



## Attachment B

Planning and Community Development Department  
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### **CONSOLIDATED DECISION AND PERMIT FOR INFILL HOUSING/MULTIFAMILY DESIGN REVIEW, CRITICAL AREA PERMIT AND STATE ENVIRONMENTAL POLICY ACT REVIEW**

DR2022-0020/CAP2022-0033/SEP2022-0029

**4185 Northwest Ave.**

**Northwest Village  
Type II**

#### **I. SUMMARY OF DECISION**

##### **Proposal – Exhibit A**

Construction of 9 shared court units and 10 townhouse infill toolkit units for a total of 19 units. The proposal includes 38 garage parking stalls and 12 surface guest parking stalls. The proposal will include a combined access with the northern abutting property along Northwest Ave. for 10 townhouse units and a private lane extension from Dover St. providing access to 9 shared court units. The proposal will require construction of a public cul de sac turnaround at the end of Dover St. within the existing right of way. The proposal includes a preliminary subdivision to place each unit on a fee simple lot.

The Proposal will be served by public infrastructure as required by code. Stormwater management is proposed onsite with multiple stormwater vaults and an easement with the northern property owner for stormwater dispersion compliant with code. Emergency access will be provided on site with approved emergency turnarounds. The proposal includes dedication of land for right of way purposes along Northwest Ave. and construction of a public turnaround in the existing Dover St. right of way through a Public Facility Construction Agreement.

This Type II consolidated permit includes review of infill toolkit/multifamily design review, critical area and State Environmental Policy Act (SEPA) applications. The preliminary plat is reviewed through the Type III review process with a final decision issued by the hearing examiner.

Administrative modifications from Chapter 20.28 BMC have been requested.

**Applicant:** Sean Hegstad – Haven Design Workshop, 5828 2<sup>nd</sup> Ave. #101, Ferndale WA 98248

**Owner:** Home Haven Properties Inc., 478 E Wiser Lake Rd., Lynden WA 98264-9454

**Decision:** Approval, with conditions.

**Date:** **January 17, 2024**

## **II. PROPERTY DESCRIPTION**

**Address:** 4185 Northwest Ave., Bellingham WA 98226

**Legal Description:** Lot 7 except the west 270 feet thereof of the Northwest Baker View Tracts

**Whatcom County Assessor ID#s:** 380211-449108-0000

### **Land use and comprehensive plan designations:**

Land use: Area 2, Meridian Neighborhood; Residential-Single, Planned Mixed use qualifier with Infill Toolkit uses as an allowed use.

Comprehensive plan: Single Family Residential, Low to Medium Density.

## **III. PERMIT PLANS**

This approval includes the following attached plans, subject to any modifications and conditions contained in Section V of this permit:

**Exhibit A** - Architectural and Civil Plans including Landscaping Plans dated 9/27&28/23

**Exhibit B** - Land Use Application materials

**B1** Land Use Application

**B2** Response to Multifamily Residential Handbook Standards

**Exhibit C** - Request for Information (RFI), dated 9/27/22

**Exhibit D** - Applicant's response to RFI dated 10/3/23

**Exhibit E** - RFI dated 11/13/23

**Exhibit F** - Notice of Application/Mailing list dated 11/13/23

**Exhibit G** - Public Comment

**Exhibit H** - Applicant's response to RFI dated 1/2/24

**Exhibit I** - SEPA Determination of Non-significance dated 1/17/24

**Exhibit J** - Critical Area Report prepared by Cantrell & Associates, Inc. dated 7/31/19

**Exhibit K** - Infill Toolkit Townhouse Policy

## **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The subject property is located in Area 2 of the Meridian Neighborhood and zoned Residential-Single, Planned Mixed with Infill Toolkit uses as an allowed use pursuant to BMC 20.28.020.A.1.b. The land use designation of the subject site is Single Family Residential, Low to Medium Density. The proposal is consistent with the underlying zoning and the Meridian Neighborhood Plan for Area 2 on the date the proposal was deemed complete.
2. The site is 89,593 sf in size and is developed with a single family residence and partially forested with predominately deciduous trees. Existing and proposed access is shared with the northern abutting property owner from Northwest Ave.

3. The property to the north, south and west is located within the same Residential Single, Planned Mixed zoning as the subject property. The property to the east is located within Area 19 of the Cordata Neighborhood and zoned Commercial Planned.
4. 5/22/18: The City conducted a pre-application conference for the Proposal. (PRE2018-0058)
5. 7/30/19: The City conducted a second pre-application conference for the Proposal. (PRE2019-0080)
6. 12/22/20: The applicant held a pre-application neighborhood meeting. There were no specific concerns raised by attendees and there seemed to be general support for the proposed design.
7. 9/15/22: The City issued a Multimodal Transportation Concurrency Certificate.
8. 7/14/22: The City received land use applications for a preliminary plat, planned development, infill housing/multifamily design review, critical areas and a SEPA checklist (**Exhibit B1 & B2**). 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.
9. 8/11/22: Staff issued a Notice of Complete Application.
10. 9/27/22: Staff issued a Request for Information (RFI) (**Exhibit C**). The RFI included revisions and/or minor modification requests to comply with infill toolkit and multifamily design review requirements. The RFI also included additional information documenting compliance with stormwater requirements under BMC 15.42 and utility and street infrastructure requirements. Finally, the RFI included revisions to the proposal to comply with Fire Department requirements.
11. 10/3/23: The applicant responded to the information requested by staff which included revisions to the proposal to comply with development standards (**Exhibit D**). Additionally, the response to the RFI included documentation clarifying compliance with stormwater requirements under BMC 15.42 and utility and street infrastructure requirements. Finally, the proposal was revised to comply with Fire Department requirements. Following review of the applicant's response to the RFI, the City issued a second RFI (**Exhibit E**).
12. 11/13/23: A Notice of Application and Notice of Public Hearing was issued (**Exhibit F**). As of 12/11/23 no comments have been received regarding the proposed development (**Exhibit G**).
13. 1/2/24: The applicant responded to the request for information dated 10/3/23 which was determined adequate by staff (**Exhibit H**).
14. 1/17/24: The city issued a SEPA threshold determination of non-significance (SEP2022-0029 **Exhibit I**).
15. 1/9/24: The Public Hearing notice was issued by the Hearing Examiner's department staff and mailed in accordance with BMC 21.10.200(D).
16. 1/24/24: The hearing examiner is scheduled to hold a public hearing to consider the Preliminary Plat.

### **Critical Areas**

1. Based on the information provided by a qualified professional there are wetlands and associated buffers regulated under the critical areas ordinance to the north and west of the subject property (**Exhibit J**). Both abutting wetlands are Category III wetlands with a low score for wildlife and require an 80' buffer under BMC 16.55.340.B.3.

2. The City issued a Critical Area Permit under CAP2017-0035 for the property located at 4179 Dover St. which allowed the wetland buffer to be reduced/averaged to a 60' buffer which effectively removed the wetland buffer from encroachment onto the property located at 4185 Northwest Ave. CAP2017-0035 was effective until 10/2/22. The subject land use applications were submitted on 7/14/22 which relied upon the information and proposed development anticipated for 4179 Dover St. Staff held a pre-application meeting on 1/17/23 for a proposal to redevelop the property located at 4179 Dover St. with six infill toolkit townhouses (PRE2022-0133). Based on the information provided by the applicant the buffer for the wetlands located on 4179 Dover St. does not encroach onto the property located at 4185 Northwest Ave.
3. Additionally, based on the information provided by the qualified professional in **Exhibit J**, wetland critical area buffers do not encroach onto the subject property.

### **Design Review**

1. Pursuant to Chapter 20.25 BMC, the proposal is subject to multifamily design review and in accordance with BMC 20.28.030(A), design review shall take into consideration the additional design standards and guidelines as specified under each infill housing type. The proposal includes both shared court and townhouse infill toolkit types. The townhouses are oriented Northwest Ave. and toward the newly constructed shared private lane and common open space. The shared court units are oriented towards the newly constructed private lane off of Dover St., internally towards the shared court and towards a common landscaped area. Overall, the proposed design has incorporated pedestrian connectivity throughout the site with extensive landscaping for both common and private amenities. Parking has been designed within garages internal to the site with significant landscaped areas to minimize visual impacts from parking from the public right of way. The property to the north and west are undeveloped and/or underdeveloped with a single family residence and have undergone pre-application meetings for similar infill toolkit projects with similar densities to the proposal. Area 2 of the Meridian Neighborhood is surrounded by commercially zoned property and Costco to the west. This area of the City has and continues to see significant new development and the character of the neighborhood is being shaped by new development such as the subject proposal. The neighboring properties to the south are two story single family residences. The proposal is consistent with the scale and style of development in the vicinity. The townhouses along Northwest Ave. are three stories while the remaining units are all two stories. The proposed buildings are similar in height, bulk and mass to existing development in the district and not out of character with the neighborhood. As conditioned the proposed development is required to preserve existing trees within the open space area in the southeast corner of the subject property in order to comply with greenfactor landscaping requirements, land division performance standards and the *Multifamily Residential Design Handbook* (MRDH) design standards. The proposal as described in **Exhibit A** meets the design standards in the MRDH.

### **Infill Housing**

2. The proposal includes 10 infill townhouse units and 9 infill shared court units all proposed to be on individual lots created through the land division process. Chapter 20.28 BMC establishes the development regulations and design standards for infill townhouse/shared court units. The proposal complies with the provisions of this chapter except as conditioned to provide a pedestrian oriented shared court, window orientation, parking design, abutment on a pedestrian corridor and landscaping.

3. BMC 20.28.050(D) specifies: "Legal documents identifying the rights and responsibilities of property owners and/or the homeowners' association for use and maintenance of common facilities shall be submitted for approval by the Director and recorded. When part of a subdivision they shall be noted on the plat." The legal documents that are or may be necessary for this proposal include but are not limited to: Common wall agreements for the townhouse/shared court units, use, utility and access easements for access and parking, open spaces, pedestrian access and landscaping, and building easements necessary to comply with the building code. Additionally, adequate measures to ensure the private infrastructure and landscaping will be maintained in perpetuity are needed to ensure compliance with the permit decision. This permit should be conditioned to ensure that this provision will be met with the final subdivision approval of the preliminary plat and these documents should be properly noted on the final plat and submitted for review and approval by the city prior to their recording.
4. The application materials included correspondence with Sanitary Services Company, Inc. (SSC). This permit should be appropriately conditioned to ensure SSC approves the final design of the refuse areas. The refuse area should be constructed with materials consistent with the proposal and designed to screen the refuse containers on at least 3 sides consistent with the municipal code.
5. Pursuant to BMC 20.28.140(D)(4), landscaping is required for the proposal with a green factor score of 0.4. The draft landscape plan shown on **Exhibit A** is generally sufficient to demonstrate the required landscaping can be provided compliant with this code provision. This permit should be appropriately conditioned to ensure the required green factor score is achieved prior to final plat approval.

### **Compliance with BMC**

Based on the findings of fact within this permit, the city concludes that the Proposal meets the applicable provisions of Chapters 16.20, 20.25 and 20.28 BMC if appropriately conditioned. Any additional permit required to construct the infrastructure and/or buildings associated with the Proposal must be consistent with this decision and the BMC.

### **Townhouse Construction**

On March 22, 2021, the city issued a policy clarifying the procedure for townhouse units that are associated with a preliminary plat. **Exhibit K**. Staff has determined the proposed shared court units are eligible to utilize the townhouse construction policy due to the underlying single family zoning which requires land division for townhouse/shared court units provided compliance with applicable building and fire codes requirements is achieved during the review of the building permits. This policy is applicable to the Proposal.

## **V. DECISION AND CONDITIONS OF APPROVAL**

Based upon the Findings of Fact and Conclusions of Law, the Director of the Planning and Community Development Department (PCDD), or Designee, approves this Consolidated Permit subject to the following conditions:

### **A. GENERAL**

1. All development and use of the property legally described in Sections I and II of this permit shall be generally consistent with the permit plans listed in Section III, except as modified by this permit, and all other conditions contained in the permit.
2. Development of the property shall be consistent with all applicable provisions of the Bellingham Municipal Code and 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.
3. Development of the property shall be consistent with all applicable conditions of the Northwest Village Townhomes Preliminary Plat (SUB2022-0031) as determined by the hearing examiner and all conditions of the hearing examiner approval shall be deemed conditions of this consolidated permit. This permit decision shall be deemed null and void if the preliminary plat is not approved or conditionally approved in a manner determined inconsistent with this permit that couldn't otherwise be approved as a minor amendment consistent with the terms of this permit.
4. Prior to approval of any building or construction permits, the City shall determine compliance with the terms and conditions of this permit.
5. Legal documents identifying the rights and responsibilities of property owners and/or the homeowners' association for use and maintenance of common facilities shall be submitted for approval by the Director and recorded. When part of a subdivision they shall be noted on the plat. The legal documents that are or may be necessary for this proposal include but are not limited to: Common wall agreements for the townhouse units, use, utility and access easements for access and parking, open spaces, pedestrian access and landscaping, utility easements, and building easements necessary to comply with the building code. This provision will be met after the city's review of the required legal documents and proper notation on the final plat.
6. All applicable impact fees approved by City ordinance shall be paid prior to building permit issuance for a dwelling unit.

## **B. PERMITTED USES/DENSITY**

Infill Toolkit uses are an outright permitted use under the subject Residential Single Family, Planned Mixed use qualifier pursuant to BMC 20.28.020.A.1.b. Pursuant to the Table of Zoning for Area 2 of the Meridian Neighborhood the maximum density for the subject property is one unit per 1,800 sf. Pursuant to BMC 20.28.050.B, density shall be as specified in the associated area in the zoning table. If there is more than one density listed, the highest listed density for any housing type specified in the applicable neighborhood subarea pursuant to zoning tables in Chapter 20.00 BMC shall be considered the maximum possible density. Pursuant to the zoning the project is eligible for a maximum of 48 infill toolkit units without Purchasing Development Rights or documenting compliance with the Minimum Performance Criteria under Attachment 2 of the Table of Zoning. The proposed development meets the density requirements for the low to medium density zoning designation.

## **C. DEVELOPMENT REGULATIONS**

The development regulations for the infill housing townhomes/shared court units shall comply with BMC 20.28.050, .120 and .140 and as follows:

1. A large lane shall be constructed consistent with BMC 20.28.050(F) as identified in **Exhibit A** or as may otherwise be approved by the Fire Marshal.
2. All townhomes within individual townhouse buildings and shared court buildings shall be built concurrently. Townhouse and shared court buildings shall generally be built in clusters as shown on the proposed site plan. Infrastructure such as vehicular and pedestrian access and utilities shall be constructed and installed prior to or concurrently with the development of the townhouse/shared court buildings.
3. All buildings shall be constructed and finished with the level of detail shown and described on **Exhibit A**, including, but not limited to siding material and direction, roof pitch, window wrap, trim, window size and placement, front porch details and the entries off the lane common and the pedestrian walkways.
4. The auto courts of the shared court units require additional embellishment to meet the intent of the code under BMC 20.28.120. The proposal shall be required to add an architectural design and/or use of different materials to meet shared court design standards to be determined at the time of building permit review.
5. Pursuant to BMC 20.28.120, the design of the shared court is meant to be the front door of the units and there are limited windows facing the court. In order to meet the intent of the shared court standards and in accordance with Crime Prevention through Environmental Design principles additional windows on the land and court side of the garages shall be required to be determined at the time of building permit review.
6. Pursuant to BMC 20.28.050.G.8, parking is not allowed within the lane width. The proposed guest parking spaces within the private lane accessed from Dover St. shall be required to be removed from the site plan at the time of building permit review.
7. In accordance with the Building Design requirements under the MFDR Handbook the east elevation of the townhouses abutting Northwest Ave. shall be required to incorporate vertical windows.
8. In accordance with the MFDR Handbook standards the applicant should consider incorporating additional windows in the garage and bathroom of the east elevation of the townhouses abutting Northwest Ave. to avoid the appearance of blank walls.
9. In accordance with the townhouse design standards under BMC 20.28.140, Lots 12 and 13 shall be required to incorporate a pedestrian walkway to the common pedestrian corridor to be determined at the time of building permit review.
10. The site plan elements shown and described in **Exhibit A** shall be provided concurrently with the development of the associated structures.
11. The landscape plan in **Exhibit A** is approved as a preliminary design. A final landscaping plan pursuant to BMC 20.38.050(B) and BMC 20.28.140(D)(F) and (G) shall be submitted prior to or with the first building permit application for review and approval.
12. In accordance with the MFDR Handbook standards the alley and associated maneuvering area behind the townhouses abutting Northwest Ave. shall be reduced and/or increased landscaping shall be incorporated to decrease the dominance of the surface parking area.
13. Pursuant to BMC 20.28.050, trees are required on both sides of private lanes. The proposal shall be required to incorporate trees on both sides of the private lanes at the time of building permit review.

14. In accordance with the MFDR Handbook standards, the applicant should consider incorporating appropriate landscaping and/or fencing within the private usable space east of the townhouses abutting Northwest Ave.
15. Retaining and foundation walls over two feet (2') in height shall include a textured finish and/or a planting plan that adequately mitigates the blank face of a wall from the pedestrian level. The final designs shall be provided for city review through the building permit application review process.
16. Garbage collection. Any outside trash and recycling facilities shall be screened from view on at least three sides and constructed with durable materials consistent with the architecture of the townhouse buildings. The final location of these facilities shall be approved by Sanitary Services Company and may not conflict with any performance standards in the Bellingham Municipal Code.
17. All fencing fronting Northwest Ave. and within front and side street setbacks and abutting private lanes and pedestrian corridors are limited to 42 inches in height and must be no more than 60 percent opaque. Chain link or cyclone fencing is not allowed when associated with the residential units.
18. The Developer shall submit a site lighting plan for review and approval by the city concurrent with the first building permit application for the proposal. Lighting shall be provided for entries, walkways, common areas and parking areas with sufficient lighting levels to provide a safe environment. All light fixtures shall be directed downward and bulbs shall not be visible. The lighting plan shall address the applicable design standards and be sized, shielded, and directed to avoid adverse impacts and spillover onto adjacent properties. The lighting plan shall include the following information:
  - a. A photometric site plan, drawn to scale, showing all buildings, walkways and parking areas, fixture and pole height, and include all proposed exterior lighting fixtures and foot-candle spread. Outdoor lighting shall not exceed 1.5-foot candles at the property line.
  - b. Design specifications for all proposed exterior lighting fixtures shall include photometric data, cutoff devices, bulb wattage/type, and other descriptive information.
  - c. The lighting must also be, as much as physically possible, contained to the subject property.

#### **D. STREETS, UTILITIES, ACCESS AND DEDICATIONS**

1. Access to the site shall be limited to a shared driveway with the northern abutting property off Northwest Ave. and a private lane from Dover St. as shown on **Exhibit A**. In accordance with BMC 20.28.050, the private lane accessed from Dover St. shall be required to have a pedestrian facility on both sides of the lane as determined at the time of building permit review.
2. The extension of public water and sewer mains to serve each lot and to provide the orderly extension of utilities shall be installed as determined necessary by the City Engineer through a public facilities construction agreement.
3. Stormwater management shall be provided in accordance with Chapter 15.42 BMC and all stormwater facilities shall be dedicated to the city unless determined otherwise by the City Engineer. Any open treatment and detention facility, including swales, rain gardens, and rock vaults, shall be designed to fit within the natural surroundings to the



maximum extent practicable and be accessible for maintenance, regardless of ownership. Landscaping, if determined necessary for these facilities, shall be designed by a licensed landscape architect and/or wetland biologist. The landscape plan shall be reviewed and approved by the city and include an irrigation system if drought tolerant plants are not used.

If a detention facility, above or below grade, is located within an area required to meet minimum landscaping requirements, a landscape architect shall determine an appropriate soil depth atop the facility to ensure required landscaping has sufficient soil depth to survive.

4. Street trees. Street trees shall be installed pursuant to BMC 23.08.080(G)(5) and 23.08.080(C).
5. The applicant shall be required to document compliance with the required green factor score during the building permit submittal.
6. The applicant shall be required to obtain updated transportation concurrency approval from the Public Works Department.
7. All required public and private easement documents as required by this Consolidated Permit and the preliminary plat shall be submitted to the city concurrently with checkprints for review and approval by the city departments and recorded concurrently with the final mylars. Required easements include, but are not limited to common wall agreements for the townhouse/shared court units, use, utility and access easements for access and parking, open spaces, pedestrian access and landscaping, utility easements, and building easements necessary to comply with the building code.
8. Note: The City will not accept private pump stations to discharge to a public vault.
9. Note: The applicant shall be required to provide addressing and associated signage in accordance with the Fire Department requirements at the time of Building Permit and/or prior to final plat approval.
10. Note: The applicant should consider having the common areas in separate tracts instead of included in the lots as shown. The tracts could then be owned by the association through a common interest community.

## **VI. AMENDMENT**

Amendments to this permit may be requested by the owner and approved by the Director in writing, provided such amendments do not substantially change or alter major elements of the project.

## **VII. EXPIRATION**

This combined approval for design review and infill housing is valid for two (2) years pursuant to BMC 21.10.260 (C)(1).

Pursuant to BMC 21.10.260 (C)(3), if a complete building permit application is filed prior to the expiration of the land use permit, the vested status of the permit shall be automatically extended for the time period during which the building permit application is pending prior to

issuance; provided, that if the building permit application expires or is cancelled, the vested status of the permit or approval shall also expire or be cancelled. If a building permit is issued and subsequently renewed, the vested status of the subject permit or approval under the permit shall be automatically extended for the period of the renewal.

### VIII. APPEAL

Pursuant to BMC 21.10.110(K), this combined permit may be appealed within 14-days from the date of the Notice of Decision to the City's Hearing Examiner. Procedures for appeal to the Hearing Examiner are contained within BMC 21.10.250. Any appeal must be filed with the Planning and Community Development Department on the appropriate forms and be accompanied by a filing fee as established by the City Council prior this established appeal period.

Prepared by:



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Ryan Nelson, Planner II

Approved by:



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Kathy Bell, Senior Planner  
Planning and Community Development Department