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**THE HEARING EXAMINER OF THE CITY OF BELLINGHAM  
WHATCOM COUNTY, WASHINGTON**

<b>IN RE:</b>	<b>HE-23-PL-022</b>
<b>HOME HAVEN PROPERTIES INC., Applicant</b>	<b>FINDINGS, CONCLUSIONS, AND DECISION</b>
<b>4185 Northwest Road</b>	
<b>SUB2022-0031 / Northwest Village Preliminary Plat</b>	<b>SHARON A. RICE HEARING EXAMINER</b>

**SUMMARY OF DECISION**

The request for approval of a preliminary plat to subdivide an 89,593 square foot parcel infrastructure at 4185 Northwest Avenue in Bellingham, Washington into nine shared court units and 10 infill townhomes with associated is **APPROVED** subject to conditions.

**SUMMARY OF RECORD**

**Request:**

Sean Hegstad, on behalf of Home Haven Properties Inc. (Applicant), requested approval of a preliminary plat to subdivide an 89,593 square foot parcel into nine shared court units and 10 infill townhomes through the Type III review process. The subject property is addressed as 4185 Northwest Avenue, Bellingham, Washington.

**Hearing Date:**

The Bellingham Hearing Examiner conducted a hybrid open record hearing on the request on January 24, 2024. The record was held open two business days to allow for public comment, with additional time for responses by the parties. No post-hearing comment was submitted, and the record closed on January 26, 2024. The Examiner requested, and the Applicant agreed to, a five day business day extension of the

1 decision issuance deadline. No in-person site visit was conducted, but the Examiner  
2 viewed the property on Google Maps.

3 **Testimony:**

4 At the hearing the following individuals presented testimony under oath:

5 Sean Hegstad, Applicant Representative

6 Jeremy Disch, Professional Land Surveyor, Applicant Representative

7 Charles Vogel, owner of the subject property

8 Ryan Nelson, Planner II, City of Bellingham

9 **Exhibits:**

10 At the open record hearing, the following exhibits were admitted in the record:

11 Exhibit 1 Planning and Community Development Department Staff Report including  
12 the following attachments:

13 A. Architectural and Civil Plans including Landscaping Plans, dated January  
14 2, 2024 and December 21, 2023

15 B. Consolidated Design Review & Critical Areas Permits and SEPA review  
16 (DR2022-0020/CAP2022-0033SEP2022-0029)

17 C. Vicinity Map

18 D. Zoning and Comprehensive Plan Designation Map

19 E. Land Use Application materials

20 1. Land Use Application

21 2. Response to Subdivision Performance & Decision Criteria

22 F. Request for Information (RFI), dated September 27, 2022

23 G. Applicant's response to RFI, dated October 3, 2023

24 H. RFI, dated November 13, 2023

25 I. Notice of Application/Mailing list, dated November 13, 2023

26 J. Public Comment

27 K. Applicant's response to RFI, dated January 2, 2024

28 L. Notice of Public Hearing

29 M. SEPA Determination of Non-Significance, dated January 17, 2024

30 N. Aerial Map

- 1 O. Critical Area Report prepared by Cantrell & Associates, Inc., dated July
- 2 31, 2019
- 3 P. Preliminary Stormwater Plan prepared by Impact Design LLC, dated
- 4 September 20, 2023
- 5 Q. Map of schools in the vicinity
- 6 Exhibit 2 Comment email from Dean Longwell, dated January 19, 2024, with
- 7 Attachments A through H
- 8 Exhibit 3 Wendy Zheng comment email, dated January 24, 2024, with attached
- 9 response from Ryan Nelson also dated January 24, 2024

10 After considering the testimony and exhibits submitted, the Hearing Examiner enters  
 11 the following findings and conclusions:

**FINDINGS**

*Site and Surroundings*

- 13 1. Sean Hegstad of Haven Design Workshop, on behalf of Home Haven Properties
- 14 Inc. (Applicant), requested approval of a preliminary plat to subdivide an
- 15 89,593 square foot parcel into nine shared court units and 10 infill townhomes
- 16 with associated infrastructure. The subject property is addressed as 4185
- 17 Northwest Avenue, Bellingham, Washington.<sup>1,2</sup> *Exhibits 1, 1.B, and 1.E.*
- 18 2. The subject property is located in Area 2 of the Meridian Neighborhood and has
- 19 a Residential Single, Planned, Mixed zoning designation, allowing up to four
- 20 units per acre. This zone requires a 10,000 square foot minimum detached
- 21 single-family residential lot, and allowed mixed uses may include cluster
- 22 attached/detached (one lot per 10,000 square feet) and multifamily units (one
- 23 unit per 3,600 square feet). The Comprehensive Plan land use designation of
- 24 the subject property is Residential Single, Low to Medium Density.
- 25 Development in Area 2 of the Meridian Neighborhood is subject to special
- 26 conditions for access, spacing of curb cuts along Northwest Avenue, drainage,
- 27 wetlands, and buffers. The property is a legal lot of record created prior to the

25 <sup>1</sup> The legal description of the property is stated in the notice of public hearing as follows: “Northwest  
 26 Baker View Tracts Lot 7 – exc W 270 ft thereof.” *Exhibit 1.L.*

27 <sup>2</sup> The staff report and some record documents identify the total area of the site as 87,693 square feet,  
 28 while other documents identify the area as 89,593 square feet. At hearing, Planning Staff stated that the  
 29 Assessor record corroborates 89,593 square feet, recommended that this figure be used in the findings,  
 and stated that the Applicant would be required to confirm accurate site dimensions during the civil  
 engineering process if land use approvals are granted. *Exhibits 1 ad 1.B; Ryan Nelson Testimony.*

1 adoption of the City's current subdivision ordinance. *Exhibits 1 and 1.D;*  
2 *Bellingham Municipal Code (BMC) 20.00.110.*

- 3 3. Properties to the north, south, and west share the subject property's Residential  
4 Single, Planned Mixed zoning. The property to the east is located in Area 19 of  
5 the Cordata Neighborhood and has a Commercial Planned zoning designation.  
6 Whatcom Transit Authority provides bus service in Northwest Avenue abutting  
7 the subject property. *Exhibit 1.*
- 8 4. Roughly rectangular in shape (with an angled east lot line), the subject property  
9 abuts Northwest Avenue along its eastern boundary. Currently the subject  
10 property is improved with a single-family residence with outbuildings and  
11 appurtenances, accessed by a shared driveway with the parcel to the north at the  
12 location of the shared property line. The parcel neither contains nor abuts alley  
13 right-of-way. To the north and west of the site are similarly sized large lots that  
14 are also developed with single-family residences or are vacant. A subdivision  
15 known as Northwest Road Plat abuts to the south, accessed from Northwest  
16 Avenue by Garland Lane, in which the relatively smaller lots are developed with  
17 detached single-family residences. Garland Lane dead-ends into a short  
18 segment of Dover Street at the western edge of the Northwest Road Plat. The  
19 Dover Street improvements abut the southwest corner of the subject property.  
20 Across Northwest Avenue from the subject property, there is a Puget Sound  
21 Energy electric substation. Arctic Avenue runs north-south to the west of the  
22 site, separated by one large, vacant parcel. *Exhibit 1.A (Sheets SH1 and SH2);*  
23 *Google Maps site view.*
- 24 5. The subject property is relatively flat with areas of rolling topography and is  
25 forested outside of the residential footprint with primarily deciduous species.  
26 Two offsite wetlands have been delineated by qualified professionals to the  
27 north and west of the subject property. Both are Category III wetlands with low  
28 habitat scores; each requires a standard 80-foot buffer pursuant to the City's  
29 critical areas ordinance, as established at Bellingham Municipal Code (BMC)  
30 16.55.340.B(3). Over the course of time the subject property has been under  
review for the current proposal, a later delineation of the wetlands located on  
the vacant parcel addressed as 4179 Dover Street determined that the buffers of  
the offsite wetlands do not encroach onto the subject property. *Exhibits 1, 1.B,*  
*and 1.J; Ryan Nelson Testimony.*
6. In addition to the subdivision under consideration in the instant Type III-B  
decision, which is decided by the City's hearing examiner pursuant to BMC  
21.10.040.E(1), the project also requires approval of several Type II permits,

1 which are administratively decided pursuant to BMC 21.10.040.C, including  
2 infill toolkit/multifamily design review, critical areas permit review, and State  
3 Environmental Policy Act (SEPA) review. As provided in BMC 21.10.050, the  
4 Applicant elected not to consolidate the review of the Type II applications with  
5 the Type III application. The Planning Department reviewed and, on January  
6 17, 2024, issued a consolidated permit for the Type II applications conditioned  
7 upon Hearing Examiner approval of the preliminary plat. *Exhibits 1 and 1.B.*

6 7. The approved critical area permit (CAP2022-0033) concluded there are no  
7 regulated critical areas or associated buffers within the subject property.  
8 Approved multifamily design review permit DR2022-0020 concluded that the  
9 proposal is consistent with the scale and style of development in the area, that  
10 the proposed buildings are similar in height, bulk, and mass to existing  
11 development and would not be out of character with the neighborhood, and that  
12 conditioned to preserve existing trees within the open space area in the  
13 southeast corner of the subject property in order to comply with greenfactor  
14 landscaping requirements, the proposal complies with the Multifamily  
15 Residential Design Handbook. *Exhibits 1 and 1.B.*

14 8. The City of Bellingham Planning and Community Development Department  
15 assumed the role of lead agency for review of the proposal's compliance with  
16 the requirements of the State Environmental Policy Act (SEPA). Having  
17 reviewed the SEPA environmental checklist, architectural and civil plans  
18 including landscaping plans, the project's and other critical area reports, and a  
19 preliminary stormwater plan (among other information on file with the  
20 Department), the SEPA Responsible Official determined that the requirements  
21 for environmental analysis, protection, and mitigation are adequately addressed  
22 in the City's development regulations and Comprehensive Plan and in other  
23 applicable local, state, or federal regulations, and that no additional mitigation  
24 measures are required under SEPA. The project's SEPA threshold  
25 determination of non-significance (SEP2022-0029) became final on January 17,  
26 2024. *Exhibit 1.M.*

24 *Proposal*

25 9. The proposal would subdivide the subject property into 19 fee simple lots  
26 ranging from 2,746 to 8,305 square feet in area. All access and utility  
27 infrastructure would be installed within easements on the 19 lots. At the west  
28 end of the site, "shared court" Lots 1 through 9 would be improved with  
29 townhomes in four buildings organized around two shared courtyards, which  
30 would access by a shared public access and utility easement (over a private lane)  
along the southern site boundary that would connect to the public road network

1 via an off-site cul-de-sac installed by the Applicant where existing improved  
2 Dover Street contacts the southwestern corner of the site. At the east end of the  
3 site, Lots 10 through 19 would be developed with townhomes in three buildings  
4 to be accessed by a new shared driveway in the same location as the existing  
5 shared driveway serving the site and the parcel to the north. All units would be  
6 shared wall/zero setback townhomes, each with private open space and two  
7 garage parking stalls and two driveway parking stalls. The residential buildings  
8 are placed set well back from the site perimeter, where access roads and  
9 landscaping are proposed between the site and adjacent properties, with a  
10 generous setback between the buildings and the south site boundary. There  
11 would be 12 surface guest parking stalls, six in each portion of the project.  
12 Landscaped common open spaces are proposed in both portions of the project.  
13 *Exhibits 1.A, 1.B, and 1.E.*

- 10 10. As established in BMC 20.28.050.B, density is specified in the zoning table and  
11 if there is more than one density listed, the highest listed density for any housing  
12 type specified in the applicable neighborhood subarea pursuant to zoning tables  
13 in BMC Chapter 20.00 is the maximum possible density. The smallest lots  
14 allowed in the zoning tables are 1,800 square feet, which makes the maximum  
15 possible density for infill toolkit residential uses on site 48 units. The proposed  
16 19 units are an allowed density per the zoning regulations. *Exhibit 1.* Of note,  
17 there are no minimum lot widths, minimum lot sizes, or minimum street  
18 frontage requirements for infill toolkit projects, and the proposed lot sizes and  
19 dimensions are allowed. *BMC 20.28.050.C.*
- 18 11. The proposed townhouses would be served by existing public water, sewer, and  
19 stormwater utilities extended from Northwest Avenue and Dover Street into the  
20 site and to each unit. As proposed, the project would install a looped water main  
21 to meet fire flow requirements and provide individual water service connections.  
22 The record contains no information that calls the capacity of municipal utilities  
23 to serve the proposed lots into question. Private and public utility easements are  
24 called out in the plan set on Exhibit 1.A, Sheet SH5. A condition has been  
25 recommended to ensure appropriate easements are legally in place at time of  
26 final plat in order to comply with the requirements of BMC 23.08.070.E.  
27 *Exhibits 1, 1.A, and 1.B.*
- 26 12. The application materials included a preliminary stormwater report, which was  
27 reviewed and accepted by City Staff. Stormwater management would be  
28 accomplished onsite with multiple stormwater vaults and via an easement  
29 planned to be obtained from the northern property owner for off-site stormwater  
30 dispersion a wetland buffer, which would require its own critical area permit

1 addressing temporary impacts.<sup>3</sup> Planning Staff indicated that the parcel to north  
2 has begun review for development, and it is anticipated that that property's  
3 development proposal would include the instant project's proposed stormwater  
4 dispersion in the wetland buffer. An Applicant representative testified that  
5 easement agreement has been reached, but that recording would not occur until  
6 plat recording. For the purposes of this project, if the Applicant is unable to  
7 obtain a stormwater easement from the property owner to the north, or if a  
8 critical area permit is not approved allowing stormwater discharge in the  
9 wetland buffer, the Applicant would have to revise the instant project's  
10 stormwater plan to comply with BMC 15.42 and 16.55. In any case, a final  
11 stormwater report demonstrating compliance with all applicable standards in  
12 BMC 15.42 would be required to be submitted for Public Works' review and  
13 approval prior to final plat approval. *Exhibits 1 and 1.P; Jeremy Disch*  
14 *Testimony.*

11 13. Forming the site's east boundary, Northwest Avenue is a 60-foot arterial right-  
12 of-way currently developed with two travel lanes in each direction with center  
13 turn lane, bicycle lanes, and sidewalk, curb, gutter (stormwater) on both sides.  
14 The Applicant is required to dedicate 10 feet of additional right-of-way along  
15 Northwest Avenue to accommodate future infrastructure improvements in  
16 alignment with the property to the south. *Exhibit 1.*

16 14. The subject property and adjacent properties to the north and west all abut  
17 arterial streets and are surrounded by wetland buffers. Access restrictions  
18 resulting from these circumstances create challenges for designing transportation  
19 infrastructure needed to serve the dwelling units contemplated by the zoning.<sup>4</sup>  
20 Regarding Dover Street, there are also topography (grade) issues that make  
21 extending Dover Street to connect to the parcel north of the subject property a  
22 challenge. In light of the fact that BMC 20.28.050 allows infill toolkit units to  
23 be served by private lanes, the City Engineer determined consistent with  
24 authority in BMC 23.08.070 that additional right-of-way is not required to be  
25 dedicated for Dover Street to accommodate future traffic circulation. *Exhibit 1.*

24 15. The proposal would modify/improve the existing shared access driveway at the  
25 site's northeastern corner to provide continued access from Northwest Avenue  
26 for Lots 10 through 19, consistent with the review requirements imposed by the

27 <sup>3</sup> Stormwater conveyance systems may be located in wetland buffers if approved by the Public Works and  
28 Planning Directors. *BMC 16.55.330.*

29 <sup>4</sup> The Examiner notes that the City's street standards limit access points on an arterial street and  
30 encourage use of combined access points where appropriate to ensure safety. *See Exhibit 1.*

1 Public Works Department. From a modified entrance located almost entirely on  
2 the property to the north, the public utility and access easement would proceed  
3 along the northern site boundary for approximately half of the parcel depth. A  
4 30-foot wide emergency vehicle turnaround would extend south from this  
5 northern access easement at a point approximately 150 west of the site entrance.  
6 *Exhibits 1 and 1.A; Sean Hegstad Testimony.*

6 16. Lots 1 through 9 would take vehicular access from a 30-foot wide public utility  
7 and access easement (to be called Dover Lane) entering the site from Dover  
8 Street at the west end of the plat and proceeding east along approximately half  
9 of the southern site boundary. The City's Public Works Department determined  
10 that an approved emergency vehicle turnaround area (cul-de-sac) is required to  
11 be constructed by the Applicant off site in the Dover Street right-of-way through  
12 a public facility construction agreement. Two access driveways, designed  
13 consistent with infill toolkit requirements established in BMC 20.28.050, would  
14 extend north from Dover Lane into the shared courtyards between the buildings.  
15 The east-most driveway would be configured as a 25-foot wide emergency  
16 vehicle turnaround in a public easement over the underlying lots. *Exhibits 1 and*  
17 *1.A.* No vehicular connection is proposed between the two sections of lots in the  
18 project. Pedestrian connections would be provided by installation of five-foot  
19 wide sidewalks along one side of each of the private access lanes and in the  
20 form of pedestrian paths from Northwest Avenue, among the recreational open  
21 space areas, to each shared courtyard, and through to Dover Street. *Exhibit 1.A;*  
22 *Sean Hegstad Testimony.*

18 17. The project provides various kinds of open space on the lots. A total of  
19 approximately 15.2% of the total site area is set aside in common open space for  
20 active recreation, and an additional 11.81% of the total site area would be  
21 landscaped and accessible to all lots as passive open space, all of which would  
22 be landscaped and maintained by the property owners association. Each lot  
23 would have covered porch outdoor useable space amounting to a total of 3.29%  
24 of the site. Each lot would also contain private landscaped open space, with  
25 areas ranging from 264 to 1,220 square feet, adding up to 11.93% of the site.  
26 Off site, recently developed Cordata Park is located approximately 5,000 feet  
27 away from the site. Another small public neighborhood park is anticipated  
28 within the residential development abutting Talus Way northwest of the subject  
29 site by approximately 1,150 feet. The adopted Bellingham Parks, Recreation,  
30 and Open Space (PRO) Plan identifies no proposed public amenities on or  
adjacent to the subject property. *Exhibits 1 and 1.A, Sheet SH4.*



1 18. School aged residents of the plat would be served by Bellingham School District  
2 facilities at Alderwood Elementary, Shuksan Middle, and Squalicum High  
3 Schools. *Exhibit 1.Q*. All three schools are greater than one mile from the site,  
4 meaning students would be bussed to these schools. Sidewalks in the project  
5 and along the site frontage would provide connections to offsite sidewalks and  
6 school bus stops. Impacts to school capacity would be mitigated through the  
7 payment of school impact fees consistent with City ordinances. *Exhibit 1;*  
8 *Google Maps site view.*

9 19. The City of Bellingham Comprehensive Plan land use map designates the  
10 subject property as Multi Family Residential, High Density. Planning Staff  
11 submitted that the following goals and policies of the Bellingham  
12 Comprehensive Plan are applicable:

13 Land Use

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

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

19 Housing

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

22 Capital Facilities and Utilities

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

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

29 Policy CF-4 Protect public health, enhance environmental quality, and  
30 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.



1 and did not otherwise provide facts suggesting that the criteria for permit  
2 approval have not been satisfied. *Exhibit 2.*

3 22. In response to the public comment about accessing elsewhere than Garland and  
4 security concerns about a walking path, Planning Staff expressed understanding  
5 of the neighbors concerns but stated that there is no feasible alternate access to  
6 the rear of the property due to wetland, topography, and arterial access  
7 restrictions in effect on and around the site. Regarding the desire of the  
8 neighbor not to have a walking path across the rear of their parcel, Staff  
9 submitted that common green space is typically considered a very favorable,  
10 “neighborly” improvement to place adjacent to existing offsite development and  
11 that open space provides more opportunity for “eyes on” crime prevention  
12 through environmental design techniques than would rear yards of adjacent  
13 private parcels. Planning Staff supports the design, which has already received  
14 design review approval, as is. *Exhibit 1.B; Ryan Nelson Testimony.* Addressing  
15 concern about traffic congestion in the area, transportation impact fees would be  
16 paid on a per lot basis consistent with City ordinance. *BMC Chapter 19.06.*

17 23. Having reviewed the complete materials and heard all testimony at hearing,  
18 Planning Staff maintained their recommendation for approval subject to the  
19 conditions in the staff report. *Exhibit 1; Ryan Nelson Testimony.* Applicant  
20 representatives waived objection to the recommended conditions. *Testimony of*  
21 *Sean Hegstad, Jeremy Disch, and Charles Vogel.*

## 18 CONCLUSIONS

### 19 Jurisdiction

20 The Hearing Examiner is granted authority to hold hearings and make decisions on  
21 preliminary plat applications pursuant to RCW 58.17 and BMC 2.56.050.A(1).

### 22 Criteria for Review

23 Pursuant to Bellingham Municipal Code 23.16.030.A, preliminary plats shall be given  
24 approval, including preliminary plat approval subject to conditions, upon finding by the  
25 hearing examiner that all of the following have been satisfied:

- 26 1. It is consistent with the applicable provisions of this title, the Bellingham  
27 comprehensive plan and the Bellingham Municipal Code;
- 28 2. It is consistent with the applicable provisions of Chapter 23.08 BMC;
- 29 3. The division of land provides for coordinated development with adjoining  
30 properties or future development of adjoining properties through, where

1 appropriate, the extension of public infrastructure, shared vehicular and  
2 pedestrian access, and abutment of utilities;

- 3 4. Each lot in the proposal can reasonably be developed in conformance with  
4 applicable provisions of the BMC, including but not limited to critical areas,  
5 setbacks, and parking, without requiring a variance that is not processed  
6 concurrently with the subdivision application pursuant to Chapter 23.48 BMC;
- 7 5. There are adequate provisions for open spaces, drainage ways, rights-of-way,  
8 sidewalks, and other planning features that assure safe walking conditions for  
9 pedestrians, including students who walk to and from school, easements, water  
10 supplies, sanitary waste, fire protection, power service, parks, playgrounds, and  
11 schools; and
- 12 6. It will serve the public use and interest and is consistent with the public health,  
13 safety, and welfare. The director shall be guided by the policy and standards  
14 and may exercise the powers and authority set forth in Chapter 58.17 RCW, as  
15 amended.

#### 13 **Conclusions Based on Findings**

- 14 1. As conditioned, the proposal is consistent with the applicable provisions of this  
15 title, the Bellingham Comprehensive Plan, and the Bellingham Municipal Code.  
16 The subdivision regulations in BMC Title 23 underwent review for compliance  
17 with SEPA and the City's Comprehensive Plan at the time of their adoption. In  
18 this case, approval of the consolidated permit prior to plat hearing demonstrated  
19 that development of the proposed lots can be achieved in compliance with the  
20 applicable regulations. The Area 2 special conditions that apply to the site's  
21 Residential Single, Planned, Mixed zoning designation have been addressed  
22 through restricted access management onto Northwest Avenue and Dover Street  
23 (with emergency turnarounds and public access easements), through the  
24 approved critical areas permit that reviewed wetlands on adjacent parcels, and  
25 through conditions that would require formal approval of proposed stormwater  
26 discharge into the adjacent wetland buffer. The proposal fulfills the intent of the  
27 land use, housing, capital facilities and utilities, and environmental chapters of  
28 the Comprehensive Plan by establishing infill residential development in an area  
29 served with adequate municipal utilities and infrastructure. *Findings 2, 4, 5, 6,  
30 7, 8, 9, 11, 12, 15, 16, 19, 21, 22, and 23.*
- 30 2. As conditioned, the proposal would be consistent with the applicable provisions  
of BMC Chapter 23.08. The proposal adds infill development to a neighborhood  
that contains walkable streets that connect to adjacent residential neighborhoods  
and recreational facilities in the area. The project would efficiently use the land  
to increase the unit yield while honoring the natural features on the adjacent

1 properties and preserving trees to the extent possible. The proposed density is  
2 allowed in the zone without application of any bonus. The 19 proposed lots  
3 comport with infill tool kit performance standards and applicable development  
4 standards of the underlying zone, and as shown in the approved design review  
5 permit, all can be reasonably developed as proposed. Through public access  
6 easement connection via private lane to Dover Street and the Northwest Avenue  
7 arterial, and with extension of the utilities to each lot, the proposal the  
8 subdivision requirement to abut street and utilities. Proposed open space exceeds  
9 the minimum required and would serve all lots in the development with both  
10 active and passive common open space opportunities, in addition to the private  
11 open space and covered porch area on each fee simple lot. The preliminary  
12 stormwater report demonstrated that, with conditions, the project can meet  
13 stormwater management, erosion control, and critical area protection  
14 requirements with respect to management of runoff from all proposed  
15 impervious surfaces. Conditions would ensure that all required easements and  
16 final landscape plans would be reviewed in future review processes. *Findings 2,*  
17 *3, 6, 7, 9, 10, 11, 12, 13, 15, 16, 17, 21, 22, and 23.*

13 3. As proposed, the plat layout shows careful consideration of potential future  
14 development opportunities on the under- and undeveloped parcels abutting to the  
15 north and west, by placing the project's internal roadways at the shared  
16 boundaries. This arrangement not only limits vehicle trips added to the  
17 Northwest Avenue arterial, but it also limits trips distributed to smaller Garland  
18 Lane, reducing impacts to existing neighboring residences. The proposed design  
19 also places all dwellings in the interior of the property with access lanes and  
20 landscaped spaces along as much of the exterior boundary as possible, buffering  
21 existing off site uses from the impacts of the proposed residences. *Findings 2, 3,*  
22 *4, 5, 6, 7, 9, 13, 14, 15, 16, 21, 22, and 23.*

21 4. Approval of the consolidated Type II permits successfully demonstrates that each  
22 lot can be developed in conformance with applicable regulations pertaining to  
23 critical areas, applicable zoning setbacks and/or infill toolkit performance  
24 standards, and parking without requiring a variance. Each lot provides private  
25 landscape open space and covered outdoor space, and each has access to  
26 common active and passive recreation open spaces. *Findings 6, 7, 9, 10, 11, and*  
27 *17.*

27 5. As concluded above, the proposed open space meets or exceeds the minimum  
28 code requirement. As concluded above, each lot provides private open space in  
29 addition to the common open space areas. Sidewalks and pathways along the  
30 private lanes would connect to existing offsite pedestrian facilities that connect to

1 school bus and public transit stops in the vicinity. Each lot would connect to  
2 public water, sewer, and storm sewer facilities in the abutting easements and  
3 rights-of-way. School, park, and transportation impact fees would be paid on a  
per lot basis at time of building permit. *Findings 3, 9, 11, 15, 16, 17, 18, and 22.*

- 4 6. The record contains no information that would support the conclusion that the  
5 project cannot comply with all applicable standards and policies of the City  
6 meant to preserve the public health, safety, and welfare. The plat has been  
7 designed to comply with emergency access standards. The project was reviewed  
8 for compliance with SEPA and a DNS was issued. The public interest would be  
9 served by the creation of the proposed infill lots where urban services are  
available. *Findings 2, 4, 5, 6, 7, 8, 9, 11, 12, 15, 16, 17, 18, 21, 22, and 23.*

### 10 **DECISION**

11 Based on the preceding findings and conclusions, the requested preliminary plat  
12 subdividing the property currently addressed as 4185 Northwest Avenue in Bellingham  
13 into nine shared court units and 10 infill townhomes with associated infrastructure is  
14 **APPROVED** subject to the following conditions:

#### 15 A. General Requirements

- 16 1. The plat shall be developed generally consistent with the lot layout on Exhibit  
17 1.A as conditioned.
- 18 2. Preliminary plat approval is contingent upon the approval of a Consolidated  
19 Permit for Type II land use decisions for infill toolkit/multifamily design review,  
20 critical areas permit and SEPA review in accordance with Chapters 20.25, 16.55  
21 and 16.20 BMC and all conditions of that permit shall be deemed conditions of  
22 approval of this preliminary plat approval.
- 23 3. Modifications to this decision shall be processed in accordance with BMC  
24 23.16.090.
- 25 4. A clearing and grading plan for the property, including rights-of-way, shall be  
26 submitted for review and approval by the Planning and Public Works  
27 Departments concurrent with review of civil drawings for the infrastructure.
- 28 5. Development of the property shall be consistent with the provisions of BMC  
29 Title 23, and with the description of the proposal contained in the determination  
30 of non-significance, except as otherwise provided herein.

1 6. Impact fees for transportation, schools and parks shall be paid in accordance with  
2 applicable BMC requirements.

3 7. Preliminary plat approval shall expire as provided in BMC 23.16.070.

4 **B. Conditions For Final Plat Approval**

5 The Applicant shall obtain all necessary permits and/or approvals from the City  
6 necessary to satisfy the following conditions prior to final plat approval pursuant to  
7 Chapter 23.16 BMC.

8 1. Access to the site shall be provided through a shared access easement with the  
9 northern abutting property to Northwest Ave. as shown on Exhibit 1.A. The  
10 Applicant shall be required to submit a shared access easement for City review  
11 and approval which shall be recorded with the Whatcom County Auditor prior to  
12 final plat approval.

13 2. The Applicant shall be required to obtain a Public Facilities Construction  
14 Agreement and obtain final approval from the City for the construction of an  
15 approved public turnaround in the existing Dover Street right of way abutting the  
16 subject property and 4179 Dover St. prior to final plat approval.

17 3. The Applicant shall be required to dedicate 10 feet of additional right-of-way  
18 abutting Northwest Avenue to the City for potential future public infrastructure  
19 improvements prior to final plat approval.

20 4. The Applicant shall be required to extend water/sewer/stormwater mains in  
21 accordance with Public Works Department requirements within the subject  
22 property. The public utility main extensions shall require public utility easements  
23 reviewed and approved by the City and recorded with the Whatcom County  
24 Auditor prior to final plat approval. The required public infrastructure  
25 construction shall be completed and accepted by the City prior to final plat  
26 approval.

27 5. The Applicant shall be required to submit private covenants, conditions, and  
28 restrictions (CC&Rs) for vehicular/pedestrian access, parking, utilities, open  
29 space amenities, waste/recycling, mail service, etc. for City review and approval  
30 prior to final plat approval. The private CC&Rs shall be recorded with the  
Whatcom County Auditor with the recording of the final preliminary plat.

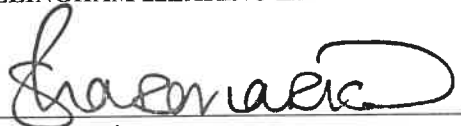
6. Private covenants shall be recorded with the plat to specifically define the  
common, limited common, and private elements of the proposal. The covenants

1 shall also include maintenance obligation of these elements and a cost sharing  
2 mechanism for each.

- 3 7. Mailboxes shall be installed as approved by the United States Postal Service.
- 4 8. The Applicant shall be responsible to obtain any and all necessary Federal and/or  
5 State approvals associated with the proposal.
- 6 9. The following shall be shown on the face of the plat, as applicable:
- 7 a. All existing, required, and proposed easements.
- 8 b. A note stating that all lots are subject to those conditions set forth in this  
9 Order, and as may be amended in accordance with the municipal code.
- 10 c. A note referencing any existing private covenants and any covenants specific  
11 to the proposed lots.
- 12 d. The Applicant shall be required to provide a final stormwater report prepared  
13 by a qualified professional identifying compliance with BMC 15.42 for  
14 Public Works Department review and approval prior to final plat approval.
- 15 e. The proposal is required to provide street trees for every 50 feet of street  
16 frontage.
- 17 10. Pursuant to BMC 16.60.080.A.1, no clearing is permitted on an undeveloped lot  
18 without a valid Building Permit or Public Facility Construction Agreement.
- 19 11. The Applicant shall be required to take reasonable efforts to preserve existing  
20 significant trees on site particularly along the perimeter boundaries of the site and  
21 within open space areas not impacted by utilities. Prior to the issuance of a  
22 building permit and/or any site disturbance, the Applicant shall schedule a site  
23 visit with the planning project manager to inspect the clearing limits and  
24 tree/critical root zone protection.

25 DECIDED February 15, 2024.

26 **BELLINGHAM HEARING EXAMINER**

27   
28 Sharon A. Rice

29 *Findings, Conclusions, and Decision*

30 *Page 16 of 16*

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