

## LIST OF ATTACHMENTS

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

Attachment A1	Application for a Conditional Use Permit and Applicant Responses to CUP Criteria (USE2023-0017)
Attachment A2	Site Plan, Floor Plans, Building Elevations
Attachment A3	CUP Criteria Narrative and View Analysis
Attachment B	Pre-application Neighborhood Meeting Notice (PRE2023-0077)
Attachment C	Notice of Incomplete Application (NOIC) and Request for Information (RFI)
Attachment D	Shoreline Exemption Authorization (SHR2023-0022)
Attachment E	Pre-application Waiver Request (PRE2023-0103)
Attachment F	Preliminary Stormwater Plan
Attachment G	Email Correspondence with Public Works
Attachment H	Notice of Complete Application (NOCA)
Attachment I	Notice of Application (NOA) & Public Hearing
Attachment J	Certificate of Posting
Attachment K	Zoning Table
Attachment L	Critical Areas Permit for Previous Tree Removal (CAP2021-0032)
Attachment M	Madrona Pointe North Short Plat (AF No. 2050200731)
Attachment N	Covenants, Conditions, Restrictions and Easements for Madrona Pointe North and Madrona Pointe Sout Short Plats (No. 2050200733)
Attachment O	Madrona Pointe Shoreline Permit (SHR2003-00001)
Attachment P	Public Comment

**CITY OF BELLINGHAM PLANNING AND COMMUNITY DEVELOPMENT  
STAFF REPORT**

**HEARING EXAMINER**

**November 29, 2023**

**PROJECT NOS:** USE2023-0017 CONDITIONAL USE PERMIT

**APPLICANT:** Brad Ingram, Synthesis Design, 258 E 1st St, North Vancouver, BC, Canada  
V7L1B3, 604-980-2087

**OWNER:** Heather & Steve Peck, 7687 Golden Prairie Ct, Fort Collins, CO 80525

**I. OVERVIEW**

**A. PROPOSAL**

Proposed construction of an approximately 6,280 square foot (sf) single family residence (SFR) with attached two (2) car garage and new driveway. The proposed three (3) bedroom, two (2) office SFR is configured with a main floor, upper floor, and lower floor. The building meets the required height in the single-family residential development standards in Chapter 20.30 Bellingham Municipal Code (BMC) and is approximately 16.5' tall as measured by Height Definition No. 2 (BMC 20.08.020).

Access to the new residence is proposed via a driveway off Briar Rd. Due to the creation of more than 5,000 sf of new impervious surface on-site, a fully engineered stormwater management system is required per BMC 15.42.

A Conditional Use Permit (CUP) is required pursuant to BMC 20.16.020(M)(4) because the proposed residence contains more than 5,500 square feet of total floor area. In accordance with this title, CUPs are decided upon by the Hearing Examiner following a public meeting and review of the proposal's compliance with the CUP approval criteria enumerated in BMC 20.16.010.

A Shoreline Permit Exemption has been conditionally approved under SHR2023-0022. The proposed development is exempt pursuant to BMC 22.05.020(B)(1)(g). Conditional approval has been granted because the proposed residence is situated outside of the shoreline conservation easement area established on the Madrona Pointe North Short Plat and it complies with the height definition specified in BMC 22.010.010(A)(61). The applicant will be required to apply for a critical areas permit at the time of building permit submittal to address geological hazard areas on-site. The applicant must demonstrate compliance with BMC 16.55.450 and BMC 16.55.460(A)(2-3) and (6). Additionally, and if approved, the applicant should be subject to all conditions established in the associated conditional use permit USE2023-0017.

The proposal is categorically exempt from SEPA review pursuant to BMC 16.20 and WAC 197- 11-800.

## **B. GENERAL INFORMATION**

- i. Location:** 830 Briar Rd, Bellingham, WA 98225
- ii. Legal Description:** LOT 1 MADRONA POINTE NORTH SHORT PLAT AS REC AF 2050200731-SUBJ TO CONSERVATION ESMT REC AF 2050200732
- iii. Tax Parcel Number:** 3702143864500000
- iv. Zoning:** Edgemoor Neighborhood, Area 7, Zoned Residential Single with detached use qualifier, and density of 20,000 square feet (sf) minimum detached lot size, or one lot per 20,000sf overall density

## **II. STAFF RECOMMENDATION**

Approve the CUP application (**Attachments A1, A2 and A3**) 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 single family residences that exceed 5,500 square feet (sf) through issuance of a CUP, as per Bellingham Municipal Code (BMC) 20.16.020(M)(4)(a).

## **IV. BACKGROUND**

### **A. APPLICATION AND NOTICE CHRONOLOGY**

Per BMC 21.10.120 and BMC 21.10.170, CUP applications for single-family residential uses require a pre-application conference with staff if the development exceeds 5,000 sf of impervious surface, and a pre-application neighborhood meeting, unless waived.

On 7/31/2023, the applicant submitted an application for a pre-application neighborhood meeting (PRE2023-0077, **Attachment B**). The meeting was held virtually on 8/14/2023. Two members of the public attended the meeting. They did not have any comments/questions on the proposal, they just wanted to say hello to their potential new neighbors of the proposed SFR at 830 Briar Rd.

On 8/23/2023, the applicant submitted a conditional use application for the proposed project (USE2023-0017, **Attachment A1, A2, and A3**).

On 9/19/2023, the City issued a Notice of Incomplete Application (NOIC) and Request for Information (RFI). Requested information included submittal of an application for a Shoreline Permit Exemption, a calculation of building height using the height definition in BMC 22.10.010(A)(61) which is specific for shoreline jurisdictions, submittal of a tree retention plan, additional information as requested from Public Works for the stormwater site plan and hard surface calculations, submittal of a pre-application conference waiver, inclusion of a site plan that shows all property lines, and revision of floor plan to remove the kitchen on the lower floor (**Attachment C**).

On 10/09/2023, the applicant submitted a Shoreline Exemption Permit (SHR2023-0022, **Attachment D**). On 11/1/2023, the Shoreline Exemption was authorized by the city with conditions and the Authorization form was sent to the applicant. The Authorization conditions included compliance with BMC 16.55.450 and BMC16.55.460(A)(2-3) and (6) at time of building permit submittal pertaining to geological hazard areas on the subject site, submittal of a tree retention plan at time of building permit submittal, tree replacement prior to final inspection of proposed SFR, and adherence to all conditions established in the associated conditional use permit.

On 10/25/2023, the applicant submitted a revised plan set (**Attachment A2**) which included a tree retention plan, a site plan showing the stormwater catch basin and hard surface calculations, a site plan that included all property lines, updated elevations showing the building met the height standard using the height definition in BMC 22.10.010(A)(61), and updated floorplans that relabeled the kitchen on the lower floor as a bar and confirmed no permanent cooking facilities would be added. The applicant also submitted an updated narrative describing how they are meeting the conditional use criteria which included a view analysis (**Attachment A3**).

On 10/26/2023, the applicant submitted a waiver for a pre-application conference (PRE2023-0103, **Attachment E**). A pre-application conference was required due to the creation of more than 5,000 sf of new impervious surface on-site. The City approved the waiver request on 11/06/2023 because substantial conversations with planning staff had already taken place and the applicant agreed to prepare a fully engineered stormwater management plan at time of building permit submittal to address the impervious surfaces.

On 11/7/2023, the applicant submitted a preliminary stormwater site plan (**Attachment F**) which was reviewed and approved by Public Works staff (**Attachment G**). A detailed stormwater site plan and erosion control plan will be prepared and submitted with the final civil design plans during the building permit application and review process.

On 11/7/2023, the City issued a Notice of Complete Application (NOCA) (**Attachment H**), Notice of Application (NOA) & Public Hearing (**Attachment I**).

On 11/07/2023, the City determined the materials adequately addressed items requested in the previous RFI to continue review of the application.

On 11/13/2023, the applicant installed the public notice sign and sent the Certificate of Posting (**Attachment J**).

On 11/14/2023, the Hearing Examiner's department staff issued and mailed a notice of the Public Hearing in accordance with BMC 21.10.200(D). The site was reposted in accordance with Title 21.

## **B. PUBLIC COMMENT**

As of the publishing of this staff report (11/21/2023), two public comments were received (**Attachment P**). One comment was submitted on 7/06/2023 as part of the pre-application neighborhood meeting. The commentor lives at 829 Briar Road and has an approved conditional use permit for an oversized dwelling unit. They expressed support for the proposed development of the subject property.

The second public comment was received on 11/20/2023. The commentor expressed concern that the proposed development violates a deed restriction of the property that will

impact the abutting property owners. The specific deed restriction in question was not identified by the commentor, and they stated they would need to review the staff report and supporting documents before providing more information. It was relayed to the commentor that the City is not responsible for enforcing private covenants and restrictions. In addition, information about where to find the staff report and how to attend the Hearing Examiner meeting was provided.

## **V. EXISTING SITE CHARACTERISTICS**

### **A. LAND USE AND ZONING DESIGNATION (Attachment K)**

Residential Single with detached use qualifier, and density of 20,000 square feet (sf) minimum detached lot size, or one lot per 20,000sf overall density.

The land use designation of the subject site is Residential Single, Low Density.

### **B. EXISTING CONDITIONS**

The subject property is 26,625 square feet (sf) (0.61 acres), is undeveloped, and is located on Briar Rd. The site is similar in size to nearby lots and is over 6,000 sf larger than the minimum site area required (20,000 sf) for a single-family residence (SFR) in this area. The adjacent properties to the northeast and southwest are developed with SFRs that are also over 5,500 sf. All other surrounding homes are developed with SFRs.

Steep slopes are present throughout the property which gradually increase towards the south as the property descends to the shoreline. The development is proposed to be located in the northern portion of the property closest to Briar Rd with slopes ranging from 35-to 50-percent. Higher gradients (ranging from 75-to 100-percent inclination) are present on the southern portion of the property which is preserved as a conservation easement. The northern portion of the property shows signs of previous site clearing. A critical areas permit was approved in 2021 to remove three hazardous trees on-site (CAP2021-0032, **Attachment L**). The tree removal was exempt from a shoreline permit pursuant to BMC 22.05.020(B)(1)(b) since it is considered normal maintenance and repair.

Briar Road is a 50' right-of-way. The nearest Whatcom Transit Stop is approximately 0.6 miles away at the intersection of Willow Road and Clark Road (Stop ID 2010).

The property is legally described as Lot 1 of the Madrona Pointe North Short Plat (AF No. 2050200731) (**Attachment M**). The property is subject to the following easements dedicated by the plat:

- **Conservation Easement** (AF No. 2050200732): For the purpose of retaining vegetation lying within the greater of 100ft of the ordinary high-water mark of the regulated marine wetlands or the top of the bank. No clearing or vegetation removal shall be permitted within these areas whatsoever, except as permitted by the City for maintenance of the stormwater discharge system and hazard tree removal. Hazard trees may be removed upon written request by a certified arborist and subsequent approval by the City.
- **Railroad Protection Easement:** No clearing or vegetation removal shall occur on lots lying within 50 feet of the top of the bluff abutting the railroad right-of-way (Lots 2, 3, 4, and 5) until a clearing and conservation plan giving considerations to slopes stability, rock fall and tree fall which might adversely affect railroad operations has been submitted by the proponent and reviews and approve by the City. The subject property, Lot 1, is not subject to this easement.

Note: These easements were established in accordance with City shoreline permit SHR2003-00001 (**Attachment O**).

The plat includes the following conditions that development must comply with:

- **Plat Covenant:** The lots of this short plat are subject to those covenants, conditions, restrictions, and easements filed under Whatcom County Auditor's file No. 2050200733 (**Attachment N**).
- **Clearing and Vegetation Removal:** Clearing and vegetation removal for development of each individual lot shall only occur in connection with the development of each lot on a case by case basis after the locations and orientation of the residence proposed for construction or site preparation begins, as specified in City of Bellingham shoreline permit #SHR2003-00001, condition #1.
- **Permanent Leave Trees:** Permanent leave trees required to be retained pursuant to the Washington State Department of Fish and Wildlife's (WDFW) Eagle Management Plan are shown on the map. With written approval of WDFW, other trees of sufficient height and size may be substituted for the permanent leave trees shown on the plat map.

Note: Bald Eagles have been de-listed from the Endangered Species Act since the time of plat approval. Therefore, WDFW no longer asserts jurisdiction to authorize substitutions for said leave trees. The United States Fish and Wildlife Service retains jurisdictional authority over bald eagle nesting and roosting sites and land activities within certain distances of these features. Staff consulted the USFWS management recommendations for bald eagles and determined that the project site is well beyond the 660-foot buffer for nesting sites and 1000-foot for roosting sites and therefore, City staff have authorized the substitution of two (potentially four total) leave trees on the subject site.

- **Sprinkler Required:** Pursuant to the requirements of the City of Bellingham Fire Department, residences on Lots 7, 8, and 9 shall be sprinklered on all floors. The subject property, Lot 1, is not subject to this condition.

All developed properties adjacent to the site are in the same zoning designation and are developed with large single-family residences. There have been several CUPs for oversized SFRs approved in the vicinity. These include:

- 826 Briar Rd / HE-05-PL-038 / CUP2005-00007
- 834 Briar Rd / HE-18-PL-029 / USE2018-0019
- 745 Cross St / HE-04-PL-031 / CUP2004-00006
- 732 Fieldston Rd / HE-00-PL-019 / CUP2000-00026

## **VI. ENVIRONMENTAL EVALUATION**

Per BMC 16.20.090(A) and Washington Administrative Code (WAC) 197-11-800(6)(a), the subject project is categorically exempt from State Environmental Policy Act (SEPA) review.

The subject property is located within the Urban Conservancy – Marine shoreline designation in Reach #17. The applicant submitted a Shoreline Exemption Permit (**Attachment D**) which has been conditionally approved under SHR2023-0022. The proposed development is exempt from the requirement to obtain a shoreline permit pursuant to BMC 22.05.020(B)(1)(g).

As discussed in Section B, steep slopes are present throughout the property. Preliminary review indicates that the project could meet the geological hazard requirements and staff does not anticipate major changes to the proposed plans. Compliance with BMC 16.55.450 and BMC

16.55.460(A)(2-3) and (6) pertaining to geological hazard areas on the subject site will be assessed at the time of building permit submittal.

As described in **Attachment D**, the proposed SFR is a permitted use in the Edgemoor Neighborhood, Area 7. The SFR is an allowed use in the Urban Conservancy, Marine designation, Reach 17. The proposed location of the SFR is at least 30' outside of the established conservation easement recorded across lot 1 of the Madrona Point North Short Plat (AF# 2050200731) as established by SHR2003-00001 (**Attachment O**). The building meets the height requirements and is approximately 16.5' tall as measured by Height Definition No. 2 (BMC 20.08.020). Maximum height allowed in this particular shoreline designation is 35-feet. The proposed residence maximum height is approximately 28-feet as measured by the height definition in the Shorelines Master Program Chapter (BMC 22.10.010(A)(61)).

SHR2023-0022 was approved with the following conditions:

1. At the time of building permit submittal, the applicant shall be required to demonstrate compliance with BMC 16.55.450 and BMC 16.55.460(A)(2-3) and (6) pertaining to geological hazard areas on the subject site.
2. At the time of building permit submittal, designated "leave trees" on the subject property within the plat that are proposed to be removed shall be substituted with other similar specie type and sized trees on the subject property and shall be indicated as such on a tree retention plan.
3. Trees not designated as leave trees that are proposed to be removed shall be replaced with a specie type and ratio as determined by the Planning Department and installed prior to final inspection of the proposed single-family residence.
4. The applicant shall adhere to all conditions established in the associated conditional use permit USE2023-0017.

## **VII. APPLICATION**

Please refer to **Attachments A1, A2 and A3** for the land use applications, as amended by the applicant's responses to the City's requests for information.

## **VIII. APPLICABLE REGULATORY SECTIONS OF THE BELLINGHAM MUNICIPAL CODE AND PLANS**

- Bellingham Municipal Code (BMC):
  - Section 20.00.060: Table of Zoning Regulations – Edgemoor Neighborhood
  - Chapter 20.30: Single Family Residential Development Standards
  - Chapter 20.16: Conditional Use Requirements and Procedures
  - Title 21: Procedures and Administration
  - Title 22: Shoreline Master Program
- Edgemoor Neighborhood Plan
- Bellingham Comprehensive Plan

## **IX. CONDITIONAL USE PERMIT REVIEW CRITERIA USE2023-0017 (oversized SFR)**

A CUP request requires the applicant to provide a response to the following questions, in **bold** below. The applicant's responses are also provided in **Attachment A1**.

830 Briar Road / USE2023-0017

The Hearing Examiner may grant a CUP provided the proposal clearly meets **the following criteria**:

**BMC 20.16.010 - B. Certain uses may be allowed in certain General Use Types by a CUP granted by the Hearing Examiner provided such use is specified under the Conditional Use subsection of the appropriate General Use Type Handbook and it is clearly shown that:**

**1) The proposed use will promote the health, safety, and general welfare of the community.**

**Applicant Response:** *The form and size of the house will fit well into the surrounding neighborhood especially between houses on either side that are well over 5,500 square feet.*

**Staff Response:** *The project maintains the development pattern of SFRs located on large lots. As evidenced in **Section V** of this report, homes larger than 5,500 sf are common in this area.*

*The proposed SFR is a 3-story home but will appear as a single story due to the slope of the lot. The homes located across the street from the proposed SFR are at a higher elevation, and therefore views will not be impeded (**Attachment A3**). The proposal is consistent with the character of the neighborhood, which is comprised of low density, single-family development. The property abuts two homes that are also over 5,500 sf. Staff believes the proposed home design is in character with the surrounding area, thereby promoting the welfare of the community.*

*Building and construction permit(s) for this work will be reviewed for compliance with current building/fire codes and compliance with applicable plat conditions. Stormwater review will occur under the building permit for compliance with BMC 15.42. Geohazard analysis will also occur under the building permit to ensure the safety of the proposed SFR in compliance with BMC 16.55.450 and BMC 16.55.460(A)(2-3) and (6).*

*Staff finds that the applicant's proposal promotes the health, safety, and general welfare of the community.*

**2) The proposed use will satisfy the purpose and intent of the general use type in which it is located.**

**Applicant Response:** *The proposed house will be built in a residential use zone and will still satisfy the purpose and intent of the zone which is single-family.*

**Staff Response:** *The General Use Type of the subject property is Residential Single, which is primarily intended to "accommodate families desiring to live within neighborhoods consisting of individual dwelling units or townhouses in low density environments" (BMC 20.30.020). Development regulations are intended to provide flexibility in the arrangement of a main building upon a building site in order to allow efficient and capable design, assure necessary light and air, and to encourage the compatible development of neighborhoods while conserving and enhancing the value of land and the important physical characteristics within the RS areas.*

*The underlying density allows a minimum detached lot size of 20,000 sf for Area 7 of the Edgemoor Neighborhood. The site is 6,625 sf larger than the minimum lot size required (20,000 sf) for a single-family residence in this area. The proposed residence is approximately 780 sf*



larger than 5,500 sf, requiring it to obtain a conditional use permit. The proposed over-sized single-family residence on the large lot maintains the “low density environment” described in code. The proposal complies with the single-family residential development standards in BMC 20.30 regarding building setbacks, lot coverage, building height, and the provision of on-site parking.

Staff finds that the applicant's proposal satisfies the purpose and intent of the residential single-designation.

**3) The proposed use will not be detrimental to the surrounding neighborhood.**

**Applicant Response:** Additional square footage will not affect neighboring houses.

**Staff Response:** This proposal complies with Residential Single Development standards for lot coverage, setbacks, and parking enumerated in BMC 20.30.

Use of the single-family residence will be similar to the uses in the neighborhood. The proposal is not anticipated to result in increased traffic or other nuisances. In accordance with Title 19, a traffic impact fee shall be charged to the building permit to mitigate traffic impacts anticipated from trip generation of a single-family residence. School and Park impact fees shall be charged to the building permit as well.

The subject plat created large lots that optimizes views of Bellingham Bay to the west. The submitted view analysis (**Attachment A3**) confirms the neighboring views will not be obstructed.

As conditioned, near and long-term potential impacts related to the proposal should be mitigated by limiting construction hours to between 7am and 7pm, implementing a construction phasing and staging plan, implementing the conditions required by the shoreline exemption permit (SHR2023-0022), requiring the submittal of a critical areas permit at time of building permit, and including tree retention and replacement.

Based on the project scope, and operational conditions recommended, staff finds the proposal is not detrimental to the surrounding neighborhood.

In addition to the criteria above, the Hearing Examiner shall also consider the following factors in granting a conditional use permit:

- (1) Be harmonious with the general policies and specific objectives of the Comprehensive Plan.

**Applicant Response:** Please see attached CUP letter for more information (**Attachment A3**)

**Staff Response:** The proposal is consistent with the goals and policies established in the Comprehensive Plan to “ensure that Bellingham has a sufficient quantity and variety of housing types and densities to accommodate projected growth and promote other community goals” (Housing Chapter Goal H-1). The surrounding neighborhood is a developed, low density single-family area. The proposed over-sized single-family residence adds inventory to the luxury housing market, which like any sector of the real estate economy, needs sufficient supply to meet demand.

*The Edgemoor Neighborhood Plan text for Area 7 talks about permitting development while maintaining the exceptional natural qualities of properties. This goal was met when the land was originally subdivided by creating conservation easements and designated leave trees on the lot(s). The proposal is required to comply with the applicable conditions of the plat regarding conservation easement and leave trees. As explained in **Section VI** of this report, a shoreline exemption permit has been conditionally approved and a critical areas permit will be required at time of building permit submittal to address the steep slopes on-site.*

*Staff finds that the proposal is harmonious with the Goals and Policies of the Comprehensive Plan and the Samish Neighborhood Goals and Policies.*

- (2) Enable the continued orderly and reasonable use of adjacent properties by providing a means for expansion of public roads, utilities, and services.

**Applicant Response:** *The property is very large at over 26,000 square feet. The development footprint is approximately 3,728 square feet. The house will be roughly centered between neighboring houses and provide generous side setbacks.*

**Staff Response:** *The proposed single-family residence is located within a developed residential neighborhood. The property is located adjacent to an improved right-of-way (Briar Road) via a driveway. The proposed residence and site improvements do not conflict with any existing public or private easements on the property. The proposed development will create more than 5,000 sf of new impervious surface on-site, and therefore will require a fully engineered stormwater management plan. Pacific Surveying & Engineering has prepared a preliminary stormwater site plan demonstrating the conceptual feasibility of stormwater design (**Attachment F**). Public Works has reviewed and approved the preliminary stormwater plan (**Attachment G**). Under the building permit, the City will perform a formal review of on-site stormwater management for consistency with BMC 15.42. Staff finds that this proposal is not detrimental to the continued orderly and reasonable use of adjacent properties.*

- (3) Be designed so as to be compatible with the essential character of the neighborhood.

**Applicant Response:** *The neighborhood has a varied character with no one style or character dominant.*

**Staff Response:** *BMC 20.30 does not regulate design criteria for the development of single-family homes and does not require design review. Area 7 of the Edgemoor Neighborhood is characterized by sloping terrain and forested spaces. The development of the proposed residence will maintain these elements.*

*The neighborhood has a mix of architectural styles. The modern aesthetic of the proposed home is similar to other new development nearby including the neighbors to the east and southeast. Only the top floor of the SFR will be visible from Briar Road due to the sloping of the lot.*

*Staff finds that the proposal is compatible with and reinforces the essential character of Area 7 of the Edgemoor Neighborhood.*

- (4) Be adequately served by public facilities and utilities including drainage provisions.

**Applicant Response:** *The property is in a serviced neighborhood.*

**Staff Response:** *The subject property in question is currently served by public facilities intended for the proposed single-family residential use.*

*The proposed residence and site improvements do not conflict with any existing public or private easements on the property. The proposed development will create more than 5,000 sf of new impervious surface on-site, and therefore will require a fully engineered stormwater management plan. Pacific Surveying & Engineering has prepared a preliminary stormwater site plan demonstrating the conceptual feasibility of stormwater design (**Attachment F**). Additional review for compliance with stormwater requirements under BMC 15.42 will be completed at the time of building permit submittal.*

*Staff finds that the proposal will be adequately served by public facilities and utilities.*

- (5) Not create excessive vehicular congestion on neighborhood collector or residential access streets.

**Applicant Response:** *The house will have its own garage and parking off-street.*

**Staff Response:** *The over-sized single-family house is designed as a singular residence and is not anticipated to result in vehicle trips beyond those associated with a typical single-family residential use. Payment of traffic impact fees should mitigate increased traffic related to the SFR as adopted by Title 19. The proposal provides ample on-site parking in an attached garage with two parking spaces, as well as a paved parking court. The proposal is not anticipated to result in any adverse spillover effects of parking on nearby streets.*

*Staff finds that the scale and intensity of the proposal as conditioned herein, will not create excessive vehicular congestion on neighborhood collector or residential access streets.*

- (6) Not create a hazard to life, limb, or property resulting from the proposed use, or by the structures used therefore, or by the inaccessibility of the property or structures thereon.

**Applicant Response:** *The proposed use is standard single-family use and will have no areas of inaccessibility.*

**Staff Response:** *The project will not increase any hazard level or inaccessibility for the property. The subject property will continue to be accessible to private and emergency vehicles. This proposal will be reviewed under the International Residential Building Code and the Fire Code at time of building permit submittal.*

*The City Fire Marshal has reviewed the CUP plans and determined that based on the size of the house, the minimum fire flow is 2,250 gallons per minute or 1,125 gallons per minute. If the minimum fire flow cannot be met, a 13D sprinkler system will be required. In addition, the Fire Marshall has determined the existing roadways are suitable for fire department access.*

*In addition, geohazard analysis will also occur under the building permit to ensure the safety of the proposed SFR in compliance with BMC 16.55.450 and BMC 16.55.460(A)(2-3) and*

(6). Preliminary review indicates that the project could meet the geological hazard requirements and staff does not anticipate major changes to the proposed plans.

Staff finds that this proposal will not create any safety hazards, nor will it increase property or structure inaccessibility.

(7) Not create influences substantially detrimental to neighboring uses. "Influences" shall include, but not necessarily be limited to: noise, odor, smoke, light, electrical interference, and/or mechanical vibrations.

**Applicant Response:** *There will be no such "influences".*

**Staff Response:** *The proposed use of the project is the same as the surrounding neighborhood. No influences substantially detrimental to neighboring uses will be created. As conditioned, construction noise should be reduced from that allowed in BMC 10.24, 120, to between 7am and 7pm. Similarly, to plan for and mitigate short term construction impacts, a construction and phasing plan shall be submitted with the building permit.*

Staff finds that as conditioned, the proposal will not create any substantial detrimental influences.

(8) Not result in the destruction, loss, or damage to any natural, scenic, or historic feature of major consequence.

**Applicant Response:** *The existing conservation areas on the property will be maintained.*

**Staff Response:**

**Natural Features:** *As described in Section V & VI of this report, terrain on the subject property is predominantly composed of moderate to steep slopes ranging from 35-to 50-percent in the northern most portion of the property closest to Briar Road and from 75-to 100-percent in the southern portion of the property as it descends to the bay. The geologically hazardous slopes will be addressed through a critical areas permit at time of building permit submittal.*

*The subject property is located within the Urban Conservancy – Marine shoreline designation in Reach #17. The applicant submitted a Shoreline Exemption Permit (**Attachment D**) which has been conditionally approved under SHR2023-0022. The proposed development is exempt pursuant to BMC 22.05.020(B)(1)(g).*

*As described in **Attachment D**, the proposed single-family residence (SFR) is a permitted use in the Edgemoor Neighborhood, Area 7. The SFR is an allowed use in the Urban Conservancy, Marine designation, Reach 17. The proposed location of the SFR is at least 30' outside of the established conservation easement recorded across lot 1 of the Madrona Point North Short Plat (AF# 2050200731). The building meets the height requirements and is approximately 16.5' tall as measured by Height Definition No. 2 (BMC 20.08.020) and the height definition in the Shorelines Master Program Chapter (BMC 22.10.010(A)(61)).*

*Steep slopes are present throughout the property which gradually increase towards the south as the property descends to the shoreline. The development is proposed to be located in the northern portion of the property closest to Briar Rd with slopes ranging from 35-to 50-*

percent. Higher gradients (ranging from 75-to 100-percent inclination) are present on the southern portion of the property which is preserved as a conservation easement. The northern portion of the property shows signs of previous site clearing. A critical areas permit was approved in 2021 to remove three hazardous trees on-site (CAP2021-0032, **Attachment K**). The tree removal was exempt from a shoreline permit pursuant to BMC 22.05.020(B)(1)(b) since it is considered normal maintenance and repair.

Historic Features: The subject property is undeveloped and is not in a local or nationally designated historic district.

Scenic Features: This site is within Area 7 of the Edgemoor Neighborhood, which includes a "view" special condition.

BMC 20.16.020 M.4. provides specific review criteria for "Single-Family Residence, Containing 5,500 Square Feet or More":

*"In neighborhood areas with a "view" special condition or other locations which have views of lakes, the bay or mountains, the applicant shall provide an analysis of the anticipated impacts on views from adjacent properties that may be affected by construction of the proposed residence or addition. The hearing examiner must find that the proposal will not cause significant adverse impacts on views from other properties that are due to the size or design of the building and which could be reduced by an alternative design."*

*The proposal complies with the height regulation in Chapter 20.30 BMC and is 3.5' below the maximum height allowance, at 16.5' under height definition #2 (maximum allowable height is 20'), and it complies with the height definition in the Shorelines Master Program Chapter (BMC 22.10.010(A)(61)).*

*The significant views exist to the west toward Bellingham Bay. The proposed single-family residence is well under the maximum allowed height and has confirmed through a view analysis that there will be no adverse impacts on views from other properties.*

*Staff has reviewed the proposed building plans and elevations, the View Analysis (**Attachment A3**), applicant narrative responses to code criteria, has considered that no public comments have been submitted in opposition as of the date of this staff report, and determined that no adjacent homes will have views significantly affected by this proposal.*

*Staff finds that this proposal will not damage any natural, scenic, or historic feature and that it complies with the requirements of BMC 20.16.020 M.4. to "not cause significant adverse impacts on views from other properties".*

## **X. CONCLUSION**

Following a review of the applicant's submittal materials, and consideration of the site context and history, staff believes the proposal, if conditioned properly, will comply with the applicable goals, policies, and regulations - including but not limited to Titles 20 and 21 BMC - and therefore recommends approval of a CUP for the construction of an oversized SFR, subject to the conditions below.

## **XI. DEPARTMENT RECOMMENDATION**

Should the Hearing Examiner find that the proposal described herein and as provided in **Attachments A1, A2 and A3** meets the criteria, staff recommends the following conditions:

### **A. Recommended Conditions:**

1. The project shall comply with the approval conditions of the associated Shoreline Exemption Permit (SHR2023-0022).
2. Construction hours shall be limited to be between 7am and 7pm.
3. A phasing and construction staging plan shall be submitted and reviewed with the building permit to determine sequence of construction activities, parking of construction vehicles, and construction staging locations for equipment and materials. Said plan shall be available to the public upon request.
4. The total floor area of the single-family residence shall not exceed approximately 6,280 square feet (sf). Staff may administratively consider and approve one-time non-accumulative additions, modifications or changes in accordance with BMC 20.16.010.I.
5. Compliance with all conditions of the governing plat shall be conditions of building permit issuance unless otherwise determined by City staff or individual departments. On-site stormwater mitigation shall be reviewed under the building permit for compliance with the plat, BMC 15.42.
6. Fire flow modeling is required to meet a minimum fire flow of 2,250 gallons per minutes at 20psi or a 13D sprinkler system shall be required as a condition prior to building permit approval.
7. The applicant shall obtain all necessary permits for the proposal, and final inspection on these permits prior to any occupancy. The permits shall be generally consistent with the information and materials submitted with the CUP (as specified in **Attachments A2**), except as modified by the approval, and all other conditions contained in the approval.
8. The CUP approval does not excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations that may be applicable to this project.
9. In the event the owner/applicant fails to comply with the terms of the conditions herein, the permit(s) may be rescinded. All work must be completed according to these permits.

**Prepared By**

**Approved for Submittal By**



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**Taylor Webb**, Planner II  
*Planning and Community  
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