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**CONSOLIDATED PERMIT  
PLANNED DEVELOPMENT, DESIGN REVIEW, and CRITICAL AREA  
CONSOLIDATED PERMIT DECISION  
PDP2024-0005, DR2024-0009, CAP2024-0026, and SEP2024-0012  
4030 Cordata Parkway  
Type II Decision**

**I. SUMMARY OF DECISION**

**Proposal:** Proposed development of a single-story, approximately 6,000 square foot (sf) eating establishment with drive-through on a 3.36-acre property currently developed with a surface parking lot. Site development will occur on the north half of the property and the south half will be unchanged and reserved for a future potential development phase. The project includes 79 designated on-site parking spaces for the proposed eating establishment as well as on-site drive through queuing for approximately 35 vehicles, an outdoor dining area, a drive-through canopy, a refuse enclosure, and landscaping throughout. Vehicular access is proposed from the existing curb cut off Cordata Parkway and a new secondary exit-only curb-cut is proposed off Cordata Parkway near the intersection with E Bakerview Road. A Public Works administrative variance has been requested to allow the secondary access to Cordata Parkway per BMC 13.52.040 and BMC 13.52.050.

A segment of the West Fork Spring Creak runs through the northeast corner of the property. The property contains wetland, stream, and geologically hazardous critical areas and buffers regulated by the Critical Area Ordinance (BMC 16.55). Due to the developed condition of the property within an existing parking lot, the wetland buffer is functionally disconnected, therefore a reduced buffer is warranted. The property is legally nonconforming to the standard buffer and the proposed site development does not further impact the buffer per BMC 16.55.130(B).

A Planned Development Permit is required per BMC 20.38. Per BMC 20.25.020(E), all development activities within commercial zones require Commercial Design Review in accordance with BMC 20.25.090. The proposal requires SEPA environmental review per BMC 16.20.090(D) and WAC 197-11-800 as the building is larger than 5,000 sf. A Critical Area Permit is required per BMC 16.55.

**Applicant(s):** Steve Schwartz, Chick-Fil-A, Inc. 5200 Buffington Rd Atlanta, GA 30349 and Andrew Hunt, 4 G Development & Consulting, Inc.

**Owner(s):** BELLIS FAIR MALL TERRITORIES LLC, 1909 TYLER ST STE 403, HOLLYWOOD FL 33020-4533

**Decision:** Approved with conditions

**Date:** **September 6, 2024**

**II. PROPERTY DESCRIPTION**

**Location:** 4030 Cordata Parkway. Area 10 and 17 of the Meridian Neighborhood, zoned Planned, Commercial. Parcel No. 380213452523.

**Abbreviated Legal**

**Description:** BAKERVIEW ADD TO BELLINGHAM LOT 2-UNPLATTED LOT 3 BLK 1-  
EXC PTN PLATTED AS BELLIS FAIR MALL SHORT PLAT- EXC PTN TO  
CITY OF BELLINGHAM FOR STREET DESC AF 960716135

**III. PERMIT PLANS AND EXHIBITS**

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

**Exhibit A** – Architectural and Civil Plans Set prepared by Barghausen Consulting Engineers, Inc, dated 6/18/24.

**Exhibit B** – Planned Development, Design Review, Critical Area and SEPA Applications

**Exhibit C** - SEPA Checklist (dated 4/22/24)

**Exhibit D** - Commercial Design Standards Response Letter prepared by Jason Carey with Barghausen Consulting Engineers, dated 4/25/24.

**Exhibit E** - City Requests for Information (RFIs) letters dated 5/28/24 and 8/1/24

**Exhibit F** - Applicant Responses to RFI dated 6/20/24

**Exhibit G** - Public Comments

**Exhibit H** – Critical Area Reports

- Geotechnical Engineering Report prepared by Takit H. Binoy, PE with Terracon Consultants, dated 10/27/23.
- Landslide Hazard Critical Area Report Memo prepared by Hannah Bortel, GIT with Terracon Consultants and 4/18/24.
- Aquatic Resources Delineation Report prepared by Cailan Patel, Senior Staff Biologist with Terracon Consultants dated 6/14/24.
- Critical Areas Review Wetland and Stream Buffers Letter, prepared by Matt Wheaton, LG, PE with Terracon Consultants, Inc., dated 4/25/24.

**Exhibit I** – Notice of Application and Optional DNS

**Exhibit J** - Stormwater Site Plan prepared Alex Donald Bell PE with Barghausen Consulting Engineers, dated 2/7/24.

**Exhibit K** - Transportation Concurrency Certificate, CON2024-0014, dated 4/23/24.

**Exhibit L** – Supporting Documents

- Parking Memo prepared by Spenser Hayne with TENW, dated 6/18/24.
- SSC Letter 6.20.24
- Title Insurance
- Arborist Memo 6.19.24

**Exhibit M** – Traffic Impact analysis prepared by Transportation Engineering NorthWest (TENW), dated 2/8/24.

**Exhibit N** - MDNS dated 9/6/24

**Exhibit O** – Underlying Planned Contracts (Resolution 34-1986 amended by Resolution 30-1988)

**IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW****A. Applicable Zoning, Standards, and Surrounding Context**

1. The subject site is 153,092 square feet (sf) (3.36 acres) and abuts E Bakerview Road to the north and Cordata Parkway to the west. Both streets are improved arterials with curb, gutter, and sidewalk.
2. The property is developed with a surface parking lot accessed from Cordata Parkway.

3. Site development will occur on the north half of the property and the south half will be unchanged and reserved for a future potential development phase.
4. Vehicular access is proposed from the existing curb cut off Cordata Parkway and a new secondary exit-only curb-cut is proposed off Cordata Parkway near the intersection with E Bakerview Road. A Public Works administrative variance has been requested to allow secondary access to Cordata Parkway per BMC 13.52.040 and BMC 13.52.050.
5. The property straddles 2 areas within the Meridian Neighborhood Plan (Area 10 and Area 17). Both areas are zoned Commercial with a Planned Use Qualifier, and Area 10 is subject to the Bellis Fair Mall Planned Contract (Resolution 34-1986), later amended by Resolution 30-1988 (**Exhibit O**).
6. The proposed use of a drive through eating establishment is a permitted use per Commercial Planned zoning regulations and BMC 20.33.030 and Section 2 of the Bellis Fair Mall Planned Contract (**Exhibit O**).
7. A segment of the West Fork Spring Creak runs through the northeast corner of the property. The site contains wetland, stream, and associated buffers regulated by the Critical Area Ordinance (BMC 16.55). Due to the developed condition of the property within an existing parking lot, the wetland buffer is functionally disconnected, therefore a reduced buffer is warranted. The property is legally nonconforming to the standard buffer and the proposed site development does not further impact the buffer per BMC 16.55.130(B).
8. The areas of the site developed with an existing parking lot are generally flat. Steeper topographical areas exist on the northern portion of the site slope down towards the West Fork Spring Creak. These slopes meet the definition of a critical area landslide hazard and are regulated by BMC 16.55.
9. Site vegetation includes parking lot trees and vegetated perimeter buffers to the north and east containing a mixture of mature evergreen and coniferous trees and shrubs.
10. The site is a legal lot of record, legally described as Bakerview Addition to Bellingham Lot 2-unplatted and Lot 3 Block 1 of the Bellis Fair Mall Short Plan Except the portion dedicated to the City under AF 960716135.
11. The zoning designations of the nearby properties to the north, south, east and west are also Commercial Planned (Areas 21, 10, 9 and 17 of the Meridian Neighborhood). Properties to the north is developed with medical offices and big box retail, properties to the south are developed with the Bellis Fair Mall, properties to the west are undeveloped, and properties to east are developed with a residential condominium complex.
12. The 2024 Bicycle Master Plan identifies separated bike lanes on both sides of Cordata Parkway between Bellis Fair Parkway and E Bakerview Road. Cordata Parkway is 60' wide and cannot accommodate separated bike lanes without additional right-of-way dedication.
13. The proposed scope of work, described in **Section I** above, will require a Public Facilities Construction Agreement (PFC) for improvements to Cordata Parkway including milling and overlaying of the traveled way along the length of the site, extension of the C-curb to restrict turning of the drive-through exit to right-in-right-out, restriping of Cordata Parkway to include northbound and southbound 5' bike lanes as an interim condition until either separated bike lanes or a dual bike lane are constructed, and installation of turn pocket at site access. Additional approvals include building permit(s), public works permit(s), sign permit(s), and potentially right-of-way dedication.
14. The project requires a Planned Development Permit because the eastern portion of the property is not covered within an existing planned contract or permit (BMC 20.38.030(A)). The existing Bellis Fair Mall Planned Contract (**Exhibit O**) underlying the western portion of the property is being retained, and the new planned development permit should comply with the terms and conditions of **Exhibit O**.

15. The project requires SEPA environmental review per BMC 16.20.090(D) and WAC 197-11-305 as the scope includes the construction of a commercial building larger than 5000 sf with more than 20 vehicles.
16. Applicable standard development regulations are found in BMC 20.00.110 Meridian Neighborhood Table of Zoning Regulations, BMC Title 21 Administration of Development Regulations, BMC 20.25 Design Review, BMC 20.33 Planned Commercial Development Regulations, BMC 20.38 Planned Development Permitting Process, BMC 16.20 City of Bellingham Environmental Procedures, BMC 16.55 Critical Areas Ordinance, BMC 16.60 Land Clearing, BMC Title 13 Street Trees, Bellis Fair Concomitant Agreement, and the Bellis Fair Planned Contract and Amendments.

#### **B. Pre-Application**

17. On 5/30/2023, the applicant completed a pre-application conference with City Staff (PRE2023-0051).
18. On 4/2/2024, the applicant held a pre-application neighborhood meeting (PRE2024-0025). 18 neighbors attended the meeting and brought up topics of concerns regarding parking, trees, noise, odor, buffer, light, and hours of operation.

#### **C. Applications and Process**

19. On 4/26/2024, the applicant applied for a Planned Development Permit, Design Review Permit, Critical Area Permit, and SEPA environmental review **(Exhibits A, C, & D)**.
20. On 5/24/2024, the City issued a Notice of Complete Application and a Request for Information Letter (RFI) **(Exhibit E)**. Requested information pertained to critical area reporting, clarification of project scope, responses to Meridian District Design Guidelines, inclusion of a departure request from glazing requirements in BMC 20.25.090, and revisions to landscaping and pedestrian connections.
21. On 6/20/2023, the applicant submitted a response to the RFI including a response letter **(Exhibit F)**, revised plans, and the required critical area reports **(Exhibit H)**.
22. Staff reviewed the revised plans and responses and determined the resubmittal addressed the compliance issues raised in the previous RFI.
23. On 7/10/2024, the City issued a Notice of Application and Optional Determination of Nonsignificance pursuant to WAC 197-11-355 **(Exhibit I)**. The notice included potential mitigating conditions including potential right-of-way dedication for City construction of a future separated bike lane along Cordata Parkway in accordance with the 2024 Bicycle Master Plan. Notice was given in accordance with Title 21 of the Bellingham Municipal Code.
24. On 7/10/2024, the City provided notice to the Planning Commission Chair of the proposal in accordance with BMC 21.10.110(E)(2)(b)(i).
25. On 7/18/2024, the Planning Commission Chairperson and the Planning and Community Development Director determined a Planning Commission meeting was not required.
26. During the public comment period, the City received written public comments from four (4) individuals and one request for notice of decision **(Exhibit G)**. One public comment was from a representative of the Lummi Nation and explaining an archaeological assessment is not recommended at this time, but an Inadvertent Discovery Plan (IDP) was recommended to be on-site and followed should archaeological resources or human remains be encountered. The other public comments expressed a desire for fencing along the projects eastern property line to aid in screening and block potential glare. All public comments were forwarded by City Staff to the applicant.

#### **STAFF RESPONSE:**

*Regarding inadvertent discovery protocols, staff agree this recommendation should be included as a permit condition and all bid documents should incorporate said plan.*

*Regarding fencing, a fence is not proposed along the shared property line of 4030 Cordata Parkway and 247 W Bakerview Road. Staff find the existing and proposed conditions provide adequate screening of the commercial use. There is an existing fence adjacent to the subject property line on 247 W Bakerview Road, 4030 Cordata Parkway is about 5' below grade of 247 W Bakerview Road, and the development proposal retains all the existing trees within the landscape buffer. To prevent offsite glare, this permit should be properly conditioned to require a photometric plan be submitted with the building permit to ensure light is not cast beyond property lines.*

27. On 8/1/2024, the City issued a Request for Information (RFI) (**Exhibit E**) for additional analysis in the Traffic Impact Analysis regarding turning movements.
28. On 9/6/24, the Public Works Director determined the previously requested information on turning movements was not necessary and there was sufficient information in the permit record to approve the Public Works administrative variance to allow secondary access to Cordata Parkway per BMC 13.52.040 and BMC 13.52.050 on the condition the applicant install an extended c-curb in Cordata Parkway to restrict turning movements of the drive-through exit to right-in-right-out.
29. On 9/6/2024, the City issued a Mitigated Determination of Non-significance for SEP2024-0012 (**Exhibit N**). Mitigating conditions required for the proposal were, "Prior to building permit issuance for the restaurant, the applicant shall dedicate 10' of right-of-way along the length of the site abutting Cordata Parkway for City construction of a future separated bike lane in accordance with the 2024 Bicycle Master Plan OR right-of-way shall be obtained on the west side of Cordata Parkway for construction of a future dual bike lane as approved by the Public Works Department."

#### **D. Planned Development**

30. A Planned Development Permit is required per BMC 20.38.030(A).
31. The West 85' of the property is within the Bellis Fair Mall Planned Contract (**Exhibit O**) and is being retained.
32. The proposed development complies with the development regulations of the Planned Contract (**Exhibit O**) regarding height, yards, parking, and landscaping. Signage is not reviewed with land use and a separate sign permit for building and site signage will be required and reviewed for compliance with **Exhibit O** and BMC 20.33. This decision should be properly conditioned to require compliance with the underlying planned contract **Exhibit O**.
33. The requirements and procedures for Planned Development are contained in BMC 20.38 and 21.10.
34. Commercial Development Regulations are contained in BMC 20.33.
35. The project scope is to develop the northern portion of the 3.36-acre property and retain the southern portion in its exiting condition as a parking lot as identified in **Exhibit A** for a future redevelopment phase.
36. This decision should be properly conditioned to require a new planned development permit (and any other required associated land use approval or environmental reviews) for any future redevelopment phase on the southern portion of the site as identified in **Exhibit A**.
37. Vehicular access should be shared between the current proposed development on the northern portion of the site and the future development phase on the southern portion of the site as identified in **Exhibit A**.
38. The application (**Exhibit A & D**) does not include requested exceptions from BMC 20.38 nor 20.33.

39. The application satisfies the minimum standards established in BMC 20.38 and BMC 20.33.
40. The application does include an administrative variance for secondary vehicular access to an arterial street per BMC 13.52.040 and BMC 13.52.050.
41. The public works department has analyzed the request and the submitted Traffic Impact Analysis (TIA) (**Exhibit K**) and conditionally approved the administrative variance to allow secondary access to Cordata Parkway per BMC 13.52.040 and BMC 13.52.050 on the condition the applicant install an extended c-curb in Cordata Parkway to restrict turning movements of the drive-through exit to right-in-right-out. This permit should be properly conditioned to require installation of this c-curb as a part of the required Public Facilities Construction Agreement.
42. To comply with BMC 20.33.050(B)(1)(b and c), the 2024 Bicycle Master Plan, and the MDNS, this permit should be properly conditioned to require prior to building permit issuance for the restaurant, the applicant should dedicate 10' of right-of-way along the length of the site abutting Cordata Parkway for City construction of a future separated bike lane in accordance with the 2024 Bicycle Master Plan OR right-of-way must be obtained on the west side of Cordata Parkway for construction of a future dual bike lane as approved by the Public Works Department. Unless dedication along the west side of Cordata Parkway occurs, dedication along the subject site will require revisions to the site plan to modify parking along Cordata Parkway. The project will still comply with parking ratios in BMC 20.12 if the nine (9) stalls adjacent to Cordata Parkway are eliminated or modified.
43. Pursuant BMC 20.38.040(B)(1)(e), this consolidated permit decision should be properly conditioned to require the applicant obtain a Public Facilities Construction agreement for the following infrastructure:
  - a) Mill and overlay of the traveled way along the length of the site.
  - b) Extend the C-curb in Cordata Parkway to restrict turning movements as determined by the Public Works Department.
  - c) Restripe Cordata Parkway along the site frontage including striped 5' northbound and southbound bike lanes, cross over of right turning lane for southbound bikes at Bellis Fair Parkway intersection, and bike box at Bakerview Intersection, unless otherwise approved by Public Works. Note this is an interim condition before future separated bike lanes or a dual bike lane are constructed.
  - d) Installation of turn pocket at site access.The improvements must be constructed and approved by the City prior to final occupancy.
44. The project should comply with BMC 15.42 with submittal of a final stormwater report with the building permit.
45. Pursuant to BMC 20.38.040(B)(1)(f), this consolidated permit decision should be properly conditioned to require all development and use of the subject property be generally consistent and to the level of detail shown with the permit plans (**Exhibit A**).
46. A Planned Development Permit should be conditionally granted.

#### **E. Design Review and Development Regulations**

47. Per BMC 20.25.020(E), all development activities within commercial zones, and all commercial development activities within any other zoning designation, shall obtain design review approval.
48. Per BMC 20.25.020(E)(4), the director shall base their decision on consistency with the commercial development guidelines and standards in BMC 20.25.090.
49. In addition to the commercial design standards, the project is required to comply with the Meridian District Development Guidelines in BMC 20.00.110.
50. The proposal includes a departure request (**Exhibits D and F**) from glazing requirements established in BMC 20.25.090(B)(7)(c)(ii) which requires "A minimum of 60 percent of the

building wall facing a public street, park, trail or plaza shall be transparent at a height between two feet and seven feet above grade.” The Cordata fronting building elevation proposes approximately 25% glazing. As explained in **Exhibits D and F**, 60% glazing cannot be achieved because of the interior programming needs of the building which must locate meal fulfillment and serving areas not conducive to windows. Based on programmatic floor planning constraints and the overall building design that meets the intent of the requirement with provision of balanced windows along the street fronting façade, staff find the departure request to provide 25% glazing between 2’ and 7’ on the Cordata facing elevation should be approved.

51. The proposed building and site design depicted in **Exhibit A** are consistent with the applicable commercial design standards in BMC 20.25.090 and BMC 20.00.045 provided the proposal is appropriately conditioned.
52. To comply with the Meridian District Development Guidelines regarding Natural Systems and Landscaping as well as BMC 16.60 regarding land clearing and the preservation of natural features, the 17 significant trees proposed for removal (comprised of parking lot trees) should be replaced on-site at a 1:1 ratio to mitigate the loss of canopy coverage. Trees required by BMC 20.12 may count towards this ratio. The project’s construction permits should be conditioned to identify tree protection measures for the retained trees in the eastern landscape buffer and the northern critical area.
53. To comply with the intent of BMC 20.25.090(B)(2)(c)(ii), regarding fencing, all onsite fencing should be architecturally compatible with the main building. The use of chain link fencing should be prohibited. Retaining walls taller than 2’ should be architecturally treated and/or screened with landscaping. Fence and retaining wall specifications should be included in the building permit.
54. To comply with the Landscaping Standards in the BMC 20.25.090(B)(1)(b)(ii), the Meridian District Commercial Development Guidelines, BMC 20.33, and BMC 20.12, a final landscaping plan should be submitted with building permit and be consistent with the information conveyed in **Exhibit A** except as conditioned by this permit. The landscaping plan should identify plant type, size and quantity. Large tree species should be selected for optimum canopy coverage over hard surfaces.
55. To comply with BMC 20.25.090(B)(2) regarding screening, rooftop and site mechanical equipment should not be visible from the public realm. When rooftop equipment is visible, it should be painted, screened with parapets, or screen walls. Other site mechanical equipment that is visible should be screened with landscaping and/or fencing and where appropriate and painted to match the building.
56. To comply with BMC 20.25.090(B)(6) regarding lighting, building lighting should be located to accent the building entrances along Cordata Parkway, and all site and building lighting should be shielded and/or downcast. Lighting cut sheets and a photometric site plan should be submitted at time of building permit to ensure off-sight glare is minimized at the property lines.
57. Based on the plans submitted with the design review application and the findings herein, the development will comply with the Commercial Design Standards in BMC 20.25.090 and the Meridian District Development Guidelines in BMC 20.00.110 if conditioned appropriately. Building permits should convey the same level of architectural detailing as identified in **Exhibit A**.
58. Based on the plans submitted with the design review application, the proposed development complies with the Commercial Design Standards in BMC 20.25.090 and the Meridian District Development Guidelines in BMC 20.00.110.

## **F. Critical Areas**

- 59 The applicant provided a Critical Areas Assessment and Land slide Hazard Assessment from a qualified professional identified in **Exhibit H** which was completed for the property in advance of the development proposal. The wetlands and stream were delineated and rated by a qualified professional, in accordance with BMC 16.55.280 and 16.55.290.
- 60 The proposal meets the definition of “high intensity land use”, in accordance with BMC 16.55.510.
- 61 Wetland SS-01 and SS-02 require a 150-foot buffer for high intensity land use, in accordance with BMC 16.55.340.B.2.
- 62 Habitat conservation areas were identified in accordance with BMC 16.55.470. The West Fork of Baker Creek requires a 100-foot buffer based on fish accessibility per BMC 16.55.500(D)(1).
- 63 The steep slopes and land slide hazard areas require a 50-foot setback based per BMC.16.55.460.
- 64 The project biologist provided an impact analysis on critical area functions. No impacts area proposed to stream, wetland, or land slide hazard areas as part of this development. The project has been designed to avoid impacts.
- 65 The 15-foot building setback from the buffer will be reduced to 0 feet, as allowed in BMC 16.55.340.G as there is not a critical root zone of existing trees to protect and the project is within existing developed surfaces.
- 66 The development does not propose significant tree removal within the critical areas or buffers as the footprint of the development will be within an area that is currently impervious surface
- 67 As conditioned, the proposal is consistent with the purpose and intent of BMC 16.55, it protects the critical area functions and values consistent with the best available science, and it results in no net loss of critical area functions and values.
- 68 Any Finding of Fact that should be denominated a Conclusion of Law shall be deemed a Conclusion of Law. Any Conclusion of Law that should be denominated a Finding of Fact shall be deemed to be a Finding of Fact.

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

### **A. General**

1. All development and use of the property legally described in **Section II** of this permit shall be generally consistent and to the level of detail shown with the permit plans and other exhibits listed in **Section III**, except as necessary to comply with the requirements in the BMC and the conditions of this permit.
2. This Type II Permit is granted with the conditions specified below pursuant to the BMC. It 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. All building and construction permits shall be generally consistent with the provisions of this permit. All work shall be completed in accordance with this, and other city permits.
4. Site disturbance, including but not limited to clearing and grading, is not permitted without an issued permit, except as authorized for herein. Demolition is permitted with an issued demolition permit.
5. Inadvertent Discovery of Archaeological Resources:
  - a. Should archaeological resources (e.g. shell midden, animal remains, stone tools) be observed during project activities, all work in the immediate vicinity should stop, and the area should be secured. The Washington State Department of Archaeology and Historic Preservation (Stephanie Jolivet, Local Government Archaeologist 360-628-2755) and the Lummi Nation Tribal Historic Preservation Office (Lena Tso, THPO 360-961-7752; Tamela Smart, Deputy THPO 360-927-2944) should be contacted immediately in order to help assess the situation and to



determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.

Inadvertent Discovery of Human Skeletal Remains on Non-Federal and Non-Tribal Land in the State of Washington (RCWs 68.50.645, 27.44.055, and 68.60.055):

- b. If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the State provides notice to proceed. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

## **B. Planned Permit**

1. Site development shall comply with all the underlying Planned Contract (**Exhibit O**) for the affected western portion of the property and the Commercial Planned Development regulations contained in BMC 20.33 as amended for the remaining eastern portion of the property.
2. Future development or redevelopment on the property shall require approval of a new Planned Development Permit in accordance with BMC 20.38 and any other required associated land use approval or environmental reviews.
3. Prior to building permit issuance for the restaurant, the applicant shall dedicate 10' of right-of-way along the length of the site abutting Cordata Parkway for City construction of a future separated bike lane in accordance with the 2024 Bicycle Master Plan OR right-of-way shall be obtained on the west side of Cordata Parkway for construction of a future dual bike lane as approved by the Public Works Department. Unless dedication along the west side of Cordata Parkway occurs, dedication along the subject site will require revisions to the site plan that will require modification and/or elimination of any proposed parking within the dedication area.
4. The applicant shall obtain a Public Facilities Construction Agreement for the installation of the following:
  - a) Mill and overlay of the traveled way along the length of the site.
  - b) Extend the C-curb in Cordata Parkway as determined by the Public Works Department to restrict turning movements of the drive-through exit to right-in-right-out.
  - c) Restripe Cordata Parkway along the site frontage including striped 5' northbound and southbound bike lanes, cross over of right turning lane for southbound bikes at Bellis Fair Parkway intersection, and bike box at Bakerview Intersection, unless otherwise approved by Public Works.
  - d) Installation of turn pocket at site access.

The improvements must be constructed and approved by the City prior to final occupancy.

5. Stormwater review shall occur with the construction permitting and comply with BMC 15.42.

### C. Design Review

1. The departure request for glazing requirements in BMC 20.25.090(B)(7)(c)(ii) and provision of 25% glazing along Cordata Parkway is approved.
2. Building Materials and Architectural Features:
  - a) Exterior materials shall be those indicated on the attached set of plans. Deviations from these materials shall be reviewed and approved by the PCDD in writing.
  - b) Use of the proposed building materials and the level of detail and trim on the attached plans are required, including materials and reliefs, door and window schedule, railing/column designs, bracket details, belly banding, and similar architectural treatments, will be reviewed at building permit submittal for consistency.
3. A final landscaping plan and tree retention plan shall be submitted with the building permit application. Prior to final occupancy, the landscaping shall either be installed or bonded for (in an amount no less than 150 percent of cost of material and installation) prior to final occupancy approval. The landscaping plan shall identify plant type, size and quantity. Large tree species shall be selected to ensure optimum canopy coverage over hard surfaces. The 17 significant trees proposed for removal shall be replaced on-site at a 1:1 ratio. Trees required by BMC 20.12 shall count towards this ratio. Construction permits shall identify tree protection measures to ensure the critical root zones (CZR) of the retained trees in the eastern landscape buffer and northern critical area are protected during demolition and construction and that heavy equipment and material storage does not occur within or near the CZR.
4. All onsite fencing shall be architecturally compatible with the main building. The use of chain link fencing shall be prohibited. Retaining walls taller than 2' shall be architecturally treated and/or screened with landscaping. Fence and retaining wall specifications shall be included in the building permit.
5. Building lighting shall be located to accent the building entrances along Cordata Parkway, and all site and building lighting shall be shielded and/or downcast. Lighting cut sheets and a photometric site plan shall be submitted at time of building permit to ensure off-sight glare is minimized at the property lines.
6. Rooftop and site mechanical equipment shall not be visible from the public realm. When rooftop equipment is visible, it shall be painted, screened with parapets, or screen walls. Other site mechanical equipment that is visible shall be screened with landscaping and/or fencing and where appropriate and painted to match the building.

### D. Critical Areas

1. Prior to the issuance of a building permit and site disturbance, a conservation easement for the regulated critical area shown in **Exhibit H** shall be recorded with the Whatcom County Auditor's Office. To prepare the conservation easement document, the applicant shall provide a legal description of the property, a legal description of the conservation easement area, and a legal drawing of the conservation easement area prepared by a licensed surveyor. A lot closure report and current subdivision guarantee shall be provided with the exhibits for city review; the city will prepare the text.
2. Prior to the issuance of a building permit and any site disturbance, the project clearing limits shall be surveyed, marked, and a temporary construction fence installed and inspected by City Planning staff and the project's wetland biologist.
3. The conservation easement area shown in **Exhibit H** shall remain free of materials and equipment of any kind for the entire duration of the construction to avoid damage to vegetation, critical root zones, and soil compaction.

4. Outdoor lights shall be shielded to prevent spillover into the wetland buffer area. Shielding shall be shown on the building permit plan set.
5. Prior to the final building permit inspection by the staff planner, the Native Growth Protection Area (NGPA) signs and split rail fence shall be installed. The signs shall be as specified in **Exhibit H**. Failure to use this spec shall result in replacement at the applicant's expense. The signs shall be installed approximately as shown in Exhibit H. They can be secured to the split rail fence.

#### **E. Occupancy**

Prior to issuance of a Certificate of Occupancy for any building, all terms and conditions of this permit shall be met. The applicable department may require bonding if the Developer, prior to completion of the terms of this permit, requests Temporary Occupancy Permits. Certificate of Occupancy permits shall be processed in accordance with BMC 17.10.020.

This application is subject to the applicable requirements contained in the Bellingham Municipal Code, and Fire and Building Codes. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these codes. Any element(s) of the project design that is conditioned in the design review approval, but not in compliance with other applicable codes, may be subject to design review in the event correcting such element(s) requires redesign.

#### **VI. AMENDMENTS**

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

#### **VII. EXPIRATION OF VESTED STATUS**

Per BMC 21.10.260(C)(3), this Consolidated Permit for design review and critical areas expires five (5) years from the date of this decision unless a completed building permit application, with the other required concurrent submittals, is submitted and determined to be complete before that date. 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, and limited to the terms specified in BMC 21.10.260(C)(4).

#### **VIII. EFFECTIVE DATE**

Pursuant to BMC 21.10.240(C)(3) this decision shall be effective after the close of the appeal period, ending on September 20, 2024.

#### **IX. APPEAL**

Pursuant to BMC 21.10.110 (K) and 21.10.250 (C), this list the permits 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 prior to the end of the appeal period on the appropriate forms and be accompanied by a filing fee as established by the City Council.

Prepared by:



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Sara Ullman, Planner II

Departmental Approval:



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Kurt Nabbefeld, Development Services Manager