TO: All Permit Review Authorities

ENVIRONMENTAL RECORD REPORT FOR THE WOODS AT VIEWCREST (SEP2022-0013)
The environmental review included analysis of the Proposal, known as The Woods at Viewcrest located at 352 Viewcrest Road, and the documents and resources listed below.

I. PURPOSE AND INTENT OF THIS SEPA REPORT

Purpose and Intent of this SEPA Report: To document SEPA environmental review of the proposal, known as The Woods at Viewcrest Preliminary Plat located at 352 Viewcrest Road including review of the applicant's environmental information specified below and consideration of public and agency comments on the proposal to date. Taken together with existing development regulations throughout the Bellingham Municipal Code (BMC), this Report provides the City's basis for issuing a SEPA determination on the proposal.

The statute for the Washington State Environmental Policy or, SEPA, is enumerated in RCW Chapter 43.21C. Subsection .240 details the environmental analysis that is meant to occur for project review in those communities that plan and regulate projects under the Growth Management Act, or GMA. The City of Bellingham plans under the GMA.

RCW 43.21C.240 (1), summarized, states that, a city shall determine if the requirements for environmental analysis, protection and mitigation measures that are specified in a city's regulatory framework, it's planning documents or those requirements within other local, state and federal rules, provide adequate analysis of and mitigation for the specific adverse environmental impacts of a proposal.

RCW 43.21C.240 (2), summarized, states that if, during the course of review of a project, provided that review includes an analysis of the environmental information provided, the City considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed or, 'mitigated' by its applicable development regulations, as well as other local, state and, if applicable, federal regulations or, other applicable planning documents (as indicated in (1), above,) a determination of non-significance or a mitigated determination of non-significance is the proper threshold determination.

The environmental review process in SEPA is designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable impacts to all elements of the environment. Issuance of a SEPA Threshold Determination does not constitute an approval or denial of a proposal. Rather, subsequent review processes retain the ability to approve, approve with conditions or deny an application based on adopted codes.

Associated land use conditions as well as other referenced mitigation measures (SEPA), zoning requirements, and necessary agreements will be included in the City's decisions as necessary to regulate the use of the land and to ensure that adequate provisions are taken to minimize potential adverse environmental impacts to the site and adjacent areas.

A SEPA environmental threshold determination is required by the responsible SEPA official prior to issuance of approvals of a land use action. WAC 197-11-330 gives the SEPA official authority to determine if the proposal is likely to have a probable significant adverse environmental impact based on required and requested information and it gives authority to consider mitigation measures the applicant will implement. Further, the City's own environmental procedures in BMC 16.20.190 gives authority to attach conditions to a

permit when the conditions are based on policies in BMC 16.20.200, including the Bellingham Comprehensive Plan and the Bellingham Municipal Code. A primary goal of SEPA is to determine if potential adverse environmental impacts are significant, or not. If a proposal is anticipated to result in probable significant adverse environmental impacts, then issuance of a determination of significance (DS) is appropriate and an Environmental Impact Statement would be required. If the probable impacts are not anticipated to be significant then the City must apply existing development regulations and apply conditions that will eliminate or reduce adverse environmental impacts. These conditions may be applied within individual land use approvals or may be applied through the SEPA process as mitigating conditions.

This report contains supplemental information to the environmental review of the Proposal known as The Woods at Viewcrest preliminary plat. This report includes an analysis of the "environmental information" specified below in section II and public comment received in response to the issuance of the Notice of Application (dated March 25, 2024). **The environmental documents in bold,** below, were prepared in response to the City's Request for Information issued on August 14, 2024. All other documents listed below have also been utilized in this environmental review. These documents, the public comments and the analysis in this SEPA Report comprise the basis on which this SEPA determination is made.

Based on the provisions in RCW 43.21C.240 and the information provided above, the SEPA Official has reviewed the Proposal, the environmental information considered and the environmental record provided herein, has considered the public comment resulting from the Notice of Application and has determined that, with implementation of adopted local, state and federal development regulations, mitigating measures noted throughout the submitted materials and the additional SEPA mitigation measures provided herein, the Proposal is not likely to result in probable significant adverse environmental impacts. Therefore, the SEPA official issues this threshold determination of a Mitigated Determination of Non-significance (MDNS) for the subject proposal.

II. ENVIRONMENTAL INFORMATION CONSIDERED FOR THIS DETERMINATION (ITEMS IN BOLD WERE PROVIDED IN APPLICANT'S RESPONSE TO CITY RFI #4 ISSUED ON 8/14/2024)

- Land use application forms
- Exhibit 1 - Transmittal Memorandum from Ali Taysi, AVT Consulting dated December 4, 2023
- Exhibit 2 - Project Narrative, dated February 23, 2023
- **Exhibit 3 - Response Letter to August 14, 2024 RFI by AVT Planning, December 19, 2024**
- **Exhibit 4 - Response Letter to August 14, 2024 RFI by Sitkin, December 20, 2024**
- **Exhibit 5 - Expanded SEPA checklist, updated by AVT Planning, December 19, 2024**
- Exhibit A - Project Plans; December 4, 2023
- Exhibit B - Critical Areas Reconnaissance
- Exhibit C - Wetland Delineation & Critical Areas Summary
- **Exhibit D - Wildlife Habitat Assessment by Radeke, November 22, 2024**

- Exhibit E - Geotechnical Investigation & Geohazard Report by Element, October 6, 2022
- **Exhibit F - Preliminary Stormwater Management Report by PSE, November 22, 2024**
- Exhibit G - Traffic Impact Analysis
- **Exhibit H - Cultural Resources Report by Drayton, October 28, 2024**
- Exhibit I - Phasing Plan
- Exhibit J - Right of Way Vacation & Dedication
- Exhibit K - Variance Exhibits
- Exhibit L - Vegetation Management Plan
- Exhibit M – Subdivision Guarantee
- Exhibit N.1 – Assessor Tax Statements
- Exhibit N.2 – City Maps
- Exhibit N.3 – Transportation Concurrency Certificate
- Exhibit N.4 – Vesting Deed
- Exhibit N.5 – Mailing Labels (3-15-2024)
- Exhibit N.6 – Mailing List (1-31-2022)
- Exhibit N.7 – Mailing Verification
- Exhibit N.8 – Neighborhood Meeting Notice
- Exhibit N.9 – Neighboring Subdivision
- Exhibit O – Prior Right of Way Vacation Documents
- Exhibit P – Easement Relinquishment Request
- Exhibit Q – Clarkwood Tracts Documents
- Exhibit R - Geo Memo #1 Response to City RFI 12/21/2022 by Element, June 19, 2023
- Exhibit S - Tree Survey
- Exhibit T - Water System Analysis Memorandum
- Exhibit U – TRC Letter for Street Vacation
- Exhibit V – RFI #1 Response TM & Letter (AVT, November 22, 2022)
- Exhibit W Before and After Outfall Renderings
- **Exhibit X – Critical Areas Impact Assessment and Mitigation Plan by NES, November 22, 2024**
- **Exhibit Y – Wetlands and HCA Report Addendum Memorandum by NES, November 22, 2024**
- **Exhibit Z – Technical Memorandum by Raedeke, November 22, 2024**
- **Exhibit AA – Geohazard Review Addendum (Stormwater Outfall Plan) by Element Solutions, November 22, 2024**
- **Exhibit BB – Geo Memo #2 Response to Public Comment & COB RFI #4 by Element Solutions, November 22, 2024**
- **Exhibit CC – Wetland Proximity to Outfall by PSE, December 19, 2024**
- Exhibit DD – Roadway Cut and Fill by PSE, December 1, 2023

Links to these materials can be accessed by hovering over the underline portion of the report's title or can also be accessed here. Documents analyzed for this report that are not specifically listed above will be specifically referenced herein.

III. BACKGROUND/CHRONOLOGY

Background: The subject site consists of lots of record legally established through previous platting processes, as follows:

- South Fairhaven as recorded in 1889.
- Fairhaven, City of 1891, as recorded in 1891.
- South Fairhaven, Amended, as recorded in 1892.
- Rogan Jones Jr. Short Plat, as recorded in 1973.
- Rogan Jones 2 Short Plat, as recorded in 1992.

Various rights of way within these above referenced plats have been vacated. These vacated rights-of-way together with the legal lots of record make up the subject site. Other rights-of-way remain within the preliminary plat boundaries but are unimproved. Portions of these rights-of-way may be vacated upon dedication of new rights-of-way to serve the plat.

Chronology. The following is the procedural background for the Proposal as of the date of issuing the SEPA threshold determination:

1. March 8, 2022: Applications for the Proposal were submitted to the City.

2. April 5, 2022: The City deemed the land use applications to be complete and issued a Notice of Complete Application.

3. April 28, 2022: The City issued a Request for Information (April 28, 2022 RFI).

4. August 16, 2022: The City received a request to extend the April 28, 2022 RFI response deadline by an additional 180 days.

5. August 18, 2022: The City approved the applicant's request establishing a new response deadline of October 25, 2022.

6. October 18, 2022: The City received a request to extend the April 28, 2022 RFI response deadline by an additional 30 days.

7. October 20, 2022: The City approved the applicant's request establishing a new response deadline of November 24, 2022.

8. November 23, 2022: The applicant submitted a response to the April 28, 2022 RFI.

9. December 21, 2022: The City issued a second Request for Information (December 21, 2022 RFI).
10. March 10, 2023: Technical Review Committee provided a response to Street Vacation Petition.

11. April 13, 2023: The City received a request to extend the December 21, 2022 RFI response deadline by an additional 60 days.

12. April 17, 2023: The City approved the applicant's request establishing a new response deadline of June 20, 2023.

13. June 20, 2023: The applicant submitted a response to the December 21, 2022 RFI.

14. August 7, 2023: The City issued a third Request for Information (August 7, 2023 RFI).

15. December 5, 2023: The applicant submitted a response to the August 7, 2023 RFI.

16. March 25, 2024: The City issued a Notice of Application (March 25, 2024 NOA) establishing a public comment period through April 24, 2024.

17. August 14, 2024: The City issued a fourth Request for Information (August 14, 2024 RFI) requesting the applicant provide responses to the public comment the City received in response to the March 25, 2024 Notice of Application and additional information concerning application review.

18. December 23, 2024: The applicant submitted a response to the August 14, 2024 RFI.

19. July 25, 2025: The City issued this Mitigated Determination of Non-Significance (MDNS).

IV. PROPOSAL

A phased preliminary plat to subdivide approximately 37.7 acres of land into 38 detached, single-family lots and 3 reserve/open space tracts. The lots range in size from 8,439 to 53,118 square feet. Retention of approximately 80% of the site's existing forested condition is proposed.

The lots are proposed to be accessed from either Viewcrest Road, Sea Pines Road, a private driveway from S Clarkwood Drive, newly dedicated and constructed streets off Viewcrest Road and from private on-site alleys. Variances have been requested from the requirements to 1) construct the platted 10th Street right of way located within the preliminary plat, 2) eliminate the required sidewalk on one side of the newly dedicated streets and 3) increase the number of lots that can be served by a single private driveway from 8 to 10 lots.

The proposed lots will be served by public infrastructure including water, sewer and stormwater management. The extension of public water and sewer mains is proposed to comply with city codes. Stormwater mitigation is proposed in two separate systems, a stormwater detention facility proposed adjacent to Viewcrest Road and an above ground public conveyance system. Both systems are designed to comply with federal, state and city codes with enhanced treatment on site.

Public access through the site is proposed through the construction of a trail network connecting Clarkwood Plat, Viewcrest Road, via the newly dedicated streets and platted 10th Street, to Sea Pines Road. Public access through the site directly to Chuckanut Bay is not proposed.

The site contains critical areas, including wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas and their associated buffers. Impacts to wetland buffers are proposed to allow the construction of a public trail. Impact to some of the onsite geologically hazardous areas is proposed with mitigation provided compliant with city code.

A Shoreline Substantial Development Permit and Shoreline Conditional Use Permit are required for the placement of the proposed public stormwater conveyance pipe and energy dissipater outfall within shoreline jurisdiction but above the elevation of the high tide line of Chuckanut Bay.

A street vacation of portions of the unimproved Quinault, 8th, 10th, Fairhaven and Baker Streets within the Amended Map of South Fairhaven Plat is proposed. Compensation for the vacated rights of way is proposed to be offset through the dedication of the new streets.

Land use applications submitted for the Proposal include preliminary plat, land division variance, critical areas, street vacation petition, shoreline substantial development permit, shoreline condition use permit and an environmental checklist (SEPA).

The land area of the subject site yields 82 density units under current zoning. The Proposal does not include a density bonus or use of the recently adopted state legislation approved under HB 1110. This environmental review for the Proposal is based on the proposed 38 detached, single-family lots, supporting infrastructure (roadways and utilities) and construction of a public trail connecting Viewcrest to Sea Pines Road.

Exhibit A within the Sitkin's Response Letter to City's 8/14/2024 RFI (**Exhibit 4**) specifies impact reducing design features for each of the 6 project elements including road design, storm design, transportation, environmental/habitat, lot/plat design, and cultural resources each of which have been incorporated into the Proposal to reduce impacts. These are hereby incorporated by reference.

V. PUBLIC COMMENT

The City has received a substantial amount of public comment concerning the proposal. The City began receiving public comment in 2020, approximately two years before land use applications were submitted. Land use applications were submitted in 2022 and the City continued to receive public comment in response to the application materials.

The City issued a Notice of Application on March 25, 2024 establishing an agreed upon 30-day public comment period. The City received additional public comments after the public comment period in response to the Notice of Application. Issuance of the Notice of Application occurred once the City determined the application materials were sufficient for staff and public review. This determination of sufficiency included four separate Requests for Information in which the applicant responded to. Each response to a Request for Information modified the application materials and therefore, also modified the proposal.

This SEPA Report only incorporates the public comments received in response to and after issuance of the March 25, 2024 Notice of Application. The public comments submitted prior to the Notice of Application were unsolicited and relied on outdated information. The comments submitted prior to the Notice of Application are still of record and published on the City's project webpage for this proposal. The City has been transparent with the public noting that only the public comment submitted in response to the Notice of Application will be used during the SEPA and application reviews as any comment received prior was not in response to the final proposal.

The public comments received in response to the Notice of Application were voluminous and included reports and recommendations from past and present professionals in the field of environmental sciences. These comments are posted on the project webpage and therefore are available for agency and public viewing by the applicant and interested members of the public.

The topics of public concern raised in the public comment resulting from the Notice of Application are extensive and difficult to summarize without taking them out of context.

Generally, while not intended to provide a full list of concerns, these topics were presented in multiple public comments:

- Drainage (surface flow and ground water)
- Stormwater management and water quality
- Critical Areas/Potential impacts to the following:
    - Onsite wetlands and associated buffer(s)
    - Geologically hazardous areas
    - Shoreline
    - Clearing
    - Wildlife/loss of habitat
- Noise
- Land use/Density
- Affordability/Scale/Privacy of housing units
- Recreation
- Transportation/Parking/Pedestrian Safety

The City requested the applicant respond to the public comment topics received in response to the Notice of Application. The applicant's responses are provided in the Sitkin Letter at **Exhibit 4** and are also embedded in the documents that were submitted as part of the applicant's response to the City's 8/14/2024 RFI. **These are the listed documents in Section II in bold specified above.**

VI. REQURIED AGENCY PERMITS AND APPROVALS

The Proposal requires approval of multiple land use applications and construction permits that are decided at different times during the land use and construction processes by different City and State decision makers. The following is a list of those approvals:

CITY PERMITS/APPROVALS

- Final SEPA Determination (SEP2022-0013)
- Preliminary Plat (SUB2022-0011)
- Subdivision Variance (VAR2022-0002)
- Critical Area Permit (CAP2022-0005)
- Shoreline Substantial Development Permit (SHR2022-0007)
- Shoreline Conditional Use Permit (SHR2022-0008)
- Street Vacation Petition (VAC2022-0001)
- Building Permits, including Mechanical, Electrical and Plumbing.
- Public Facilities Contract and other Public Works Approvals
- Surface Stormwater Site Plan
- Fire, including apparatus road and sprinkler systems

STATE PERMITS/APPROVALS

- Washington State Dept. of Ecology NPDES Permit
- Washington State Dept. of Ecology Shoreline Conditional Use Permit (Final Decision)
- Washington Dept. of Natural Resources FPA Permit

VII. RESPONSIBLE SEPA OFFICIAL'S AMENDMENTS TO CHECKLIST

The applicant's environmental checklist (**Exhibit 5**) and the specific **Exhibits** referenced in Section II, above, are incorporated herein by reference and have been determined to be reasonably sufficient for environmental review under SEPA.

In response to the public comment received by the City and as discussed in Section V, above, the following sections address public comment and include a staff analysis as it relates to each element of the environment defined under SEPA and provided under Section B of the environmental checklist. This is not an exhaustive review of all development codes relating to the proposal but a level of review that ensures the necessary environmental analyses required under RCW 43.21C and WAC 197-11 have been conducted. Additional conditions or mitigation will be required under the Bellingham Municipal Code.

ENVIRONMENTAL ELEMENTS

1. Earth

The following exhibits have been provided that enable the City to conduct project specific environmental review under SEPA and issue this determination:

- **Exhibit 3 - Response Letter to August 14, 2024 RFI by AVT Planning, December 19, 2024**
- **Exhibit 4 - Response Letter to August 14, 2024 RFI by Sitkin, December 20, 2024**
- **Exhibit 5 - Expanded SEPA checklist, updated by AVT Planning, December 19, 2024**
- Exhibit E - Geotechnical Investigation & Geohazard Report by Element, October 6, 2022
- **Exhibit F - Preliminary Stormwater Management Report by PSE, November 22, 2024**
- Exhibit R - Geo Memo #1 Response to City RFI 12/21/2022 by Element, June 19, 2023
- **Exhibit AA – Geohazard Review Addendum (Stormwater Outfall Plan) by Element Solutions, November 22, 2024**
- **Exhibit BB – Geo Memo #2 Response to Public Comment & COB RFI #4 by Element Solutions, November 22, 2024**
- **Exhibit CC – Wetland Proximity to Outfall by PSE, December 19, 2024**

The reports identified above were submitted in response to the City's August 14, 2024, RFI and in response to public comments that raised issues regarding stability of the site, alteration to groundwater flow paths, the need for further hydrology study, removal underlying bedrock to implement the proposal and the need for specific data at the preliminary plat stage for individual lot development.

The reports identified above were prepared for the development of the preliminary plat including recommendations to be followed for the various elements of the proposal including a site-wide assessment of geologic characteristics, necessary supporting public infrastructure and alignments thereof, stormwater management facilities, configuration of proposed lots and construction methodology.

These reports provide evidence that the development is proposed on the most suitable portion of the site by locating development on a stable substrate while avoiding development on certain areas of the site, specifically along the steep slopes along the southern bluff adjacent to the Chuckanut Creek pocket estuary (CBPE). More specifically, an undisturbed band of vegetation and surface soil types ranging from approximately 400-500 feet in width along the shoreline of the CBPE is proposed, with the exception of the proposed public trail and Lot 37. These two features are approximately 250-300 feet up the slope from the shoreline edge. The site's soils and exposures on steep rock outcrops are consistent with the geologic and soil survey mapped units and consistent in composition and character with the regional Chuckanut Formation. These soil types have minimal ground water intrusion, are well drained and generally suitable for development. The development's location and configuration minimizes the cut and fill slopes necessary to construct the required infrastructure and individual lots and maximizes tree preservation on the site's most vulnerable areas that may otherwise be susceptible to erosion, landslide or rockfall.

Exhibits 3-5, F and AA-CC were prepared in response to the City's request for information (RFI) issued on August 14, 2024. The City's RFI was separated into two different types of applicant action items; one, responding to City staff requests for additional technical information on aspects of the proposal and two, responding to the public comment themes that were raised by members of the general public during the comment period.

The geologically hazardous areas section of the RFI required the geologist of record to provide documentation that acknowledges the 2009 Element Geologic Feasibility Investigation as required by BMC 16.55.430(D). *"Said documentation shall include a discussion about its relevance to the current proposal and whether or not the 2022 investigation and / or Element's Memo #1 dated 6/19/2023 (**Exhibit R**) either includes elements of the 2009 investigation or requires further modifications based upon the 2009 investigation. Said documentation shall include any further modifications that may be necessary."* Pages 5-7 of Memo #2 (**Exhibit BB**) acknowledges the 2009 investigation as it relates (or not) to the scope and purpose of the 2009 investigation and relevancy to the current documents regarding the underlying site-wide assessment and its comparison to current hydrology across the site.

Page 2 of Memo #1 (**Exhibit R**) includes an analysis of changes to the original layout with respect to geologic hazard area considerations. Pages 2-5 of **Exhibit R** provide an analysis and rationale for standard buffer reductions on certain lots in accordance with BMC 16.55.460 A 1 (b). Specifically, the eight bullet points on pages 4-5 of **Exhibit R** provide the basis for buffer reduction on the lots identified therein and the chosen alignment for stormwater management facilities.

Exhibits E and R, specified above, did not include *"sufficient information to determine if the proposed building envelopes, shown on Figure 3B of said investigation and report, are outside of recommended buffer widths from landslide hazard areas for specific lots."*

Identification of building envelopes is required in order to determine if the lot configuration and the siting of building envelopes is consistent with BMC 23, Land Division and BMC 16.55.460 A 8 (a) as it relates to subdivisions in landslide hazard areas.

Page 7 of Geo-Tech Memo #2 (**Exhibit BB**) and the attached sheets 1-9 demonstrates that proposed building envelopes are outside of landslide hazard areas and proposed reduced buffer areas for Lots 6-7, 14, 20, 24-33 and 38. The critical area permit will be conditioned such that the recommended buffer widths for Lots 6-7, 14, 20, 24-33 and 38 are maintained and shall be further documented and verified at the time of building permit for those specific lots.

The proposed roadway alignments minimize the amount of alteration to geologic hazard areas and are designed to work with existing topography to the extent feasible, as opposed to large areas of excavation. The cut and fills required for roadway alignments are shown on **Exhibit DD**. These alignments attempt to follow and utilize existing topography thereby minimizing the amount of cut and fill necessary to serve the proposed lots. Therefore, the City has determined that the proposed alignment of the roadways and underlying utilities are consistent with BMC 16.55.460 A 8 (b) and probable significant environmental impacts are not likely.

The critical area permit will be conditioned such that the public facilities construction agreement for development of the roadways (and underlying utilities) shall demonstrate compliance with the standards for 'alteration' as specified in BMC 16.55.460 A 2-3.

An additional analysis of the proposed stormwater conveyance plan was conducted and is provided in the Geohazard Addendum for the Stormwater Outfall (**Exhibit AA**). This Addendum determined that infiltration and/or dispersion of stormwater is not conducive for the overall site based upon underlying shallow soil characteristics (bedrock) and topography. One exception as far as dispersion is concerned is between Lot 36 and wetland D. A portion of stormwater runoff from the West Road will be treated via a modular wetland unit and then dispersed to the edge of the buffer of wetland D in order to maintain hydrology for that wetland.

Pages 3-4 of the Stormwater Outfall Addendum also concludes that the proposed stormwater conveyance system down the south facing slope is feasible given the alignment's location in a corridor that does not exhibit terrain instability or slope erosion. Anchoring the conveyance pipe poses no obvious risks from instability, construction difficulties, and does not introduce potential risks to the exposed surface pipe system from surrounding factors. Page 7 of the Geohazard Addendum describes the proposed stormwater dispersion system (a flow spreader pipe) proposed to be located approximately 2-feet above the high-tide line and anchored to a small flat sandstone outcrop.

Pages 9-11 of the Stormwater Outfall Addendum provide additional technical recommendations for the construction of the outfall and aligning and anchoring the conveyance pipe. These recommendations demonstrate consistency with BMC 16.55.460 A 5 and 6 (a) as they relate to the proposed stormwater conveyance pipe and choosing a location for discharge. Compliance with subsections A 5 and 6 (a) eliminates and/or reduces direct impacts that would occur to vegetation, most notably trees, that would otherwise result from excavating and trenching for such a system. Anchoring to the ground surface allows for alignment adjustments or "field fitting" that would avoid necessitating removal of trees and other vegetation. The critical area permit will be conditioned such that

at the time of submittal for a public facilities construction agreement, these recommendations shall be implemented or, if not feasible, rationale shall be provided.

As far as erosion hazard areas is concerned, excavation and site grading associated with earthwork to implement the proposal will be further regulated by the City's Stormwater Management Ordinance. BMC 15.42 includes regulations that require stormwater best management practices to be implemented to minimize on-site erosion and sedimentation. These measures include but are not limited to; silt fencing, staking / marking clearing limits in the field, installing a construction entrance and wheel wash, broadcasting of wood chips or hydroseed onto exposed soil and creating temporary erosion and sedimentation ponds to detain stormwater during construction.

Additional discussion regarding the alignment of the conveyance pipe and outfall within the 200-foot buffer of Chuckanut Bay is addressed in the "Water" and "Land and Shoreline Use" sections of this SEPA report.

The documents provided by the applicants and the staff analysis specified above - as they relate to earthwork and applicable BMC requirements for individual lot and infrastructure configuration within geologic hazard areas - demonstrate that the proposed plat development minimizes impacts and is feasible as generally proposed.

Conditions shall be established in land use approvals and construction permits that require conventional design and construction practices and incorporate the guidelines and recommendations included in the documents specified above for the plat design and construction of supporting infrastructure and individual lot development. Conditions shall also be established that require demonstration that the recommendations in the applicable reports for construction within geologic hazard areas are incorporated into the site design, and if not, rationale provided. Therefore, probable significant adverse environmental impacts are avoided and / or minimized and therefore not anticipated.

Short-term and long-term probable adverse environmental impacts will either be avoided, minimized or will be mitigated by applying development regulations and conditioning of land use and construction permit approvals. Alternative designs such as reducing the number of lots, is not likely to significantly affect potential impacts to the Earth Element of the environment.

In addition to the analysis above and in response to the public comment, the proposal must address and provide mitigation for potential cumulative impacts created during the construction phase of the project. These impacts can be appropriately identified in a construction management plan that is submitted for City review and approval prior to any site work.

The following additional mitigating conditions shall be implemented to ensure that probable adverse environmental impacts are mitigated or avoided:

1. Prior to submittal of the public facilities construction agreement application, a construction management plan that includes phasing, staging and circulation plan shall be submitted to the PCDD for review and approval. Said plan shall avoid impacts to

wetlands, wetland buffers and landslide hazard areas and shall not otherwise extend beyond anticipated development areas for future infrastructure and/or individual lot development. Said plan shall also identify, at a minimum, the sequence and timing of construction, construction worker parking, on site material and construction staging, on and offsite staging, haul routes and temporary use of and closures of rights of way and/or pedestrian routes.

2. Prior to or concurrently with submittal of the public facilities construction agreement application, a bedrock removal plan shall be submitted to the PCDD for review and approval that details the following:
   a. Amount in cubic yards / metric tons expected to be necessary for removal;
   b. Specific areas where removal is proposed;
   c. Anticipated duration of time for bedrock removal;
   d. Anticipated method(s) of bedrock removal and containment;
   e. Post removal bedrock stabilization measures – if deemed necessary by City engineers (retaining walls / shotcrete, similar);
   f. Proposed notification procedures for surrounding property owners within 500' of the project site; and

   Detailing of the required information above will be used by City staff to determine an hours of operation schedule.

3. Prior to any site disturbance, the construction phasing and staging information in condition #1, above and the bedrock removal information in condition #2 above shall be provided to property owners within the required radius in a singular "Development Implementation Plan." No specific site work is allowed until development permits for that specific element have been issued with the exception of site work associated with additional site exploration and / or geotechnical analysis.

2. Air

The following exhibits have been provided that enable the City to conduct project specific environmental review under SEPA and issue this determination:

- **Ex 5 Expanded SEPA Checklist by AVT Planning, 12/19/2024.**

The environmental checklist description concerning air adequately describes emissions from construction equipment and vehicles that will occur during construction. After construction, emissions from the completed development proposal will generally increase to a level that is commensurate with the surrounding single-family developments. Probable significant adverse environmental impacts to air are not proposed or above anticipated impacts associated with the level and intensity of development adopted through the established zoning and no mitigation measures are necessary.

3. Water

The following exhibits have been provided that enable the City to conduct project specific environmental review under SEPA and issue this determination:

- **Exhibit 3 - Response Letter to August 14, 2024 RFI by AVT Planning, 12/19/2024**
- **Exhibit 4 - Response Letter to August 14, 2024 RFI by Sitkin, 12/20/2024**
- **Exhibit 5 - Expanded SEPA checklist, updated by AVT Planning, 12/19/2024**
- Exhibit C - Wetland Delineation & Critical Areas Summary by NES, 9/28/2022
- **Exhibit F - Preliminary Stormwater Management Report by PSE, 11/22/2024**
- **Exhibit X – Critical Areas Impact Assessment and Mitigation Plan by NES, November 22, 2024**
- **Exhibit Y – Wetlands and HCA Report Addendum Memorandum by NES, November 22, 2024**
- **Exhibit AA – Geohazard Review Addendum (Stormwater Outfall Plan) by Element Solutions, November 22, 2024**
- **Exhibit CC – Wetland Proximity to Outfall by PSE, December 19, 2024**

The reports identified above were submitted in response to the City's August 14, 2024 RFI (RFI) and in response to public comments that raised issues regarding; delineation of wetlands and impacts to critical areas – specifically wetlands, the Chuckanut Creek pocket estuary and their associated buffers as well as drainage and stormwater runoff.

Delineation of wetlands. **Exhibit C**, the Wetland Delineation Update & Critical Areas Assessment (CAA) by NES dated 9/28/2022 correctly identifies 4 wetlands on the subject site; A-D. Wetland A, B and D are all category IV wetlands and have a moderate habitat score of 5 which results in a 50-foot buffer. Wetland C is not regulated by the City based on its size; <1,000 square feet and is isolated and therefore impacts to it would not require a mitigation sequencing analysis or a buffer pursuant to BMC 16.55.270 B.

The CAA did not identify the Chuckanut Creek pocket estuary (also referred to as "Mud Bay") as a wetland. However, one estuarine wetland which largely comprises the Chuckanut Bay Open Space North site and an additional wetland at the end of Fairhaven Avenue were identified off-site and are approximately 1,000 feet to the northwest of the subject site.

Exhibit Y, above, was submitted in response to the City's wetlands ACTION ITEM #1 on the 8/14/2024 RFI. The information in **Exhibit Y**, provides the required documentation and rationale that concludes the Chuckanut Creek pocket estuary (CCPE) is not a wetland. Additional information regarding the delineation of the CCPE as a non-wetland is provided in section I. A. 1. on pages 2-5 of **Exhibit Y**. Summarized, the materials provided in **Exhibits Y** and **4** conclude that the CCPE is not a wetland. The City agrees with this assessment. Furthermore, the wetland determination data forms specify that hydrology is present in the CCPE but hydrophytic vegetation and hydric soils are not present. All three of these indicators must be present to conclude that the feature is a wetland.

Wetland action items #2 and #3 from the RFI are provided in **Exhibit Y**. **Exhibit D**, the 2024 Raedeke Wildlife Habitat Assessment also includes references to the City's 2021 Wildlife Corridor Analysis. Wetland action item #4 is provided in Section 3.1 of **Exhibit Y**.

The second "ACTION ITEM" under wetlands requires demonstration of compliance with mitigation sequencing and mitigation for proposed impacts to wetlands and/or their

required buffers as specified in BMC 16.55.250, .260 and .350. These are also addressed in document **Exhibit X.**

Mitigation sequencing (BMC 16.55.250 and BMC 22.08.020) has been addressed in section 2.0 of **Exhibit X**. The proposal does not propose any in-water impact, therefore, direct impacts to on-site wetlands and the CCPE have been avoided. Impacts to wetland buffers and the 200-foot buffer of the CCPE have been minimized. The alignments of the proposed trail and stormwater conveyance outfall pipe have been designed to minimize the amount of vegetation alteration and ground disturbance. The proposed public trail will be located in areas of the wetland buffers that are sparsely vegetated. The stormwater conveyance pipe will be anchored to the surface of the ground and as such will be able to be positioned in the field to avoid and minimize alteration of existing vegetation, especially trees.

The anticipated total amount of impact to the buffers of the on-site wetlands and the CCPE is approximately 9,100 square feet. An impact assessment is provided in section 3.0 of **Exhibit X**. Impacts to approximately 1,620 square feet to the outer portion of wetland B buffer and approximately 1,680 square feet to the outer portion of wetland A buffer are proposed in order to develop the proposed public trail. Trails (and utilities) in critical area buffers are contemplated and allowed in BMC 16.55.320. The remaining 5,800 square feet of buffer impact from the stormwater conveyance pipe is detailed below.

Exhibits **F** and **X** include and address the requirements in BMC 16.55.260, Mitigation Plan requirements. Buffer impacts are required to be mitigated at a 1:1 ratio. These impacts will be compensated for by implementing 9,100 square feet of enhancement to the buffer of wetland B. This is consistent with BMC 16.55.350, mitigation requirements specific to wetlands. This buffer area has sufficient open area space for new vegetation to establish and succeed.

The Chuckanut Creek pocket estuary is a shoreline of the state and is regulated by BMC Title 22, Shorelines. The shoreline jurisdiction of the CCPE comprises the bay itself and upland areas within 200 feet - measured horizontally - from the ordinary high-water mark.

Pursuant to BMC 22.08.010(B)(4)(g), public stormwater facilities (conveyance and outfall systems) are allowed within required buffers. The 12-inch diameter stormwater conveyance pipe may result in up to approximately 5,800 square feet of impact to the 200-foot buffer of the CCPE. This amount of impact is based upon a 10-foot-wide corridor for the length of the pipe and the outfall structure within that buffer. However, the pipe will be anchored to the ground and excavation and/or tree removal is not anticipated so actual impact may result in less than 5,800 square feet. (The pipe itself in approximately 1,350 feet long so anchoring it to the ground surface results in “impact” of approximately 1,350 square feet.) One manhole is necessary at the top of the bluff for maintenance and clean-out of debris. The outfall is located above the elevation of the OHWM. The projected area of impact to the buffer of the Chuckanut Creek pocket estuary comprises approximately 1.5% of the total buffer area on the project site, which is approximately 8.9-acres. Trees shall be preserved to the maximum amount feasible and in fact may assist in holding the pipe in place in certain locations.

The measurement for determining and mitigating impacts within the shoreline jurisdiction is “no net loss” of existing shoreline ecological function. The pipe, manhole and outfall will result in minimal vegetation removal, will not restrict wildlife movement or surface and groundwater flow and therefore is expected to result in no net loss of function. Achieving no net loss forms the basis for determining, if properly conditioned, that probable adverse environmental impacts can be mitigated.

Probable adverse environmental impacts to the on-site wetlands and the Chuckanut Creek pocket estuary and their associated buffers have been avoided and minimized. Mitigation is proposed as required in BMC 16.55 and BMC Title 22 Shorelines. Therefore, the proposal will not result in a probable significant environmental impact to these features.

Drainage and Stormwater Runoff. (Stormwater Management) The Preliminary Stormwater Management Report by PSE, 11/22/2024 at **Exhibit F** was updated in response to the City’s 8/14/2024 RFI. This report provides the information requested and is adequate to conduct environmental review.

Additional information is provided in section 16, “utilities,” below.

The four specific action items on page 4 in the 8/14/2024 RFI under “Stormwater Management” have been addressed by the applicant in the documents specified above. The Preliminary Stormwater Management Report (Report) is a document intended to evaluate the ability to manage stormwater impact resulting from development. This report has been found to be sufficient for this SEPA level of project review. Demonstration of full compliance with the City’s stormwater mitigation requirements, in accordance with Chapter 15.42 Bellingham Municipal Code, is required at the time construction and development permit applications are submitted. After construction permits are issued, the contractor and their Certified Erosion and Sediment Control Lead (CESCL) are required to monitor the site to ensure the BMPs are functioning properly.

The Report modeled the stormwater flows to demonstrate that the Proposal will not increase post development runoff to adjacent properties and that hydrology to receiving water bodies will be maintained. The subsurface groundwater on site is not proposed to be collected and will continue in its natural existing flow pattern, generally south, towards the Chuckanut Creek pocket estuary, towards wetlands B and D and towards Viewcrest Road. A very small area along the west edge of Lots 18 and 22, will be directed towards South Clarkwood Drive. Surface flows will be collected during construction and post construction in a series of stormwater management facilities. These include a small stormwater detention vault in the northwest corner of the site, conveyance pipes, a dispersion trench at the west edge of wetland B, three modular wetland water quality vaults and an outfall dissipator above the high tide line at the shoreline edge of the Chuckanut Creek pocket estuary. (CCPE) Section 3.1.2 of **Exhibit X** indicates that the portion of the development footprint within the Chuckanut Creek and CCPE comprises approximately 0.1% of the total land area. (5.071 acres of estimated impervious surface within the overall watershed of approximately 5,027 acres.)

The requested information in regard to stormwater management are for the conveyance and outfall within the buffer of the CCPE. Action item #1 has been addressed in **Exhibit CC**. There is approximately 50-feet from the dispersion facility at the east edge of Lot 36 to wetland B. The distance from the outfall at the shoreline of the CCPE to the on-site wetlands averages approximately 675-feet.

Action item #2 has been addressed. The Report updated on 11/22/24 now references the 10/6/2022 Element Report (Exhibit E) and the 9/28/22 wetland delineation and critical areas summary (Exhibit C).

Section 5.5 of **Exhibit F** addresses action item #3. **Exhibit AA** also provides additional details on the main conveyance pipe discharging to the Chuckanut Creek pocket estuary. Specifically, the recommendations beginning on page 9 indicate that the slope conditions are clearly amenable for outfall construction and pose no obvious risk from instability, construction difficulties, or potential risks to exposed surface pipe system from surrounding features. Two recommendations at the bottom of page 11 are specific to the anchoring of the dispersion tee in regard to storm surge.

Section 5.4 of **Exhibit F** responds to action item #4 which asks for demonstration that an alternative analysis was conducted as it relates to stormwater management. Such an analysis was conducted for potential discharge to the existing stormwater system in Sea Pines Road. The system in Sea Pines Road discharges to the large estuarine wetland within what is referred to as “Chuckanut Bay Open Space North.” Discharge to this wetland would have required an on-site stormwater flow-control structure, most likely a stormwater detention vault. Due to topography and depth to bedrock across the site, a vault could require additional rock management and excavation. A basin diversion authorization (variance) would need to be granted by Department of Ecology because currently, no precipitation landing on the site flows to that wetland. Finally, the existing outfall from Sea Pines would need to be upgraded resulting in additional disturbance at the shoreline and the subject wetland edge to do so. Section I. D. on page 5 of **Exhibit 4** also provides a brief narrative on an evaluation of three different outfall locations before the proposed alternative was chosen.

Three new water quality treatment modular wetland units will be installed to treat stormwater before it discharges to receiving waterbodies. One treatment facility will be located before discharge to the outer edge of wetland B along the east side of Lot 36. A second treatment facility will be located between Lots 31-32 before entering the conveyance pipe that heads south (generally) down the bluff to eventual discharge to the Chuckanut Creek pocket estuary. The third treatment facility will be located in the Viewcrest right-of-way before entering existing stormwater infrastructure that also eventually discharges to the Chuckanut Creek pocket estuary below Arbutus Place.

There are a total of 5 existing stormwater outfalls / discharges to the Chuckanut Creek pocket estuary, none of which employ any type of treatment systems. Currently, there are no public stormwater treatment devices or similar stormwater infrastructure for the two other discharges to the CCPE.

The three water quality treatment wetland modules provide “enhanced” water quality treatment. This is required for discharge to wetlands (and streams). Enhanced treatment is not required for discharge to marine water per the Department of Ecology Stormwater Manual for Western Washington. However, BMC Title 22, Shorelines, requires enhanced treatment facilities when discharge is proposed to marine waters. The modular wetland units are designed with a cartridge system that are able to remove pollutants of concern given the characteristics of the receiving water body. Basic treatment systems are effective at removal of total suspended solids. Enhanced treatment cartridges reduce input levels of metals and/or phosphorus - in addition to providing basic treatment. The

enhanced treatment requirement provides protection of marine waters above and beyond that which is required in DOE's stormwater management manual for western Washington. Therefore, impacts to water quality and aquatic species – specifically shellfish and Puget Sound Chinook Salmon and Puget Sound Steelhead are not expected as a result of implementing the project.

The modular wetland water quality BMP has been analyzed and approved for use for stormwater water quality treatment by the Washington State Department of Ecology (Ecology). Ecology has approved the modular wetland water quality BMP for basic treatment level, enhanced treatment level, and nutrient treatment level. There is no local, State, or Federal requirement that stormwater be managed to comply with surface water quality standards. The requirement for enhanced treatment is intended to mitigate and reduce stormwater pollution city-wide using all known and reasonable technologies.

Section 3.1.2 of **Exhibit X** describes existing water quality in the Chuckanut Creek pocket estuary and in Chuckanut Creek and also addresses Wildlife ACTION ITEM #2 in the City's 8/14/2024 RFI. The report correctly identifies that Chuckanut *Creek* is listed as a category 5 "impaired" waterbody on the State's 303(d) list for exceedances of (low) levels of dissolved oxygen and high levels fecal coliform. "Impaired" indicates that a certain waterbody fails to meet state water quality standards and that a plan for addressing the failed standards should be put into place.

However, these impairments are not mapped to extend into the CCPE, generally, presumably due to dilution associated with mixing of the much larger marine waterbody.

The waters within the CCPE are not listed as an "impaired" water body under the State's 303 (d) list. The Department of Ecology's Water Quality Atlas identifies that the waters of Chuckanut Bay, including the waters of the pocket estuary are listed as category 2 "waters of concern" for three constituents; Benzo anthracene, Benzo flouranthene and Polychlorinated Biphenyls. (These constituents are generally, produced during incomplete combustion breakdown of organic matter and/or compounds.) Category 2 waters may contain pollution levels that are not quite high enough to infringe upon water quality standards, or, in instances where there may not have been enough violations, to categorize it as impaired.

Exhibit X also specifies that a public shell fishing closure exists within Chuckanut Bay, due to biotoxins and pollution, specifically, bacteria. Please note that all of Bellingham Bay, Chuckanut Bay, and Padilla Bay are closed due to biotoxins (Washington State Department of Health, 2024). Fecal coliform is an indicator of bacterial contamination from waste from humans and other warm-blooded animals (Ecology, 2005). Sources of this bacteria within the Chuckanut Creek watershed likely include malfunctioning septic systems and waste from pets and wildlife. Much of this watershed is not serviced by a sanitary sewer system, and nearly every house is on a septic system. The project will provide sewer service to each individual lot thereby eliminating pathways for human fecal coliform to enter the Chuckanut Creek pocket estuary. Pathways for fecal coliform from other sources (animals and pets) within the pocket estuary's watershed to enter the water in the estuary exist presently. However, ongoing inputs of fecal coliform are not expected to be exacerbated by the project due to the extensive vegetated buffer of approximately 400-500 feet between the project and the CCPE. Vegetated buffer areas perform a variety of natural functions, including, primarily filtering out a variety of pollutants before

entering a waterbody. Please note that a project is not required to mitigate or correct existing and ongoing point source pollution constituents.

Exhibit X concludes that the trail and stormwater facilities will not further contribute to water quality impairments of Chuckanut Bay or the on-site wetlands. These infrastructure elements are considered non-pollutant generating. However, trail users (specifically pets) can be sources of pollutants (fecal coliform) if they are not leashed and cleaned up after. Therefore, all trail users should abide by the animal restrictions in parks, as required by BMC 8.04.070. No trails or other pollutant generating activities encroach within 200 ft of the shoreline, providing a forested buffer for water quality improvement to all untreated runoff from yards or trails prior to reaching the pocket estuary. This buffer size exceeds the recommended width of 30-100 for sediments, 100-180 feet for nitrogen 30-100 feet for phosphorus.

Installation of the three water quality wetland modules that are designed to remove total suspended solids, metals and phosphorous from surface stormwater, are not expected to increase the levels of the category 2 constituents, specified above, in the CCPE and in Chuckanut Bay, generally.

The report also identifies that there are no programmed activity areas within the 200-foot buffer from Chuckanut Bay and that all untreated runoff from yards or pet waste can be adequately filtered within this large, vegetated area. An average of approximately 400-feet of vegetated buffer will be left intact between the proposed overall development footprint and the Chuckanut Creek pocket estuary.

The documents provided by the applicants and the analysis provided herein - as it relates to management of surface stormwater and maintaining existing hydrology and water quality during and after individual lot and infrastructure configuration – demonstrates that the proposed plat development is feasible as generally proposed and probable significant environmental impacts will not occur.

Application of existing regulations and establishment of conditions within land use approvals and construction permits will result in avoidance and minimization of probable adverse environmental impacts. Conventional design and construction practices that incorporate the guidelines and recommendations included in the documents specified above shall be followed and as such, probable significant adverse environmental impacts are not expected. Alternative approaches to stormwater treatment have been analyzed and the proposed infrastructure will likely result in the least and non-significant impact.

The following additional mitigating conditions shall be implemented with the project to ensure that probable adverse environmental impacts are mitigated or avoided:

Required mitigating conditions:

1. Clearing, removal of vegetation and earthwork for construction of public infrastructure and/or development of individual is prohibited between November 1 and April 1 of any calendar year for the following areas / phases:

    a. All infrastructure associated with the “east road” and the lane that extends to the western extent of the plat boundary;
    b. The lane extending from “west road” to the west boundary of the plat;

c. Lots 9-10, 18-34 and 36-38

This condition is placed to avoid erosion, sedimentation, equipment track-out, and to protect neighboring properties from possible increased drainage problems. Limited exceptions may be granted for extended dry periods that may occur outside of the restricted period upon applicant request and subsequent approval by the Planning and Public Works Departments.

2. Clearing and grading for site development shall be phased to avoid drainage and erosion problems, reduce construction traffic impacts on the neighborhood, and to maintain forested areas until construction permits are issued for a specific phase.

3. Clearing, and grading shall be reviewed for compliance with applicable development regulations and mitigating conditions for each construction activity, such as installing stormwater and erosion control BMPs for the site, geotechnical analysis, buildings and parking areas, retaining walls, stormwater facilities and public infrastructure, and is not permitted without an issued building permit and/or public facilities construction agreement or as otherwise authorized by the Bellingham Municipal Code

4. The City shall have the authority to further limit the clearing and grading for each plat or construction phase of development to ensure:
   a. The proposed clearing and grading limits is the minimum necessary to complete the construction activity in an efficient manner; and
   b. That there is adequate maneuvering and staging area on site in order to implement the phase within the plat to minimize off-site impacts to surrounding properties and street networks.

4. Plants

The following documents have been provided that enable the City to conduct project specific environmental review under SEPA and issue determination:

- **Exhibit 5 - Expanded SEPA checklist, updated by AVT Planning, December 19, 2024**
- **Exhibit D - Wildlife Habitat Assessment by Radeke, November 22, 2024**
- Exhibit E - Geotechnical Investigation & Geohazard Report by Element, October 6, 2022
- Exhibit L - Vegetation Management Plan by PSE dated December 1, 2023

The reports specified above provide adequate information to conduct SEPA environmental review on the Proposal. Public concerns were raised about the amount of vegetation removal and its impacts to slope stability, water quality and wildlife.

The updated Wildlife Habitat Assessment includes a section on existing conditions relating to vegetation and habitat. Endangered or sensitive vegetation was not encountered. Habitat features were observed such as snags and downed trees. Forested areas with snags (dead standing trees) and downed wood are present, and this habitat is known to be used by pileated woodpecker and big brown bat. These habitat features will remain within the retained forested area on the site and protected in perpetuity through a conservation easement. The proposed retention areas of existing vegetation are shown on **Exhibit L** in green. The expanded SEPA checklist at **Exhibit 5**

also documents that there are no threatened or endangered plant species on the subject site. The Geotechnical Investigation and Geohazard Report at **Exhibit E** also provides a vegetation assessment of the landslide hazard areas that are in proximity to development areas adjacent to the northwest, southwest and southeast slopes.

Avoiding clearing on the site's steep slopes in the northwest corner of the plat between Viewcrest and West Road, the west central bedrock faces, the relict landslide feature and the southwest and southeast forested slopes above the Chuckanut Creek pocket estuary will maintain the site's geologic stability. The southwest and southeast facing forested slopes above Chuckanut Bay vary from approximately 400 – 450 feet in width. Retention of the majority of the site in its existing condition will minimize impacts to wildlife by maintaining a large assemblance of preserved area that will continue to provide areas for foraging, roosting and rearing for species that currently utilize this habitat corridor. These areas are shown, generally, in green on the Vegetation Management Plan at **Exhibit L**.

Section 4b of the expanded SEPA checklist at **Exhibit 5** indicates that approximately 20 percent of the site is anticipated to experience vegetation removal for the construction of public and private infrastructure, the public trail and for the construction of residential structures and their supporting elements on individual lots.

Naturally vegetated areas (shown, generally, in green on the Vegetation Management Plan at **Exhibit L**) behind Lots 1-6, around wetland buffers and the approximate 400-foot-wide band adjacent to the shoreline will be placed within a protective conversation easement in perpetuity which will ensure protection and reduce impacts while enabling the City to enforce the terms of the easement. Fencing and signage, marking these areas as such, are requirements within the BMC 16.55, critical areas.

In addition to protection of vegetation on these sloped areas and seasonal restrictions for clearing provided in BMC 16.55, critical areas, the City's Clearing Chapter enumerated in BMC 16.60 provides additional requirements for removal of vegetation. BMC 16.60.080 requires a tree retention plan that specifies trees greater than 6" in diameter are shown in relation to proposed infrastructure and building plans. Subsection .080 also requires that replacement trees be planted at a certain ratio and specie type given specific site characteristics. Replacing trees and vegetating individual lots with appropriate native plant material will provide future forest canopy and vegetative cover. These have an intended benefit of contributing to the long-term stability and augments surrounding habitat areas.

Please note that the proposal is not subject to the Landmark Tree Ordinance because it was adopted after the applications were deemed to be complete. The Clearing Chapter allows for appropriate mitigation to be implemented regardless of the previous vesting of this project.

The City is also responsible to taking actions that reduced cumulative impacts resulting from development. The City's Climate Action Plan contains multiple municipal and community measures to reduce greenhouse gas emissions related specifically to land use. The City's Critical Area Ordinance and Shoreline Master Plan protect wetland, fish and wildlife habitat conservation area, shoreline and other regulated critical areas throughout the entire city through regulatory compliance and conservation easements. Additionally, the Parks Department preserves and maintains parks and open space throughout the City which provide environmental and recreational benefits for the

community. The most notable and nearby park is the 100-acre Woods, which is intended to be maintained in a manner that minimizes expansion of uses beyond trails. The City continues to purchase property within the Lake Whatcom Watershed to protect the City's drinking water source resulting in permanent preservation of significant open space tracts and associated trees. The City also restores degraded lands by planting native plants throughout multiple sites throughout the community.

The documents specified above and the analysis provided herein - as it relates to removal and future management of vegetation on the site demonstrates that development of the plat is feasible as generally proposed.

Application of existing regulations and establishment of conditions within land use approvals and construction permits will result in avoidance and minimization of probable adverse environmental impacts. As such, probable significant adverse environmental impacts are not expected.

The following additional mitigating conditions shall be implemented with the project to ensure that probable adverse environmental impacts are mitigated or avoided:

1. Prior to any site disturbance, the perimeter of vegetation management areas demarcated in green on **Exhibit L** (vegetation management area #1) shall be clearly marked in the field and shall be inspected by a representative from the PCDD.
2. Prior to any site disturbance associated with public facilities, an ISA certified arborist shall identify significant trees on the edges of management area #1 that are likely to be affected. The arborist shall flag in the field the specific trees to be retained based upon their ability to survive during and after construction is completed.
3. Prior to issuance of building permits for individual single-family lots, an ISA certified arborist shall identify significant trees on the edge of management area #1 that are likely to be affected. The arborist shall flag in the field the specific trees to be retained based upon their ability to survive during and after construction is completed.
4. Conservation easements shall be granted to the City across the retained vegetation management areas shown on **Exhibit L** behind (south of) Lots 1-6, all land area south of Lots 23-33, the public trail and Lot 37, land areas within Lot 38 that are not within the proposed development footprint including wetlands A and B and their buffers and concurrent with final plat approval for the initial phase or entire project – whichever occurs first. Said conservation easement shall include provisions for construction of the public trail that connects the East Road and Viewcrest Road to Sea Pines Road.
5. A tree retention plan as required in BMC 16.60.080(B)(4) shall be submitted with individual applications for a public facilities construction agreement and individual lot development. Replacement ratios for removed trees shall be established prior to issuance of these construction permits.

5. Animals

The following documents have been provided that enable the City to conduct project specific environmental review under SEPA and issue this determination:

- **Exhibit 5 - Expanded SEPA checklist, updated by AVT Planning, December 19, 2024**
- **Exhibit D - <u>Wildlife Habitat Assessment</u> by Radeke, November 22, 2024**

- **Exhibit Y – Wetlands and HCA Report Addendum Memorandum by NES, November 22, 2024**
- **Exhibit Z – Technical Memorandum by Raedeke, November 22, 2024**

The documents specified above, and the analysis provided herein - as it relates to potential impacts to wildlife utilizing the subject site demonstrates that development of the plat is feasible as generally proposed.

The reports identified above were submitted in response to the City's August 14, 2024 RFI and in response to public comments that raised issues regarding wildlife including a loss of wildlife habitat, impacts to an eagle's nest, impacts to roosting opportunities for wildlife and impacts to aquatic species resulting from untreated stormwater runoff into Chuckanut Bay and specifically shellfish. The public also identified many other species that are typical in an urban environment that have been observed on or near the site. **Exhibit D** is an update to the previous habitat assessment and is intended to confirm and/or verify species presence from the prior assessment dated November 16, 2022. **Exhibit Z** intends to specifically address or provide reference to the four action items in the City's 8/14/2024 RFI.

The updated Wildlife Habitat Assessment (WHA) at **Exhibit D** includes references to prior habitat reports that have been commissioned by the City of Bellingham. Specifically, these are the Marine Nearshore Connectivity Study (2014), the Wildlife Corridor Analysis (2021) and the Habitat Restoration Technical Assessment (2015). Reference to and explanation of these documents in relation to the subject proposal in the WHA was required in the City's 8/14/2024 RFI.

The only portion of the project that is within the study area of the 2014 Marine Nearshore Connectivity Study is the proposed stormwater conveyance pipe and the outfall structure – although neither are located waterward of the high tide line of the Chuckanut Creek pocket estuary. The nearshore study area includes marine waters from approximately 20-feet deep up to the shoreline edge and then landward to approximately 200-feet (measured horizontally) from the ordinary high-water mark which essentially encompasses the shoreline jurisdiction that is regulated by BMC Title 22.

The shoreline of the subject site is within evaluation unit #19 which was rated as the third highest shoreline reach in terms of overall nearshore connectivity. The Study rates the marine shorelines for their individual ability to provide habitat structure and function along the shoreline itself and through the transition zone between the water and upland areas. The lower rated shoreline reaches have a significant amount of shoreline armoring or development spanning the transition zone between water and uplands. The shoreline jurisdiction encompasses marine waters and extends 200-feet landward (horizontally) from the ordinary high-water mark. The conveyance pipe and outfall will not restrict movement or migration of aquatic or terrestrial species in evaluation unit #19. Discharge of treated stormwater to the Chuckanut Creek pocket estuary is addressed in "Water," above.

The 2021 Wildlife Corridor Analysis Report identifies that portions of the project site are part of an important wildlife hub. This hub provides access for wildlife, generally, along the southwest and southeast slopes within the wide band of shoreline and steep sloped area of the site above the shoreline of the Chuckanut Creek pocket estuary. This undisturbed wildlife corridor will provide access to large adjacent habitat blocks such as Clark's Point to the southwest and the Chuckanut Village Marsh to the northeast and then outwards towards the Chuckanut Mountain range, generally. Access to Clark's Point in

the southwest corner of the subject site becomes substantially narrow due to previous development along Arbutus Place. Section 2.2.3 of this report specifies that large intact forested areas are necessary to maintain the necessary corridor functions. A higher value is placed upon intact forested areas adjacent to riparian and wetland features such as the shoreline along the Chuckanut Creek pocket estuary. An undisturbed minimum forest patch size of 5.7 acres is suitable for maintaining a wildlife hub. The intact riparian band between the development footprint and the shoreline edge is approximately15-acres in size which would result in a “high” habitat quality rating.

The 2015 Habitat Restoration Technical Assessment (HRTA) identifies and evaluates habitat types within the watersheds and prioritizes restoration actions in Tier 1 sub-watersheds. The project site is located within the South Bellingham sub-watershed and adjacent to the Chuckanut Creek sub-watershed (for the purpose of the report). The South Bellingham sub-watershed is rated as a “Tier 3” and Chuckanut Creek is rated as a “Tier 1” sub-watershed in the HRTA for protective and restorative actions. The project site is within habitat forest block #7. Although block #7 is within a tier 3 sub-watershed, it was not identified for specific restoration or priority actions. However, habitat forest block #7 is the highest ranked forest block in the City of Bellingham for forest protection, scoring “higher” or “highest” in all categories.

The updated WHA also includes reference to other Washington State habitat and species databases such as the WDFW Priority Habitats and Species (PHS) list, WDFW Salmon Scape, the Natural Heritage Program and Wetlands of High Conservation Value and the Water Quality Atlas. All this information supplements the information provided in the expanded SEPA checklist.

The updated WHA at **Exhibit D** did not identify an on-site presence of wildlife species on the State’s PHS list although a variety of priority species are likely to have a presence within the site’s vicinity, some of which are likely to occupy the site along the shoreline edge of but not on the site itself. (Page 3 and Figure 3 of the updated WHA) Evidence was presented that eagles are known to perch on trees within and near the subject site although there is no evidence of an active eagle’s nest within the property boundary. The updated WHA specifies that two bald eagle nests exist adjacent to the subject property. “Nest 1” was identified approximately 100-feet of the southeast of the property boundary. “Nest 2” was identified approximately 700-feet southwest of the property boundary and west of the BNSF railway. The updated WHA specifies that great blue heron nests were not observed on the subject property.

WDFW’s Salmon Scape identifies Chuckanut Creek, and therefore the shoreline of the Chuckanut Creek pocket estuary is utilized by a variety of salmonid species that are present in the Salish Sea, including ESA listed Puget Sound winter steelhead and Puget Sound Chinook salmon. The Natural Heritage Program database did not result in any findings of heritage features on the project site. The Water Quality Atlas identifies that the waters of Chuckanut Bay, including the waters of the pocket estuary are listed as Category 2 waters for three constituents; Benzo anthracene, Benzo flouranthene and Polychlorinated Biphenyls. (These constituents are generally, produced during incomplete combustion breakdown of organic matter and/or compounds.) These constituents have not been found to cause significant impacts to these listed species.

Category 2 waters may contain pollution levels that are not quite high enough to violate the water quality standards, or, there may not have been enough violations to categorize it as impaired. Installation of three water quality wetland modules that will remove total

suspended solids, metals and phosphorous from surface stormwater will not significantly increase the levels of the category 2 constituents, specified above, in the Chuckanut Creek pocket estuary and Chuckanut Bay, generally. Please also see the information provided in “water,” above that addresses water quality.

At the time of this report, the Washington State Department of Health’s webpage identifies that the CCPE is closed for recreational shellfish harvesting due to the presence of pollution. The primary pollution of concern is bacteria derived from fecal coliform. Pollution is a water quality issue. The State’s Department of Health uses their own classification system for water quality as it relates to commercial and recreational shellfish harvesting and growing. Fecal coliform bacteria are present in Chuckanut Creek, largely due to the lack of sanitary sewer service within its watershed as well as animal and pet waste inputs. Chuckanut Creek outlets into the CCPE and hence, based upon routine sampling for fecal coliform the state’s department of health determines whether shellfish harvesting is open, or closed. Please note that the State’s 303 (d) list of impaired waterbodies – which is managed by the Department of Ecology, is not used in this determination.

Shellfish harvesting (and growing) can also be closed due to biotoxins. Marine biotoxins are poisons that are produced by certain kinds of microscopic algae (a type of phytoplankton) that are naturally present in marine waters, normally in amounts too small to be harmful. However, a combination of warm temperatures, sunlight, and nutrient-rich waters can cause rapid plankton reproduction, which typically occurs during a harmful algal bloom. According to the Washington State Department of Health, these “blooms” are not the result of pollution and are not correlated to pollution. Biotoxins can be present in otherwise pristine waters, and even heavily polluted waters can be biotoxin-free.

The project is not expected to exacerbate any ongoing pollutant loading nor will it increase the intensity of factors that may cause harmful algal blooms, such as sunlight, warmer temperatures and nutrients. The proposed sewer infrastructure will send waste-water (fecal coliform) to the Post Point treatment plant and the approximately 400-feet-wide (on average) forested band will remain intact between the development footprint and the CCPE, vital for filtering out pet and animal waste.

Discharge of treated stormwater from pollution generating surfaces and is directly discharged to the CCPE – is not expected to have any measurable additional impact on the shellfish themselves or, on harvesting or growing shellfish that are present within the vicinity of the project.

The WHA specifies that adverse effects to state or federal listed species is not expected because none are expected to occur on site. Species using the site are common to urban areas however, some habitat loss will occur due to site development. Minimizing clearing will retain much of the site’s foraging and roosting areas. These species are likely to continue using the site as they generally tolerate the urban development. The proposed stormwater conveyance pipe is only 12-inches in diameter and will be anchored to the ground eliminating the need for tree removal. This will not prevent the movement of wildlife or adversely affect their respective habitat. The outfall will also be anchored to a flat benched area above the elevation of the ordinary high-water mark. Vegetation will be established around the outfall structure to improve nearshore habitat and introduce food and nutrients to the nearshore environment.

The proposal’s footprint (including the stormwater conveyance pipe and outfall structure)

will not sever or restrict movement of wildlife within the identified habitat block or to the existing hubs in the southwest and southeast corners of the property. Connectivity functions that are currently occurring within the south facing sloped band of forest above the shoreline of the Chuckanut Creek pocket estuary will be retained. Wetlands and nearly all their respective buffer areas will be preserved and/or enhanced for species that depend on those aquatic functions. There is no in-water work or in-water structures that would impact nearshore aquatic species that have a primary association with the Chuckanut Creek pocket estuary.

The WHA provides an evaluation of impacts that may result from the proposal. The WHA acknowledges that the northern portions of the site will be impacted from loss and/or fragmentation of existing vegetation. Fragmentation results in smaller patches and becomes 'edge habitat.' The WHA specifies that the 300 to 400-foot-wide band (approximately) of retained forest between the development footprint and the ordinary high-water mark of the CCPE contains many of the snags, steep talus slopes and all the large established perching trees along the bay which were many of the most unique habitat features at the project site. Please note that snags and logs as well as talus slopes are listed among the State's priority habitats. Avoidance of direct impacts to these specific habitat features minimizes impacts to the subject forest block.

Buffer enhancement to wetland buffers will improve overall functions of those features.

The WHA also recognizes temporary impacts associated with construction of the proposal and longer-term impacts from habitat alteration. Implementation of the proposal is intended to be phased so temporary construction and habitat alteration impacts would be incremental. The WHA indicates that the species that are utilizing the site are common to local habitats and have demonstrated a tolerance to human disturbance. The WHA provides an analysis on avoidance and mitigation of impacts on pages 12-14.

Summarized, the proposal avoids direct impacts to critical area waterbodies such as on-site wetlands and the CCPE. The CCPE is utilized by a variety of fish species, two of which are federally listed under the Endangered Species Act as "threatened;" Puget Sound Chinook salmon and Puget Sound Steelhead. Impacts to vegetation and habitats have been minimized. The overall density average of the preliminary plat is one home per acre within limited development footprints of approximately 3600 square feet, maximum, or about 8% of each individual lot. Reducing the number of lots is not likely to have substantial benefit or significantly affect the potential impacts on habitats. Other mitigation measures have been proposed that include identifying staging areas in the field, avoiding temporary impacts to wetland and shoreline buffers and removing invasive vegetation species to improve the health and function of the local vegetative community.

The design and configuration of the project elements will not result in probable significant environmental impacts to species that utilize the site or are proximate to its edges. Application of existing critical area regulations pertaining to wildlife and establishment of mitigating conditions within land use approvals and construction permits will result in avoidance and minimization of probable environmental impacts.

The following additional mitigating conditions shall be implemented with the project to ensure that probable adverse environmental impacts are avoided and/or minimized:

1. Development of Lot 37 and any supporting elements shall be implemented according to the National Bald Eagle Management Guidelines (Azzerad, 2012, USFWS, 2007).

2. If active nests of protected species such as bald eagles or great blue herons are discovered on site after the issuance of this determination the National Bald Eagle Management Guidelines shall also be implemented. (Azzerad, 2012, USFWS, 2007)

6. Energy and natural resources

The environmental checklist description with regard to energy (electric and natural gas) is adequate. Existing development regulations will require compliance with City-adopted energy codes. Unanticipated impacts to energy use are not expected and additional mitigation measures are not necessary.

7. Environmental health

The environmental checklist description regarding environmental health is adequate to conduct SEPA review. Public concerns were raised that the Proposal would increase noise. Project noise can be categorized as short and long-term; short associated with construction and long associated with daily activities associated with residences living within the proposal post construction.

Short-term noise associated with construction of infrastructure is anticipated. Blasting associated with construction of the infrastructure may be necessary which will increase short-term noise. The surrounding neighborhood is developed with single family residences and the construction noise could impact neighbors if conducted beyond typical work-day timeframes. Construction timeframes should be limited to reduce the short-term noise impacts associated with construction. Mitigating conditions associated with the Earth Element will allow the City to restrict construction hours and provide notice to surrounding neighbors during certain phases of construction.

The public concerns regarding long-term operational noise did not include, and the City could not find, any data to support a finding that the proposal will increase noise beyond that which is typical and anticipated of a residential development of this size.

Significant probable adverse environmental impacts concerning noise are not anticipated. Additional mitigating measures for long-term noise generated by the proposed use are not necessary.

8. Land and shoreline use

The following documents have been provided that enable the City to conduct project specific environmental review under SEPA and issue this determination:

- Exhibit 2 - Project Narrative, dated February 23, 2023
- **Exhibit 5 - Expanded SEPA checklist, updated by AVT Planning, December 19, 2024**
- **Exhibit D - Wildlife Habitat Assessment by Radeke, November 22, 2024**
- **Exhibit Y – Wetlands and HCA Report Addendum Memorandum by NES, November 22, 2024**
- **Exhibit Z – Technical Memorandum by Raedeke, November 22, 2024**

The vacant parcel is located in Area 7 of the Edgemoor neighborhood and zoned Residential-Single, Detached with an overall density of 20,000 square feet and a land use

designation of Single Family Residential, Low Density. The zoning does not have an expressed minimum lot size requirement that must be adhered to.

The current zoning has been in place for several decades indicating that residential development has been anticipated and planned for in this area for quite some time. Abutting properties to the east and west are located in the same zoning subarea and those properties north of the subject site are located in Area 6 of the Edgemoor neighborhood and have a 15,000 square foot minimum lot size requirement.

Under the current zoning, the 37.7-acre site yields a maximum lot count of 82. The proposal includes 38 lots that are limited to single-family development. The project substantially reduces the number of lots permitted according to the adopted zoning thereby reducing potential impacts to the environment. The level of development proposed, as conditioned, will not result in significant adverse impacts to the environment therefore, further reduction of the number of lots is not needed. The proposal will not displace any persons, and it is anticipated that approximately 92 persons would reside within the Proposal once the 38 lots are developed.

The property has not been used as working farmlands or forest lands.

The portion of the project under review of the City's Shoreline Master Program is the above ground stormwater conveyance pipe and outfall for compliance within the natural shoreline designation. The entire Chuckanut Creek pocket estuary has a "natural" shoreline designation as specified in the BMC 22.03.030(A) of the City's Shoreline Master Program. (BMC Title 22, marine reach #19.) The shoreline jurisdiction encompasses the upland areas of the site - as measured horizontally – two hundred feet from the ordinary high-water mark of the Chuckanut Creek pocket estuary. The shoreline jurisdiction also includes the waters of the pocket estuary however, no-in-water work is proposed.

The natural shoreline designation is intended to protect shorelines that are intolerant to human use. Natural designated shorelines should be used for very low-intensity uses to ensure that ecological function and ecosystem-wide processes are maintained. Please also note that Northwest Ecological Services' 2006 Management Recommendations for City of Bellingham Pocket Estuaries was developed specifically to assign buffer widths for pocket estuaries. This required buffer width for this specific pocket estuary is 200-feet which encompasses the entire shoreline jurisdiction.

The permitted uses table in BMC 22.03.030(A)(4) allows public stormwater management facilities subject to approval of a shoreline substantial development permit and shoreline conditional use permit. Please also see section VI of **Exhibit 2** which is the applicant's land use narrative as it relates to shorelines and shoreline conditional use criteria as well as sections 3, "water" and 5, "animals," above. BMC 22.08.010(B)(4) g specifies that *public* stormwater conveyance facilities are allowed within required buffers subject to other applicable standards.

The above grade conveyance pipe is a very low-intensity project element and will require human intervention only during its initial installation and during routine maintenance inspections. The above ground 12-inch diameter conveyance pipe will have minimal to no impact on wildlife.

Application of existing regulations and establishment of conditions within land use approvals and construction permits will result in avoidance and minimization of probable

adverse environmental impacts. The City's Shoreline Management Program provides authority to properly condition potential impacts. As such, probably significant adverse environmental impacts are not expected. Additional mitigating conditions with regard to these other critical area types have been provided in the "earth," "water" and "plants" sections above.

9. Housing

The environmental checklist description regarding housing is adequate to conduct SEPA review. The Proposal will not eliminate any housing units. This SEPA environmental review contemplates the creation of 38 lots for 38 single-family residences for medium to high-income housing. The City of Bellingham does not have land use regulations in place that require affordable housing within the proposal.

The cost of housing is a variable of market demands and is not regulated through zoning. The City has no authority to impose pricing restrictions to require price fixing.

The City of Bellingham Mayor's Executive Order –Expanding Housing Options in Bellingham #2024-02 addresses the City's housing shortage and its relationship to affordability. The proposed housing units will add units to the City's overall inventory and as a result will contribute to the City's available housing supply. Housing choices with varying price points are important in a community. Offering a range of prices allows the opportunity for higher end housing to be purchased by those seeking that price point and leaving more market affordable units to the remaining home buyer pool. The Growth Management Act and the Bellingham Comprehensive Plan encourage providing housing opportunities for all income levels.
No significant adverse environmental impacts concerning housing are anticipated and no mitigation measures are necessary.

10. Aesthetics

The environmental checklist description regarding aesthetics is adequate to conduct SEPA review.

Public comment raised concerns regarding the relationship of the Proposal's scale, compatibility and privacy issues to that of the existing neighborhood.

Scale and Compatibility. The anticipated scale of the residences is anticipated to be similar to those existing residences in the neighborhood and 1-2 story buildings with attached garages. There are locations on the site that may utilize the site's slope and construct 3-story residences. This assumption is supported by the evidence of newer single-family residences constructed in the neighborhood within the past 10-15 years on land that contains much of the same physical features at the subject site.

The Edgemoor Neighborhood is characterized by lots created through the platting processing with little vacant land left to subdivide through the preliminary plat process. A preliminary plat of this scale has not been proposed in the Edgemoor Neighborhood for decades. Most lots created within the last 10-15 years have been through short plat or plat alterations with each land division consisting of 9 lots or less.

The scale of this project as a whole is keeping in character with the surrounding development on hillsides. The proposed lot sizes are not relevant to the neighborhood's scale as that is not an adequate measure that defines the portion of a lot that is suitable

for development. As required, each lot has a demonstrated building envelope that ensures there are measures in place to reasonably assume development can occur at a scale that is compatible with existing development in the neighborhood.

Privacy. Privacy concerns were raised by abutting property owners. Development is proposed in a manner that is similar and consistent with abutting land uses. Development of the lots within the proposal are likely to create privacy issues that are typical of residential neighborhoods and are not anticipated to result in any significant impacts. Mitigation measures between like uses are not generally necessary or required by land use codes.

Public views up the forested slope from the public beach below will not be adversely affected. The retention of an approximately 400-foot-wide band of forested hillslope is expected to obscure any potential sight lines of the proposed development footprint – even at the highest point. Portions of the development footprint are expected to be somewhat visible from the waters of the Chuckanut Creek pocket estuary and/or Chuckanut Bay, beyond the BNSF railroad trestle. The ability to see portions of the proposed development footprint are commensurate with water-based views of the other single family residential developments on the south and west facing slopes in this area. The proposed stormwater conveyance pipe to be anchored to the south facing slope down to the shoreline edge will be similarly obscured by existing vegetation. The outfall / dispersion tee has been strategically located above the high-tide line and partially obscured by existing sandstone boulders. The shoreline permit will include a condition to install marine environment tolerant vegetation to further screen the outfall structure. This is represented on the very last page of **Exhibit AA**.

No additional mitigation through this environmental review is necessary to address the scale, compatibility or privacy concerns.

11. Light and glare

The environmental checklist description of light and glare is adequate to conduct SEPA review. The retained trees are anticipated to buffer any spillover of light from the residential development onto Chuckanut Bay.

Lighting associated with the development of the lots abutting the onsite wetlands are not anticipated to have a significant impact to the wetlands or their nocturnal occupants. Placing the wetlands in a conversation easement will provide the City authority to impose conditions concerning lighting levels and to monitor impacts to those areas within the conservation easement.

No significant adverse impacts concerning lighting are anticipated and no mitigation measures are necessary.

12. Recreation

The environmental checklist description regarding recreation is adequate to conduct SEPA review. Public comment raised concerns regarding the connection of a proposed trail from Viewcrest Road through the site to Sea Pines Road. The concerns expressed safety issues at the trail's proposed terminus at Sea Pines Road. The application materials include preliminary plans for the trail's location and design. The final trail design will ensure the trail head at Sea Pines Road is safe for both the trail users and the

residential access locations in the vicinity of the trail head.

The Clarkwood Plat, abutting the proposal's western boundary, established two tracts for public pedestrian circulation and connection. These tracts are generally located in the vicinity of proposed Lot 22 and within the shoreline buffer of proposed Open Space Tract A. City staff conducted a site visit to determine the feasibility of utilizing these tracts and extending public trail access in and through the site in these locations. A public access easement from the northern Clarkwood open space tract appears feasible and will be further evaluated through the preliminary plat application process.

An informal neighborhood trail has been established within the southern Clarkwood open space tract. Formalizing this access through the proposal is challenging given the topography and its location within the shoreline jurisdiction. The land division and shoreline applications should consider whether the conservation easement over the proposed Open Space Tract A should include a public access easement for future consideration of providing a public access from Arbutus Place through the southern Clarkwood open space tract to the shoreline of Chuckanut Bay.

These trail connections will be further evaluated through the preliminary plat application process to determine if they are needed to comply with the decision criteria in the Land Division Ordinance. Final trail alignment, grades, and design will be reviewed and approved in accordance with the City's Design Standards for Park and Trail Development, specifically section 02505.01 concurrently with the construction drawings for the infrastructure associated with the plat. Any easement dedicated for public trail purposes should be consistent with the requirements of Park and Trail Development standard 00000.10, unless the City determines an alternative standard can provide the same level of access with appropriate maintenance opportunities.

Park impact fees will be assessed when building permits are issued. These fees are intended to help offset new development demands on parks and recreational facilities pursuant to Chapter 19.04 BMC.

No significant adverse impacts concerning recreation are anticipated, potential impacts can be reviewed and properly conditioned according to existing development regulations and no mitigation measures are necessary.

13. Historical and cultural resources

The environmental checklist description concerning historical and cultural resources is adequate to conduct SEPA review. In addition, the following document has been provided that enables the City to conduct project specific environmental review under SEPA and issue this determination:

- **Exhibit H - <u>Cultural Resources Report</u> by Drayton, October 28, 2024**

A site visit was performed on July 15th, 2024, with a representative from the applicant team, the City's Planning Department, Drayton Harbor and two representatives from the Lummi Nation Tribal Historic Preservation Office. Follow up correspondence between the applicant, the Department of Historic and Archaeological Preservation and the LNTHPO, the applicant was directed to perform additional survey work on certain elements of the project proposal. This additional survey work produced the material provided in **Exhibit H**.

The Cultural Resources Report concludes that based upon the topography of the project area, it is highly unlikely that development of the proposed project will impact any previously recorded archaeological resource and that impacts are more likely to occur from recreational users and possible vandalism. Based on the results of the cultural resources assessment, the report asserts that further cultural resources oversight is unnecessary, and the project be permitted as designed.

Therefore, it is believed that no historical or cultural resources will be displaced by or impacted by the subject proposal. The following conditions shall be applied in order to address any action that encounters a historic or cultural resource discovery on the subject site during construction.

Required mitigating conditions:

1. Prior to any site disturbance, a professional archaeologist shall provide training on how to develop and follow an Inadvertent Discovery Plan with the project earth and site work contractors. In addition, and prior to any site disturbance, said training shall be documented and provided to the PCDD.

2. Should archaeological resources (e.g., shell midden, animal remains, stone tools) be observed during project activities, all work in the immediate vicinity shall stop, and the area should be secured. The Washington State Department of Archaeology and Historic Preservation (State Archaeologist Rob Whitlam, 360-586-3080) and the Lummi Nation Tribal Historic Preservation Office (Lena Tso, THPO 360-312-2257) shall 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):

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

14. Transportation

The environmental checklist description regarding transportation is adequate to conduct SEPA review. Public comment raised concerns regarding increased traffic resulting from the development, safety concerns resulting from the increased traffic and the lack of capacity for all mode of transportation on existing public streets.

BMC 13.70 indicates threshold levels in which in-depth transportation analysis should be conducted for development. Projects below the threshold levels generally do not create significant enough amounts or impacts, not already planned for, to the transportation system that need to be analyzed. The City uses the adopted data from the Institute of Transportation Engineers (ITE) Trip Generation Manual to determine when the estimated trips generated by the proposed development exceed thresholds for analysis and to determine multimodal person trips for both Transportation Concurrency and Transportation Impact Fees.

The City used the 11th Edition of the ITE to calculate the number of PM Peak vehicle trips the project is estimated to generate and to determine if the number of PM Peak vehicle trips met the 50 PM peak vehicle trip threshold to require a Transportation Impact Analysis. The applicable land use description from the ITE for the proposal is Single Family Homes (210) and the applicable PM Peak Vehicle trip rate is 0.94 per single-family residence. Under this land use description and trip rate, the proposed 38 lots would generate 36 PM Peak Vehicle trips. This PM Peak Vehicle trip count does not warrant a traffic impact analysis pursuant to BMC 13.70.030(B) or (C) and therefore a traffic impact analysis was not required.

The applicant voluntarily commissioned Transportation Engineering Northwest to prepare a traffic study (**Exhibit G**) evaluate the transportation impacts that the Proposal would have to Viewcrest/Chuckanut Drive N intersection. The study determined this intersection currently operates at the City's adopted levels of service and the increased traffic resulting from the proposal will not bring the level of service below an adopted level of service. The study concluded that no off-site mitigation is needed to mitigate the impacts from the proposal.

The City obtained data in 2022 from the Whatcom Council of Government and determined that the 12th Street/State Route 11 (Chuckanut Drive N) signalized intersection was operating at a Level of Service A, which refers to the City's designation of an arterial that is the highest functioning of all Level of Service designations.

The City issued a Temporary Certificate of Multimodal Transportation Concurrency on February 7, 2022 for 38 single-family lots (**Exhibit N.3**)**.** The purpose of the multimodal transportation concurrency management program is to ensure that adequate multimodal transportation capacity in the form of person trips is available prior to or concurrent with final approval of development permits. A person trip is calculated based on the total person trips that occur during the 4-6 P.M. period within a transportation concurrency service area.

The Person Trip Generation Rate for the proposed land use is 1.36 trips/unit, which is a total of 51.68 person trips. It was determined that the overall transportation network has sufficient capacity to support these person trips without additional mitigation.

The total person trip count is used to calculate a proposal's transportation impact fees (TIF), which are determined by the established fee rate/unit as adopted by ordinance and payable prior to building permit issuance. The estimated TIF for the proposal, based on the 2025 fee rate, is $146,577.02. The Edgemoor Neighborhood has an eclectic arrangement of street standards that have varying pavement widths, curb designs and pedestrian facilities. Viewcrest Road abutting the site lacks sidewalks and is paved with approximately 24 feet of asphalt with thickened curbs. These improvements are substandard to existing City code and will require the construction of additional frontage improvements, which will include sidewalks along the proposal's Viewcrest frontage.

The western portion of the newly constructed sidewalk will align and extend past the

sidewalk on Clark Road. ADA receiving ramps will be provided consistent with code to ensure there are code compliant ADA accessible pedestrian facilities across Viewcrest Road.

The Transportation Chapter of the Bellingham Comprehensive Plan has adopted by reference two implementation documents, the Bellingham Pedestrian Master Plan (PMP)(2024) and the Bellingham Bicycle Master Plan (BMP) (April 2024). These plans identify and prioritize pedestrian and bicycle facilities that are intended to benefit the multimodal network in the City.

The PMP and BMP identify improvements in the Edgemoor Neighborhood on Fieldston, between Hawthorn and Viewcrest, and on Viewcrest Road, between Fieldston Road and Chuckanut Drive. The PMP identifies improvements for pedestrians, such as missing sidewalks, on these street segments and ranks them as a low priority. The BMP identifies bicycles improvements, such as a bicycle boulevard, on these street segments and ranks them as a medium-low priority.

The plan's rankings for these improvements are based off of 4 factors: Goal-based prioritization, Project scale and complexity, Project cost, and Project grant competitiveness. The goal-based prioritization ranking includes a holistic and contextual evaluation that considers a location's traffic safety context, social equity, accessibility, connectivity and trip potential. The low/low-medium priority for the Edgemoor Neighborhood improvements suggests that the current and future conditions do not demonstrate a significant need for improved pedestrian and bicycle facilities. The proposed bicycle improvement includes a bike boulevard. Bicycle boulevards are proposed as a preferred facility when the streets that they are located in have a low LTS.

The City utilized the WSDOT design manual as a reference document to identify the existing Level of Traffic Stress (LTS) score for these road segments. The existing LTS for the pedestrian and bicyclist on the Fieldston and Viewcrest has the lowest score of LTS 1 and 2, Very Low and Low. The additional traffic volume resulting from the project will not increase the LTS of these street sections to a score that would increase the priorities identified in the PMP or BMP, which is typically a LTS 3 or higher. The project's overall impacts to pedestrian and cyclists does not reach the level of impact to warrant mitigation beyond the code required street improvements.

Public comment concerning lack of visitor parking is unfounded. The lots are of sufficient size to assume a typical single-family development pattern that will include a 2-car garage with a driveway for two additional cars. The residential streets serving the lots will also allow on-street parking. The parking regulations which this project is vested to are sufficient to provide adequate parking for the proposal without causing a significant impact to the neighborhood.

The City evaluated the public comments concerning traffic and pedestrian safety and determined the transportation impacts resulting from the proposal are nonsignificant and do not warrant mitigating measures beyond what City regulations already require.

15. Public services

The environmental checklist description concerning public services is adequate. No increases in public services beyond those anticipated by the City's Comprehensive Plan are expected.

Fire Station 2, located at 1590 Harris Avenue, provides fire and life safety responses to

the Edgemoor Neighborhood. The staffing and equipment from this station are sufficient to provide both fire and life safety services within an acceptable response time. No additional staffing or equipment for emergency services are needed to serve future requests for emergency services as a result of this proposal.

The Edgemoor Neighborhood has multiple entrances that provide sufficient access for emergency services. The streets that are likely to provide access for emergency responses to this proposal have sufficient width and grade to meet minimum requirements and no additional improvements are necessary. The proposal will not significantly affect the City's ability to provide emergency responses in any other part of the neighborhood or in the event of an evacuation due to a natural or other disaster.

The Fire Code, Chapter 17.20 BMC, establishes development codes for both site planning and building construction. Development does not vest to the Fire Code until a complete building permit application is filed for the construction of a residential structure. However, the City completes a code analysis for compliance with the Fire Code during land use application review to ensure that the site planning elements of a proposal will comply with the Fire Code. The Fire Marshal has reviewed the proposal for general compliance with the Fire Code and concluded the proposal generally provides the code required emergency access provisions with the proposed street layouts and provides adequate water capacity for fire flow. The Fire Marshal has the authority to determine at the time of building permit application review whether individual structures will be required to have fire sprinkler systems or if any other mitigation is necessary to meet the Fire Code.

The Fire Code does not include Wildland Urban Interface (WUI) regulations. The WUI is the area of transition between unoccupied land and human development. The unoccupied lands have greater amounts of vegetation that can add additional fuel sources to fires and increase the challenges of suppressing fires and likelihood of greater property damage. The proposal would establish a new WUI along the perimeters of the forested areas that would not be cleared for development.

The roads, driveways and trails associated with the proposal would provide additional access to the WUI which increases access for emergency services in the event of a fire in the undeveloped portions of the proposal.

The crime statistics for the Edgemoor Neighborhood indicate that it has one of the lowest crime rates in the City and the proposal is not expected to change those statistics or significantly decrease the existing level of service provided for police services or response times.

The density and number of dwelling units proposed is below what the zoning allows outright and which has been previously planned for under the Edgemoor Neighborhood and Bellingham Comprehensive Plans. No adverse impacts to public services have been identified as a result of the project and no mitigation measures are needed.

16. Utilities

The following exhibits have been provided that enable the City to conduct project specific environmental review under SEPA and issue this determination:

- **Exhibit 3** - **Response Letter to August 14, 2024 RFI by AVT Planning, 12/19/2024**
- **Exhibit 4 - Response Letter to August 14, 2024 RFI by Sitkin, 12/20/2024**
- **Exhibit 5** - **Expanded SEPA checklist, updated by AVT Planning, 12/19/2024**
- Exhibit C - Wetland Delineation & Critical Areas Summary by NES, 9/28/2022
- **Exhibit F - Preliminary Stormwater Management Report by PSE, 11/22/2024**
- **Exhibit X – Critical Areas Impact Assessment and Mitigation Plan by NES, November 22, 2024**
- **Exhibit Y – Wetlands and HCA Report Addendum Memorandum by NES, November 22, 2024**
- **Exhibit AA – Geohazard Review Addendum (Stormwater Outfall Plan) by Element Solutions, November 22, 2024**
- **Exhibit CC – Wetland Proximity to Outfall by PSE, December 19, 2024**

Public water, sewer, and stormwater mains are located near the project site and have adequate capacity to serve the proposal. Gas, electric, and telephone and communication utility services from the respective private companies will be provided with construction of the public infrastructure to serve the lots and public street lighting within the proposal.

Public comments have raised concerns that the proposed stormwater management plan for the proposal that includes modular wetland systems and direct stormwater conveyances to Chuckanut Bay, a Category I wetland, will increase sediment and pollutants to a significant level. Public comment also suggests that because Chuckanut Bay is a Category I wetland, direct discharge to it would require flow control facilities, such as a detention vault. Other public comments state that Chuckanut Bay is not exempt from the flow control requirement.

No adverse impacts to water, sewer and private utilities have been identified as a result of the project and no additional mitigation measures are needed for these facilities.

Additional information related to stormwater management and the proposed stormwater facilities are provided above in section 3, “water,” section 4, “plants,” and section 5, “animals.”

This proposal is anticipated to create more than 10,000 square feet of pollution generating impervious surfaces and is therefore required to meet the stormwater management regulations in Chapter 15.42 BMC. These regulations adopt by reference the Washington State Department of Ecology’s Stormwater Management Manual for Western Washington. (“DOE Manual”) Compliance with these regulations is determined through the application reviews of building and public facilities construction agreements and not through land use review. When a proposal is anticipated to or will exceed the minimum threshold requirements for stormwater, the land use application review incorporates a preliminary analysis of stormwater management to demonstrate general compliance with the City’s stormwater regulations. A revised preliminary stormwater management report (PSWR) was submitted in the applicant’s December 23, 2024, RFI response and is provided at **Exhibit F.** The PSWR demonstrates that the proposal has adequate space for stormwater facilities and the proposed methods for stormwater management can adequately address the minimum requirements #1-9 from the DOE Manual.

The PSWR proposes three types of stormwater management facilities; a flow control

structure, modular wetland treatment vaults and a flow / energy dissipater. A modular wetland and detention vault, which is a flow control structure, is proposed to treat then detain runoff in the northwest portion of the site adjacent to Viewcrest Road. This system is designed to manage stormwater runoff from the street improvements to Viewcrest Road, the new main entrance road up to the point before it splits into “East Road” and “West Road” and potentially, from driveways associated with Lots 1-6. A detention vault is a “flow-control” facility.

The intent and purpose of stormwater flow control is to collect runoff from a developed area and to release it at a slower rate using a control structure. Stormwater flow control is required when stormwater discharges go to fresh water receiving waterbodies (except large lakes) and the proposal exceeds regulatory thresholds for flow control, which is typically more than 10,000 square feet of hard surfacing. Stormwater flow control is not required when discharging to marine waters since an increase in flow over time does not affect tidally influenced waters the same as it does to fresh waters (i.e., won’t cause flooding).

The PSWR concludes that the Chuckanut Creek pocket estuary is a marine water. Therefore, it is an exempt water body for flow control and may directly discharge to the estuary. There are no federal, state or local regulations stating that marine waters are no longer “exempt water bodies” for stormwater flow control if they are categorized as a wetland.

Stormwater runoff from threshold development area (TDA) #1 would be treated by a modular wetland system before being conveyed into an existing stormwater main in Viewcrest that eventually discharges directly into the Chuckanut Creek pocket estuary below Arbutus Place. A new stormwater detention vault may be necessary in the northwest corner of the site if the existing downstream facilities do not have enough capacity to handle flow from TDA 1 before discharge to the estuary below Arbutus Place.

The stormwater runoff from the remaining developable portion of the site (TDA 2) is proposed to be treated on site with two additional modular wetland systems and then conveyed directly to the Chuckanut Creek pocket estuary via an above ground conveyance pipe that terminates at an energy dissipater flow spreader positioned above the high tide line.

TDA 3 is anticipated to include approximately 2,000 square feet of impervious surface. Stormwater generated from this discharge area will be directed to existing stormwater pipes in South Clarkson Drive.

Pursuant to BMC 22.08.110(B)(4), the proposal is required to provide enhanced water quality treatment of stormwater from pollution generating impervious surfaces. The proposed method for providing enhanced water quality treatment is the use of three modular wetland vaults which are a water quality BMP. The modular wetland water quality BMP has been analyzed and approved for use for stormwater water quality treatment by the Washington State Department of Ecology (Ecology). Ecology has approved the modular wetland water quality BMP for basic treatment level, enhanced treatment level, and nutrient treatment level.

Public comments were provided that the project will exacerbate existing water quality impairments in Chuckanut Creek and its pocket estuary some of which cause Chuckanut Bay to be closed for shellfish harvesting. There is no local, State, or Federal rule that requires new stormwater management facilities to address and mitigate ongoing surface water quality measurements or impairments. The City of Bellingham, via the requirements within its own NPDES Phase II Municipal Stormwater Permit, mitigate and reduce stormwater pollution City-wide using all known and reasonable technologies, which is the

State and Federal standard. Please also note that the stormwater facilities are required to be dedicated to the City. Once this occurs it becomes the City's responsibility for ongoing routine maintenance of the proposed stormwater facilities. This ensures that these facilities are maintained and operate properly and perform their specific functions well into the future.

The direct conveyance is not anticipated to significantly increase sediment in Chuckanut Bay nor exacerbate ongoing water-quality impairments. Stormwater water quality treatment criteria and BMP minimum performance is required to meet 80% removal of total suspended solids for an influent concentration range of 100 mg/L to 200 mg/L. For influent concentrations less than 100 mg/L the effluent goal is 20 mg/L suspended solids. 30% removal of dissolved copper for influent concertation range of 0.005 mg/L to 0.02 mg/L. 60% removal of dissolved zinc for influent concentration range of 0.02 mg/L to 0.30 mg/L. All pollution generating hard surfaces and pollution generating pervious surfaces stormwater runoff is required to be collected and treated through the stormwater treatment systems. Ecology has determined the stormwater modular wetland BMP meets these standards.

The proposed stormwater outfall will require an approved "energy dissipater" at the end of the outfall to disperse stormwater discharge and to the extent feasible, reduce erosion in the immediate proximity of the outfall. (Sometimes referred to as a flow spreader.) The outfall is positioned at approximately elevation +10' which is above the high tide line of the Chuckanut Creek pocket estuary. The design and analysis of the energy dissipater will come when the applicant makes application for the Public Facilities Construction Agreement for the construction of the roads and utilities. The final site stormwater pollution prevention plan (SSWPPP) will include an engineering analysis to identify the volume and velocity of stormwater that will inform the dissipater's design for the conditions. Also, all pollution generating hard surfaces and pollution generating pervious surface stormwater run-off are required to be collected and routed through the modular wetlands as described above.

The PSWR evaluated methods for on-site stormwater management and concluded Low Impact Development practices, such as infiltration, to be infeasible and generally not recommended due to low permeability of the soils, shallow restrictive soil/rock conditions, potential for perched seasonal groundwater, steep grades with potential for saturation-induced stability, lack of vegetative flow path meeting the minimum grade and distance requirements, or a combination of these limiting factors. The report from the project geologist supports these conclusions that the soils are not generally suitable for onsite stormwater management for the entire proposal and City staff agrees. Neither report ruled out that infiltration may be feasible on some individual lots as a method of flow control. When flow control cannot be managed by infiltration, the site stormwater pollution prevention plan (provided w construction permits) must consider other methods to manage its stormwater flow control. An additional consideration should include the requirement to provide infiltration for individual lots where feasible. This performance method is supported by the City's stormwater regulations, the findings of the PSWR and the geologist's report.

The PSWR and the construction site and stormwater pollution prevention plan or, "SSWPPP" are not required to meet or address emergent pollutants of concern like 6PPD-q (tire wear dust compound). Ecology is still studying and analyzing 6PPD-q and has not approved any stormwater water quality treatment BMPs for effectiveness of removing 6PPD-q. Only Ecology approved BMPs are allowed for use and Ecology has not approved a stormwater treatment BMP for 6PPD-q.

The SSWSP is required to evaluate large storm events to ensure the overall system does

not compromise the effectiveness of the proposed water quality treatment BMP. The Bellingham Municipal Code and the Washington State Department of Ecology require stormwater water quality treatment BMPs to be sized for and able to handle up to the full 6-month frequency storm volume and duration. The PSWR methods and sizing of the water quality treatment BMPs are sufficient to manage the water quality leaving the site during large storm events. The PSWR modeling for sizing the proposed water quality treatment BMP included analysis of stormwater run-off from the individual lots. The PSWR proposes to collect all stormwater from pollution generating hard surface and pollution generating pervious surfaces, from the project, and route it through an Ecology approved stormwater modular wetland BMP.

The SSWSP does not specifically address additional measures to reduce the amount of pollution generating surfaces. Additional considerations to reduce runoff from pollution generating surfaces should include incorporating the recommendation from the wildlife biologist to limit all landscaping on individual lots to native plant materials. Native plants are generally more drought tolerant and require less fertilizers than nonnative plant material. Limiting landscaping to include native instead of nonnative plant material should reduce the potential for pollutants entering the stormwater system from overwatering fertilized landscaping or from large rain events that would otherwise be anticipated with nonnative plant material.

The SEPA checklist and supporting documents referenced above are sufficient to determine the proposal can be adequately served with public infrastructure and the proposed methods of managing stormwater for the proposal will not result in probable significant adverse environmental impacts to the Chuckanut Creek pocket estuary. If the stormwater modular systems are appropriately sized for the large storm events, the stormwater runoff leaving the site will meet the thresholds for water quality and will not have a probable significant environmental impact to the Chuckanut Creek pocket estuary.

The following mitigating condition shall be implemented at time of building permit submittal for each individual single-family lot:

1. Provide an analysis as to the feasibility of infiltration of stormwater on each individual single-family lot. If infiltration is determined to be feasible, it shall be incorporated into the building permit submittal.

VIII. REQUIRED MITIGATION MEASURES FOR SEP2022-0013

The Proposal will not have a probable significant adverse environmental impact on the environment. Pursuant to WAC 197-11-350(3), the Proposal has been clarified, changed and conditioned to include necessary mitigation measures to avoid, minimize, and compensate for probable significant impacts. An environmental impact statement (EIS) is not required under WAC 197-11-330 for the Proposal.
The following measures are intended to mitigate those potential impacts identified during SEPA review that can't otherwise be mitigated through demonstrating compliance with the Bellingham Municipal Code. This environmental review is a pre-decision analysis and modifications of the mitigation measures below may be necessary to demonstrate compliance with development regulations and issue construction permits.

1. The mitigation measures specified in **Exhibit C** of Sitkin's Response Letter to the City's 8/14/2024 RFI (**Exhibit 4**) are herein incorporated in their entirety. Some of the mitigation measures specified in **Exhibit C** are required by applicable development regulations and

compliance with development regulations will be determined during land use and construction permit reviews.

2. Prior to or concurrently with submittal of the public facilities construction agreement application, a construction management plan that includes phasing, staging and circulation plan shall be submitted to the PCDD for review and approval. Said plan shall avoid impacts to wetlands, wetland buffers and landslide hazard areas and shall not otherwise extend beyond anticipated development areas for future infrastructure and/or individual lot development. Said plan shall also identify, at a minimum, the sequence and timing of construction, construction worker parking, on site material and construction staging, on and offsite staging, haul routes and temporary use of and closures of rights of way and/or pedestrian routes.

3. Prior to or concurrently with submittal of the public facilities construction agreement application, a bedrock removal plan shall be submitted to the PCDD for review and approval that details the following:

    a. Amount in cubic yards / metric tons expected to be necessary for removal;
    b. Specific areas where removal is proposed;
    c. Anticipated duration of time for bedrock removal;
    d. Anticipated method(s) of bedrock removal and containment;
    e. Post removal bedrock stabilization measures – if deemed necessary by City engineers (retaining walls / shotcrete, similar);
    f. Proposed notification procedures for surrounding property owners within 500’ of the project site; and

    Detailing of the required information above will be used by City staff to determine an hours of operation schedule.

4. Prior to any site disturbance, the construction phasing and staging information in condition #1, above and the bedrock removal information in condition #2 above shall be provided to property owners within the required radius in a singular “Development Implementation Plan.” No specific site work is allowed until development permits for that specific element have been issued with the exception of site work associated with additional site exploration and / or geotechnical analysis.

5. Clearing, removal of vegetation and earthwork for construction of public infrastructure and/or development of individual is prohibited between November 1 and April 1 of any calendar year for the following areas / phases:

    a. All infrastructure associated with the “east road” and the lane that extends to the western extent of the plat boundary;
    b. The lane extending from “west road” to the west boundary of the plat;
    c. Lots 9-10, 18-34 and 36-38

    This condition is placed to avoid erosion, sedimentation, equipment track-out, and to protect neighboring properties from possible increased drainage problems. Limited exceptions may be granted for extended dry periods that may occur outside of the restricted period upon applicant request and subsequent approval by the Planning and Public Works Departments.

6. Clearing and grading for site development shall be phased to avoid drainage and erosion problems, reduce construction traffic impacts on the neighborhood, and to maintain forested areas until construction permits are issued for a specific phase.

7. Clearing, and grading shall be reviewed for compliance with applicable development regulations and mitigating conditions for each construction activity, such as installing stormwater and erosion control BMPs for the site, geotechnical analysis, buildings and parking areas, retaining walls, stormwater facilities and public infrastructure, and is not permitted without an issued building permit and/or public facilities construction agreement or as otherwise authorized by the Bellingham Municipal Code

8. The City shall have the authority to further limit the clearing and grading for each plat or construction phase of development to ensure:

    a. The proposed clearing and grading limits is the minimum necessary to complete the construction activity in an efficient manner; and
    b. That there is adequate maneuvering and staging area on site in order to implement the phase within the plat to minimize off-site impacts to surrounding properties and street networks.

9. Prior to any site disturbance, the perimeter of vegetation management areas demarcated in green on **Exhibit L** (vegetation management area #1) shall be clearly marked in the field and shall be inspected by a representative from the PCDD.

10. Prior to any site disturbance associated with public facilities, an ISA certified arborist shall identify significant trees on the edges of management area #1 that are likely to be affected. The arborist shall flag in the field the specific trees to be retained based upon their ability to survive during and after construction is completed.

11. Conservation easements shall be granted to the City across the retained vegetation management areas shown on **Exhibit L** behind (south of) Lots 1-6, all land area south of Lots 23-33, the public trail and Lot 37, land areas within Lot 38 that are not within the proposed development footprint including wetlands A and B and their buffers and concurrent with final plat approval for the initial phase or entire project – whichever occurs first. Said conservation easement shall include provisions for construction of the public trail that connects the East Road and Viewcrest Road to Sea Pines Road.

12. A native vegetation conservation plan shall be submitted by an ISA certified arborist identifying native trees greater than 6” in diameter across all proposed lots. The purpose and intent of this plan is to minimize the amount of mature native tree and native ground cover removal and disturbance during the design of a development footprint on individual private lots. Said requirement shall be noted on the final plat.

13. At the time of building permit submittal for individual lots, a tree retention plan as required in BMC 16.60.080(B)(4) shall be submitted. Replacement trees may be required as recommended by an ISA certified arborist or licensed landscape architect. Said plan for individual lots shall be reviewed, may be modified and shall be approved by the Planning Department prior to issuance of said building permit.

14. Development of Lot 37 including access and utility connections shall be implemented according to the National Bald Eagle Management Guidelines (Azzerad, 2012, USFWS, 2007).

15. If active nests of protected species such as bald eagles or great blue herons are discovered on site after the issuance of this determination the National Bald Eagle Management Guidelines shall also be implemented. (Azzerad, 2012, USFWS, 2007)

16. Prior to any site disturbance, a professional archaeologist shall provide training on how to develop and follow an Inadvertent Discovery Plan with the project earth and site work contractors. In addition, and prior to any site disturbance, said training shall be documented and provided to the PCDD.

17. Should archaeological resources (e.g., shell midden, animal remains, stone tools) be observed during project activities, all work in the immediate vicinity shall stop, and the area should be secured. The Washington State Department of Archaeology and Historic Preservation (State Archaeologist Rob Whitlam, 360-586-3080) and the Lummi Nation Tribal Historic Preservation Office (Lena Tso, THPO 360-312-2257; Tamela Smart, Deputy THPO 360-312-2253) shall 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):

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

19. At the time of building permit submittal for each individual lot, an analysis shall be provided as to the feasibility of infiltration or dispersion. This analysis could also be submitted for the entire plat for City review and approval through the public facilities construction agreement application review. If infiltration and / or dispersion is determined to be feasible, it shall be incorporated into the building permit submittal.

Prepared by Steve Sundin, Senior Planner; Kathy Bell, Senior Planner; Shane Sullivan, Transportation Engineer; Jeremy Thompson, Project Engineer; Laine Potter, Parks Design and Development Manager; Jason Porter, Surface and Stormwater Manager, Analiese Burns, Habitat Restoration Manager and Kurt Nabbefeld, Development Services Manager, SEPA Responsible Official

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