appropriate to ensure safety. Additionally, the applicant has proposed to construct a sidewalk and curb and gutter stormwater infrastructure along Meridian St. from the northern portion of the subject property to the existing bus stop in front of the BGCC near the intersection of Meridian St. and McLeod Rd. The sidewalk improvements to Meridian St. will be reviewed by staff during the Public Facilities Construction Agreement prior to final plat approval.
- (E) Water, Sewer and Stormwater management. Public water, sewer and stormwater mains are located within Meridian St. The applicant provided a Preliminary Stormwater Report from Freeland and Associates dated July 2022 (**Attachment T**) for the proposed development which was reviewed by City staff. The applicant is required to provide a Final Stormwater Report identifying compliance with BMC 15.42 for Public Works' review and approval prior to final plat approval.
- (F) Street Naming and Addressing. This provision will be met with the recording of the final plat and this decision should be appropriately conditioned to require compliance with this provision as a condition of final subdivision approval.
- (G) Electrical and Communication Facilities. This provision will be met with the recording of the final plat. The decision should be appropriately conditioned to require compliance with this provision as a condition.
- (H) Parks and Recreation. There is an existing park (Cornwall Park Park) located across Meridian St. and Birchwood Ave. from the subject property. Cornwall Park provides trail, open space and recreational amenities for the community. There are no proposed public amenities on or adjacent to the subject property in the adopted Bellingham Parks, Recreation and Open Space Plan. The site sits on a private golf course that may allow opportunities for future residents of the project.

23.08.080 Landscaping and design of infrastructure:

The proposed development includes two stormwater infiltration galleries for stormwater management of the project. The infiltration galleries will be below grade and will be paved for surface parking in the southern portion of the site and landscaped as an open space amenity in the central portion of the site.

23.16.30 Preliminary Plat Decision Criteria

Staff analysis: The following is staff's code compliance review of Chapter 23.16 BMC.

1. The Proposal satisfies the intent of the land use, housing, capital facilities and utilities, environmental and economic development chapters of the comprehensive plan by furthering the following goals and policies:

Land Use

GOAL LU-5 Support the Growth Management Act's goal to encourage growth in urban areas.

Policy LU-66 Encourage design flexibility (e.g. clustering and low impact development) to preserve existing site features, including trees, wetlands, streams, natural topography, and similar features.

Housing

Policy H-3 Encourage well-designed infill development on vacant or underutilized properties.

Capital Facilities and Utilities

GOAL CF-8 Promote the delivery of adequate utilities and encourage the design and siting of private utility facilities in a manner that minimizes impacts on adjacent land uses and the environment.

Policy CF-3 Encourage and support development in areas where adequate public facilities and services exist or can be provided in an efficient manner.

Policy CF-4 Protect public health, enhance environmental quality, and promote conservation of natural resources through appropriate design and installation of new public facilities.

Policy CF-17 New development should pay its proportional share of the cost of new public facilities that serve the subject development.

Economic Development

Policy ED-40 Identify and remove barriers to redeveloping underutilized and/or vacant land and buildings.

Environment

Policy EV-34 Encourage the preservation and planting of street trees and trees on private property using the "right tree, right place" concept.

2. The proposal is consistent with the applicable provisions of BMC 23.08 as identified above.
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.

Applicant's response: **See Attachment E2.**

Staff analysis: Based on staff's review of the proposal, the BGCC is a large site and has multiple public access opportunities in the event of future development. Following staff review of the proposal in accordance with the Birchwood Neighborhood Plan and potential redevelopment of the BGCC, staff determined private access easements and

dedicated access through the site at the intersection of W Orchard Dr. and Meridian St. was not warranted.

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.

Applicant's response: **See Attachment E2.**

Staff analysis: The application materials provide sufficient information to conclude this provision is met and development of the proposed lots will not require approval of future variances not already included in the subject application.

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

Applicant's response: **See Attachment E2.**

Staff analysis: The proposal is located adjacent to an improved arterial street and water/sewer/stormwater mains. Based on the Bellingham School District website the subject site will be served by Birchwood Elementary School, Shuksan Middle School and Bellingham High School (**Attachment U**). Following a review of City IQ the subject site appears to be connected to the aforementioned schools by existing sidewalks. The applicant has included installation of sidewalk and curb and gutter stormwater infrastructure along a missing gap in Meridian Street abutting the BGCC site. The applicant has requested a variance from the requirement to install sidewalks and curb and gutter stormwater infrastructure along McLeod Rd. from Meridian St. to Northwest Ave. Installation of sidewalks along McLeod Rd. has been identified by the Public Works Department and will be prioritized in accordance with the process established for the Pedestrian Master Plan and Transportation Capital Improvement Plan.

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.

Applicant's response: **See Attachment E2.**

Staff analysis: Compliance with the current zoning and the City's subdivision regulations for preliminary plats ensures that appropriate provisions are made for open spaces, drainage ways, streets and alleys, potable water supplies, and sanitary wastes.

Staff finds that the provisions of RCW 58.17 are met and the public's use and interest will be served by the proposal with the recommended conditions through the addition of 67 infill housing units.

IX. ENVIRONMENTAL REVIEW AND EVALUATION

The City relies on the City Council adopted Comprehensive/Neighborhood Plans, the Street Tree Policy and development regulations in the Critical Areas Ordinance (BMC 16.55), Shoreline Master Program (BMC 22), Clearing Ordinance (BMC 16.60) and the Land Division Ordinance (BMC 23) to require tree preservation on private properties. The Comprehensive/Neighborhood Plan does not contain specific policies related to the subject property. The project has been designed to comply with the Street Tree Policy based on the proposed tree preservation plan and landscaping plan. The project has been reviewed by staff for compliance with applicable development regulations. There are no regulated critical areas or shorelines on the subject property.

Pursuant to BMC 16.60.030, the purpose of the Clearing Chapter is to encourage the incorporation of existing vegetation into final site plans. Pursuant to BMC 16.60.080.B.4, a tree retention plan is required to be provided that identifies the species and size of all significant trees on site. Said plan shall identify all trees that will be removed and preserved and include the method by which the critical root zone of retained trees will be protected during construction, such as fencing. Significant trees that must be removed shall be replaced at a ratio to be determined by the PCDD. The clearing regulations have been implemented through the tree preservation plan, landscaping plan and tree replacement planting plan which is supported by ratios established under the BMC and agreed upon by the applicant.

The Land Division Ordinance contains performance standards which state natural features including trees should be incorporated into the overall land division design through preservation to the extent feasible. The applicant considered proposed revisions to the project to provide greater tree retention following the Pre-Application Meeting with staff, the Neighborhood Meeting with the public and multiple requests for information from staff while incorporating public comment received from the project. The applicant has provided a tree survey for the subject property that identifies trees proposed for preservation, removal and replanting. The applicant provided a Retention Tree Analysis from an ISA certified arborist indicating the condition and likelihood of survival for the existing trees proposed for preservation. Additionally, staff performed a site visit with the applicant, owner, engineer, and ISA certified arborist to review the proposal for opportunities for greater tree preservation and incorporation of best management practices for preservation of proposed retained trees. Based on the aforementioned information, staff believes natural features specifically trees on the subject property have been incorporated into the overall land division design through preservation to the extent feasible. The City is in the process of developing an Urban Forestry Management Plan which could lead to changes in the Clearing Ordinance which could create more specific standards focused on tree retention, replanting, canopy coverage percentage requirements, etc.

The city reviewed the Proposal for compliance with Chapter 16.20. The threshold determination was issued based on the environmental checklist prepared by the applicant, submitted technical documents and the revised project description.

A SEPA threshold determination of non-significance was issued on 10/4/23 (**Attachment O**).

X. VARIANCE EVALUATION

23.48.040 Subdivision Variance

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; **or**
- 1.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; and

Applicant's response: **See Attachment E2.**

Staff analysis: Staff agrees with the applicant's response. Pursuant to BMC 23.04.090, re-subdivision of any short platted land that proposes to create five or more lots within five years from the date of filing an original short subdivision including the subject site shall, regardless of ownership, obtain preliminary plat approval in accordance with Chapters 23.08 and 23.16 BMC and final plat approval in accordance with Chapter 23.20 BMC. A preliminary plat decision under this provision shall be conditioned appropriately to require the installation of public infrastructure improvements across the full frontage of the original and proposed short plat boundaries pursuant to Chapter 23.08 BMC. The subject property was subdivided from the BGCC site on 8/2/22 which is less than 5 years ago, therefore, pursuant to BMC 23.04.090 Meridian St., Northwest Dr. and McLeod Rd. are required to meet arterial and ¾ street improvement requirements in addition to abutment on water/sewer/stormwater utility mains. Following review by staff the BMC requires the applicant to install sidewalks and curb and gutter stormwater infrastructure for the missing section abutting Meridian St. as proposed by the applicant and also along the entire frontage of the southside of McLeod Rd. from Meridian St. to Northwest Ave. The McLeod Rd. improvements would result in approximately 2,500 linear feet of ¾ frontage improvements which would trigger stormwater management facilities separate from the project area. Based on the information provided by the applicant the cost of this improvement to McLeod Rd. would make it infeasible to development the proposed development. The intent behind this code provision was to prevent applicant's from performing back-to-back short plats to circumnavigate infrastructure improvement requirements. The subject situation is an extraordinary property and circumstance as it includes an entire golf and country club which occupies a significant area in a highly urban setting. The site proposed for development does not abut McLeod Rd. nor depend upon it for direct access into and out of the site. In the event the BGCC site is further subdivided and/or developed the City will require further infrastructure improvements. In the meantime the installation of sidewalks along McLeod Rd. from Meridian St. to Northwest Ave. has been identified for consideration in the Pedestrian Master Plan and Transportation Capital Improvement Plan.

Staff believes the granting of the variance to installation of sidewalks and curb and gutter stormwater infrastructure along McLeod Rd. from Meridian St. the Northwest Ave. is reasonable given the unique size of the site, future development opportunity of the BGCC site, impact from the subject property and lack of direct benefit on the future inhabitants of the project.

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.

Applicant's response: **See Attachment E2.**

Staff analysis: Staff agrees with the applicant's response. The proposal includes completion of a gap of missing sidewalk along Meridian St. and connects the subject property to the existing bus station to the north. The proposal also includes dedication of right of way on the southern portion of the site to accommodate a City capital improvement plan to install a roundabout located at Meridian/Birchwood/Squalicum. Additionally, the applicant will be required to pay transportation, park and school impacts fees associated with development of dwelling units which will be used to make future capital improvements throughout the City.

The proposal does not appear to significantly increase traffic along McLeod Rd. as there are multiple alternative routes to and from the subject property. Furthermore, given the distance from the subject site to McLeod it is unlikely inhabitants would use McLeod Rd. when they are located closer to Birchwood Ave. which is developed with sidewalk and connects to existing commercial services at the intersection of Birchwood and Northwest Avenues.

Staff has identified installation of sidewalks along McLeod may be warranted as a City Capital Improvement Project or potentially required under future development of the BGCC site. However, staff believes the request to relieve the applicant from the requirement to install sidewalks along McLeod Rd. abutting the BGCC site is reasonable given the circumstances and will not be unduly detrimental to the public welfare nor injurious to the property or improvements in the vicinity.

XI. CONCLUSION

Based upon staff's analysis of the subdivision and associated variance application and all supporting materials referenced in this staff report, staff finds the subdivision application and variance compliant with the municipal code if properly conditioned and recommends the Hearing Examiner issue an approval, with conditions.

The Proposal furthers the goals and policies of the Comprehensive Plan by providing an infill development opportunity in an area where existing infrastructure and services can be adequately provided to service the proposal. The vacant, wooded site contains many trees that must be removed to allow for development as intended, however replacement trees have been required and will ultimately yield more trees than currently exist. The Proposal is consistent with the current zoning and applicable regulations, as such preliminary plat approval should be granted. An approval would not excuse the applicant from complying with any other federal, state or local statutes, ordinances or regulations that may be applicable to this project.

XII. CONDITIONS

Based upon staff's analysis above, staff recommends the Hearing Examiner approve the subdivision and associated variance for the Proposal as described herein and as provided in **Attachments A, B, E, G, H, I, N, O, R, S, & T** subject to the following conditions:

A. GENERAL REQUIREMENTS

1. The plat shall be developed generally consistent with the lot layout on **Attachment A** as conditioned.
2. Preliminary plat approval is contingent upon the approval of a Consolidated Permit for Type II land use decisions for infill toolkit/multifamily design review and SEPA review in accordance with Chapters 20.25 and 16.20 BMC and all conditions of that permit shall be deemed conditions of approval of this preliminary plat approval.
3. Modifications to this decision shall be processed in accordance with BMC 23.12.080.
4. A clearing and grading plan for the property, including rights-of-way, shall be submitted for review and approval by the Planning and Public Works Departments concurrent with review of civil drawings for the infrastructure.
5. Development of the property shall be consistent with the provisions of BMC Title 23, and with the description of the Proposal contained in the Determination of Non-significance, except as otherwise provided herein.
6. Impact fees for transportation, schools and parks shall be paid in accordance with applicable BMC requirements.
7. Preliminary plat approval shall expire as provided in BMC 23.16.070.

B. CONDITIONS FOR FINAL PLAT APPROVAL

The applicant shall obtain all necessary permits and/or approvals from the City necessary to satisfy the following conditions prior to final plat approval pursuant to Chapter 23.12 BMC.

1. Access to the site shall be limited to one driveway off Meridian St. as shown on **Attachment A**.
2. The applicant shall be required to dedicate right of way as depicted on the plan set in **Attachment A** to facilitate the capital transportation roundabout improvement located at the intersection of Meridian/Birchwood/Squalicum.
3. The applicant shall be required to obtain Public Facility Construction Agreement approval from the Public Works Department for the construction of a missing segment of sidewalk and curb and gutter stormwater infrastructure along Meridian St. from the northern portion of the subject property to the existing bus stop in front of the BGCC near the intersection of Meridian St. and McLeod Rd. Additionally, the applicant shall be required to extend water/sewer/stormwater mains in accordance with Public Works Department requirements within the subject property. The public utility main extensions shall require public utility easements reviewed and approved by the City and recorded with the Whatcom County Auditor prior to final plat approval. The required public infrastructure construction shall be completed and accepted by the City prior to final plat approval.
4. In order to comply with Fire Department requirements all units shall be equipped with NFPA 13D sprinkler systems and building elevations shall be consistent with the plans shown in **Attachment A**.
5. The applicant shall be required to submit private covenants, conditions and restrictions (CC&Rs) for vehicular/pedestrian access, parking, utilities, open space amenities,

waste/recycling, mail service, etc. for City review and approval prior to final plat approval. The private CC&Rs shall include a clause that no fencing between individual units is allowed in front yards to ensure access for emergency services. The private CC&Rs shall be recorded with the Whatcom County Auditor with the recording of the final short plat.

6. Private covenants shall be recorded with the plat to specifically define the common, limited common, and private elements of the proposal. The covenants shall also include maintenance obligation of these elements and a cost sharing mechanism for each.
7. Mailboxes shall be installed as approved by the United States Postal Service.
8. The applicant shall be responsible to obtain any and all necessary Federal and/or State approvals associated with the proposal.
9. The following shall be shown on the face of the plat, as applicable:
 - a. All existing, required, and proposed easements.
 - b. A note stating that all lots are subject to those conditions set forth in this Order, and as may be amended in accordance with the municipal code.
 - c. A note referencing any existing private covenants and any covenants specific to the proposed lots.
 - d. The applicant shall be required to provide a final stormwater report prepared by a qualified professional identifying compliance with BMC 15.42 for Public Works Department review and approval prior to final plat approval.
 - e. The proposal is required to provide street trees for every 50' of street frontage.
10. Pursuant to BMC 16.60.080.A.1, no clearing is permitted on an undeveloped lot without a valid Building Permit or Public Facility Construction Agreement.
11. The applicant shall be required to submit a native tree replacement plan for City review and approval. The native tree replacement plan shall be prepared by an experienced professional. The tree replanting plan shall include a mix of medium-large native conifers and should be developed to match the soil conditions and sun exposure of the subject property.
12. Prior to the issuance of a building or construction permit and site disturbance the applicant shall be required to provide an environmental surety approved by the City for 150% of the cost for installing the proposed tree planting plan, including annual maintenance and monitoring for 5 years and an as-built mitigation report all prepared by a qualified professional and submitted to the City. The applicant shall be required to replace unsuccessful trees with an equivalent native seedling annually. The surety shall be fully executed with City signatures before this condition is considered satisfied. The party initially providing the surety shall remain responsible for maintaining the surety through the duration of the mitigation maintenance and monitoring period required by the City unless the City approves, in writing, the transfer of responsibility for maintaining the surety to another party.
13. Prior to the issuance of a building permit and/or any site disturbance, the applicant shall schedule a site visit with the planning project manager, project arborist, and contractor to inspect the clearing limits and tree/critical root zone protection.
14. The applicant shall be required to adhere to best management practices on protection of critical root zones of preserved trees and installation of 397 required native trees on and off site. Tree boxes and other related protections as specified in the arborist report (**Attachment H**) shall be required to protect all retained trees onsite throughout the construction period.
15. The native tree replacement plan shall include deer protection of tree seedlings provided by secured tree cages or high perimeter deer fencing. The plan shall include blue tubes being

provided for the first 2-3 years of all tree species impacted by rodents/rabbits. The plan shall include regularly scheduled watering from May through September unless otherwise specified by the qualified professional and approved by the City.

16. The applicant shall be required to incorporate native trees into the landscaping plan to the extent practicable.
17. As a condition of approval, the applicant shall plant the required native replacement trees within the BGCC site and/or Birchwood Neighborhood.
18. In the event of the required planted trees are removed from the BGCC, the applicant shall be required to submit a revised replanting plan for City review and approval.

Prepared By:



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Approved By:



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