

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF SNOHOMISH**

In the Matter of the Application of)	Nos. PRD20-0001; PP20-0001
)	
Jeremy Smith, DR Horton,)	Walsh Hills PRD and ULS
)	
)	
For Approval of a Planned Residential)	FINDINGS, CONCLUSIONS,
<u>Development and Unit Lot Subdivision</u>)	AND DECISION

SUMMARY OF DECISION

The request for a planned residential development (PRD) subdivision to create 17 single-family residential lots and for a unit lot subdivision (ULS) to create 94 single-family residential lots, with associated improvements, on 19.29 acres at 1705 and 1711 Terrace Avenue is **APPROVED**. Conditions are necessary to mitigate specific impacts from the proposal.

SUMMARY OF RECORD

Hearing:

The Hearing Examiner held an open record hearing on the request on January 12, 2021, using remote meeting technology due to the COVID-19 pandemic. The record was left open until January 13, 2021, to allow for the submission of additional materials.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

- Brooke Eidem, City Planner
- Glen Pickus, City Planning Director
- Yosh Monzaki, City Engineer
- Andy Sics, City Utilities Engineer
- Matt Hough, Project Engineer
- Edward Koltonowski, Gibson Traffic Consultants, Inc.
- Raelyn Hulquist, Project Representative
- Ival Salyer
- Michael Gallagher
- Edward Chin
- Heather Cox
- Anthony Walborn
- Greg Rivett
- Barbara Rivett
- Milt Grover
- Tony Stapleton
- Dottie Nelson

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Penelope Guntermann
Michael Caldwell
Linda Redmon
Chuck Stockton
Sheldon Zwerling
Dennis Cziske
Kirsten Carlson
Sandy Mitchell
Mark Imsland
Kristine Hansen
Maureen Lumis
Faith Lykken

Attorney Duana Koloušková represented the Applicant at the hearing.

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report
2. Application Materials:
 - a. Planned Residential Development Application (PRD20-0001), dated May 12, 2020, with Legal Description and Property Owner Authorization, received May 19, 2020
 - b. Unit Lot Subdivision Application (PP20-0001), dated May 12, 2020, with Legal Description and Property Owner Authorization, received May 19, 2020
3. Project Narrative, revised December 2, 2020
4. Title Insurance Information
5. Declaration of Adjacent Property Owners List, dated June 1, 2020; Adjacent Property Map; Adjacent Property List
6. PRD Conceptual Building Elevations
7. PRD Preliminary Plan Set (19 Sheets), dated December 2, 2020
8. ULS Preliminary Plan Set (22 Sheets), dated December 2, 2020
9. Geotechnical Critical Areas Report, Terra Associates, Inc., dated October 23, 2020; Geotechnical Engineering Report, Terra Associates, Inc., revised July 17, 2020
10. Infiltration Rate Memorandum, Terra Associates, Inc., dated November 5, 2020
11. Stormwater Site Plan Drainage Report, CPH Consultants, dated November 6, 2020
12. Traffic Impact Analysis, Gibson Traffic Consultants, Inc., dated October 2020
13. Critical Areas Study and Buffer Mitigation Plan, Acre Environmental Consulting, LLC, revised October 26, 2020
14. Revised Critical Areas Study and Buffer Mitigation Plan Third-Party Peer Review Memorandum, ESA, dated November 11, 2020, with email correspondence
15. Tree Risk Assessment, Creative Landscape Solutions, dated December 1, 2020
16. Flow Test Information Sheet, received August 26, 2020

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17. Hydrant Flow Test Report, dated September 24, 2020
18. Determination of Complete Application Letter, with required corrections, dated June 16, 2020
19. Notice of Application, posted and published August 17, 2020; Site Plan, undated; Certification of Public Notice, dated August 17, 2020; Mailing Labels; Declaration of Posting, dated August 17, 2020; Affidavit of Publication, dated August 17, 2020; Classified Proof
20. SEPA Environmental Review Materials:
 - a. Determination of Nonsignificance, issued October 16, 2020
 - b. Environmental Checklist, dated August 4, 2020, with agency evaluation, dated October 12, 2020
 - c. Certification of Public Notice (DNS), dated October 16, 2020, with mailing labels
 - d. DNS Notice Email to Reviewing Agencies, dated October 16, 2020
 - e. DNS Notice Email to Parties of Record, dated October 16, 2020
 - f. Declaration of Posting (DNS), dated October 15, 2020
 - g. Affidavit of Publication (DNS), dated October 16, 2020, with Classified Proof
21. Design Review Analysis, dated December 10, 2020
22. Public Comments:
 - a. Comment from David and Jeanne Andrews, dated August 31, 2020
 - b. Comment from Jessica Arlantino, dated August 30, 2020
 - c. Comment from Sarah Bender, undated
 - d. Comment from Jennifer Berry, undated
 - e. Comment from Matt Borselli, undated
 - f. Comment from Michael Caldwell, undated
 - g. Comment from Melissa Camden, undated
 - h. Comments from Sandra Campbell, dated August 19 and 24, 2020
 - i. Comment from Kirsten Carlson, received September 1, 2020
 - j. Comment from Edward Chin, dated September 2, 2020
 - k. Comment from Kelly Chrisman, dated August 29, 2020
 - l. Comment from Jack Clark, dated September 1, 2020
 - m. Comment from Bill and Michele Coady, revised September 1, 2020
 - n. Comment from Douglas and Candace Cooper, dated August 27, 2020
 - o. Comment from Ruth Cordes, received August 21, 2020
 - p. Comment from Janis Cotton, undated
 - q. Comment from Christina Coulson, dated August 20, 2020
 - r. Comment from Sandi Cross, undated
 - s. Comments from Dennis Cziske, dated September 1 and November 19, 2020
 - t. Comment from Dave Sims, dated October 16, 2020
 - u. Comment from Jeff and Kim Fenney, undated
 - v. Comment from Colleen Gallagher, undated
 - w. Comment from Mike Gallagher, undated
 - x. Comment from Chelsea Garrity, dated August 19, 2020
 - y. Comment from Dave Goldsmith, dated August 19, 2020

- z. Comment from Milt and Susie Grover, dated August 20, 2020
- aa. Comments from Penelope Guntermann and Michael Clifford, dated August 19 and December 14, 2020
- bb. Comment from Craig and Kristine Hansen, dated August 29, 2020
- cc. Comment from Donna Harvey, dated August 27, 2020
- dd. Comment from Kelly Holderman, undated
- ee. Comment from Nancy Jones, undated
- ff. Comment from Ashley Kapioski, dated August 19, 2020
- gg. Comment from Carl Luther, undated
- hh. Comments from Faith Lykken, dated August 16 and 17, 2020
- ii. Comment from Faith and Aaron Lykken, dated September 1, 2020
- jj. Comment from Mike and Karen Manley, dated August 30, 2020
- kk. Comment from Brian Mills, undated
- ll. Comment from Robert and Gail Modrell, dated December 13, 2020
- mm. Comment from Dottie Nelson and Forrest Brown, dated August 31, 2020
- nn. Comment from Dave Niebuhr, undated
- oo. Comment from Erv and Jan Otis, dated August 26, 2020
- pp. Comment from Debbie Pennell, dated August 18, 2020
- qq. Comments from Jesse Podoll, undated
- rr. Comment from Ben and Amanda Rauk, dated August 31, 2020
- ss. Comment from Andrew and Christine Reichert, undated
- tt. Comment from Greg and Barb Rivett, dated August 24, 2020
- uu. Comment from Ken Roberts, dated August 27, 2020
- vv. Comment from Kelline Romanick, dated August 19, 2020
- ww. Comments from Ival and Bea Salyer, dated August 20 and 24, 2020
- xx. Comments from Susan Sellers, dated August 18 and October 9, 2020
- yy. Comment from Shyra Davis Shenker, dated August 19, 2020
- zz. Comment from Hope Coley, dated August 19, 2020
- aaa. Comment from Chuck and Jennette Stockton, dated August 22, 2020
- bbb. Comment from Tammy Tilton, undated
- ccc. Comment from Greg Twedt, dated August 31, 2020
- ddd. Comment from Nicole Twedt, dated August 31, 2020
- eee. Comment from Keegan Uderitz, undated
- fff. Comment from Joe Willis, undated
- ggg. Comment from Rebecca Zarza, undated
- hhh. Comment from Stone Ridge Homeowners, dated October 8, 2020
- iii. Comment from Residents of Terrace, Holly Vista, Stone Ridge, and North Ridge Neighborhoods, dated November 6, 2020
- 23. Staff Responses to Public Comments
- 24. Comment from Stillaguamish Tribes, dated October 5, 2020
- 25. Comments from Washington State Department of Archaeology and Historic Preservation, dated June 17, 2020, and January 4, 2021

26. Comments from Washington State Department of Natural Resources, dated August 20, 2020
27. Comments from Snohomish School District #201, dated September 1, 2020
28. Comments from Snohomish County PUD, dated October 19, 2020
29. Comment from Snohomish County Planning and Development Services, dated December 1, 2020
30. City Building and Fire Department Project Review Memorandum, dated December 14, 2020
31. City Engineering Department Project Review Memorandum, dated December 17, 2020
32. Determination of Concurrency, dated December 17, 2020
33. Notice of Public Hearing; Site Plan; Certification of Public Notice, dated December 18, 2020; Mailing Labels; Public Hearing Notice Email to Interested Parties, dated December 18, 2020; Declaration of Posting, dated December 18, 2020; Affidavit of Publication, dated December 22, 2020, with Classified Proof
34. Comment from Jeanne Andrews, dated January 7, 2021
35. Comment from Autumn Caruso, undated
36. Comment from Jesse Podoll, dated January 10, 2021
37. Comment from Martin Robinett, dated January 11, 2021
38. Proposed Condition 25
39. Traffic Presentation Slides
40. Applicant's recommended changes to City staff's proposed conditions
41. Comment from Becky Alke, dated January 11, 2021
42. Comment from Bea Salyer, dated January 13, 2021

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Public Notice

1. Jeremy Smith, DR Horton, (Applicant), requests approval of a planned residential development (PRD) and a unit lot subdivision (ULS) to subdivide a 19.29-acre property into a total of 111 lots for detached single-family residences. Specifically, the Appellant requests approval of a PRD to subdivide the western 3.45-acre portion of the property located in the City's Single-Family Residential (SFR) zoning district into 17 single-family lots and requests approval of a ULS to subdivide the eastern 15.8-acre portion of the property located in the City's Medium Density Residential (MDR) zoning district into 94 fee simple unit lots for detached single-family residential development. The Applicant intends to develop the property as a cohesive residential community, with a single homeowners association, and would develop the site and construct infrastructure elements of the proposal as a single project. Associated improvements would include grading, new public roadway dedication and construction, installation of utilities and stormwater facilities, designation of common open space, critical areas mitigation, and

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street improvements. The property is located at 1705 and 1711 Terrace Avenue.¹ *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 2; Exhibit 3; Exhibit 7; Exhibit 8.*

2. The City of Snohomish (City) determined that the application was complete on June 16, 2020. On August 17, 2020, the City posted notice of the application on the property and at designated City locations, published notice in the *Everett Daily Herald*, and mailed or emailed notice to property owners within 300 feet of the site and to reviewing government departments and agencies. On December 18, 2020, the City posted notice of the open record hearing associated with the application on the property and at designated City locations, published notice in the *Everett Daily Herald*, and mailed or emailed notice to adjacent property owners. *Exhibit 1, Staff Report, pages 1, 3, and 4; Exhibit 18; Exhibit 19.*
3. The City received numerous public comments in response to its notice materials, which are discussed in detail below. The City also received comments from five reviewing agencies in response to its notice materials. Specifically:
 - The Washington State Department of Archaeology and Historic Preservation (DAHP) submitted a comment, dated June 17, 2020, which noted that the project area has the potential to contain archaeological resources and significant historical period buildings. DAHP recommended that the Applicant submit a cultural resource report and associated historic property inventory forms. The Applicant later submitted the requested documentation to DAHP and to affected Tribes and agencies. After reviewing the documentation, DAHP submitted a comment, dated January 4, 2021, which noted that it agreed with the cultural resources report's determination that the property represents a potential Aldercrest Sanatorium Historic District and that DAHP Level II documentation would be warranted to mitigate for the demolition of the historic property. DAHP also noted that it agreed with the report's recommendation that the Applicant submit an unanticipated discovery plan for the project. City staff has recommended conditions addressing DAHP's concerns.
 - The Stillaguamish Tribe submitted a comment, dated October 5, 2020, which noted that it agreed with the methodology and recommendations of the cultural resources report submitted for the project.
 - The Washington State Department of Natural Resources (DNR) submitted a comment, dated August 20, 2020, which noted that a Class IV-G Forest Practices Permit Application may be required if more than 5,000 board feet of timber would be cut or if any would be sold. City staff has recommended a condition addressing DNR's comment.
 - Snohomish School District #201 submitted a comment, dated September 1, 2020, which noted that Central Elementary, Erickson Elementary, Centennial Middle

¹ The subject property is identified as including Snohomish County Tax Parcel No. 28060700103600. *Exhibit 1, Staff Report, page 2.* A legal description of the property is included with the Land Use Application. *Exhibit 2.*

School, and Snohomish High School would serve the project site and that students residing at the subdivision would be bussed to the schools. The district also noted that sidewalks should be provided within the development to provide safe walking conditions to a school bus stop that would be located at the intersection of Terrace Avenue and Road B.

- Snohomish County Public Utility District No. 1 submitted a comment, dated October 19, 2020, which noted that it has sufficient electric system capacity to serve the proposed development but that the developer may be required to pay for upgrades to existing electric system facilities in the area.

Exhibit 1, Staff Report, pages 4, 22, and 23; Exhibit 22; Exhibits 24 through 28.

State Environmental Policy Act

4. The City acted as lead agency and analyzed the environmental impacts of the proposal as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). City staff reviewed the Applicant's environmental checklist, and other information on file, and determined that the proposal would not have a probable significant adverse impact on the environment. Accordingly, the City issued a Determination of Nonsignificance (DNS) on October 16, 2020, with a comment and appeal deadline of November 2, 2020. The City mailed or emailed notice of the DNS to adjacent property owners and reviewing agencies, posted notice on the property and at designated City locations, and published notice in the *Everett Daily Herald*. The City received one public comment specific to SEPA during the designated comment period. Dave Sims commented that the Applicant's SEPA environmental checklist does not mention AM traffic impacts of the proposal and that the PM traffic impacts of the proposal may be inaccurate because the analysis was conducted during the COVID-19 pandemic, when a significant portion of the local population was self-quarantining at home. The anticipated traffic impacts of the proposal are addressed below. The DNS was not appealed. *Exhibit 1, Staff Report, page 5; Exhibit 20; Exhibit 22.t.*

Comprehensive Plan, Zoning, and Surrounding Development

5. The City Comprehensive Plan designates the western 3.45-acre portion of the property as "Single Family" and the eastern 15.83-acre portion of the property as "Medium Density Residential." The City identified goals and policies from the Comprehensive Plan relevant to the proposal, which include: utilizing innovative zoning models to increase density without adversely affecting the character of existing neighborhoods; continuing to improve and apply the adopted design standards to preserve the character of the City and its districts; planning for single-family neighborhoods that provide quietness, privacy, safety, and land use stability and compatibility; accommodating a range of housing types and residential densities to provide living options for the spectrum of ages, lifestyles, and economic segments of the City's population; providing a range of density options for multi-family development types; ensuring stable single-family neighborhoods at appropriate densities; creating visually accessible home sites; providing efficient circulation for pedestrians and vehicles; exhibiting an orderly lot pattern that minimizes

irregularly shaped lots; providing for street trees; planning for a wide variety of housing types, sizes, and densities to provide housing and home-ownership opportunities to a range of ages and income levels; providing flexibility in single-family lot sizes to allow more efficient use of land without increasing the allowable density; planning for parks, sidewalks, trails, lighting, and other amenities that promote safety and quality of life in neighborhoods; ensuring that new development will enhance and be compatible with its surrounding neighborhood; allowing clustered housing; allowing unit lot subdivisions; preserving and protecting significant critical areas as responsible stewards of public and private resources; ensuring that buffers of native vegetation are adequate to preserve the functions and values of wetlands, lakes, and stream corridors; allowing no net loss of wetland functions and values on a basin-wide basis; avoiding impacts, such as light spill and waste-material flows, that may reduce their habitat value in critical areas; promoting the use of low-impact development techniques to manage stormwater; ensuring that all new residential development will provide park impact fees and/or appropriate parkland to ensure new development does not diminish the City's adopted level of service standards; prohibiting development if the development causes the level of service on transportation facility to decline below the adopted standards adopted or ensuring that funding is identified to implement improvements to increase capacity within six years of the development; and requiring undergrounding of all new utilities for new developments. The City determined that the proposed development would be consistent with the property's Comprehensive Plan designations as Single Family and Medium Density Residential.² *Exhibit 1, Staff Report, pages 5, 12, 13, and 22 and Attachment A.*

6. The western 3.45-acre portion of the site is located within the City's Single-Family Residential (SFR) zoning district. The purpose of the SFR designation is to maintain and develop single-family areas that provide suitable living environments for individuals and families, which have the following characteristics: quietness, privacy, safety, and land use stability and compatibility. *Snohomish Municipal Code (SMC) 14.205.020.* The eastern 15.83-acre portion of the site is located within the City's Medium Density Residential (MDR) zoning district. The purpose of the MDR designation is to maintain and develop adequate multi-family housing to provide a suitable living environment and the medium range in multiple-family residential density, housing types, ownership patterns, lifestyles, and economic needs of the population. *SMC 14.205.030.* Development of single-family detached residences is a permitted use within both the SFR and MDR zones. *SMC 14.207.070; Exhibit 1, Staff Report, page 2.*

² City staff identified the following Comprehensive Plan sections as relevant to the proposal: Land Use Goals LU 3 and LU 5 and Land Use Policies 2.1 and 2.5; Single-Family Land Use Policies SF 4.1 through SF 4.5; Multi-Family Land Use Policy MF 5.1; Housing Goal HO 4 and Policies HO 1.1, HO 3.2, HO 3.3, HO 4.1, HO 4.2, and HO 5.1; Environmental Protection Goal EP 1 and Policies EP 1.5, 1.6, 1.15, and 3.1; Park Policy PRO 1.5; Transportation Policy TR 24; and Utilities Policy UT 1.9. *Exhibit 1, Staff Report, Attachment A.*

7. Property to the north is zoned SFR and Parks, Open Space, and Public (POP) and consists of single-family residential development and vacant property. Property to the south is zoned SFR and POP and consists of single-family residential development, a City water tower, and vacant property. Property to the east is zoned MDR and is developed with single-family residences. Property to the east is zoned SFR and consists of vacant property. *Exhibit 1, Staff Report, page 2.*

Existing Site and Proposed Development

8. The 19.29-acre site is currently developed with a single-family residence at the northwest corner of the property and a private medical facility, the Delta Rehabilitation Center, at the center of the property. The existing medical facility consists of several large commercial buildings, paved driveways, parking lots, and outbuildings. The residential and commercial structures would be removed as part of the development. Impervious surfaces associated with the existing uses would also be removed and/or replaced as part of the development. Access to the property is currently provided from Terrace Avenue, which fronts the property to the west. A maintained lawn area separating the existing residence and medical facility from Terrace Avenue covers much of the western portion of the site. The central and western portions of the property are relatively flat. The eastern portion of the property is forested and, as discussed in greater detail below, contains geologically hazardous steep slope areas. As also discussed in greater detail below, a small Category III wetland is located at the northwest corner of the property; two Category III wetlands containing Type Ns streams are located in the steep slope areas at the eastern portion of the property; and a Category II wetland is located off-site to the east, within the jurisdiction of Snohomish County. *Exhibit 1, Staff Report, pages 2 and 3; Exhibit 9.*

Planned Residential Development (West Side)

9. As noted above, the Applicant requests approval of a PRD to subdivide the western 3.45-acre portion of the site into 17 single-family lots. The PRD provisions of the Snohomish Municipal Code apply to single-family detached residential developments proposed on property within land use areas designated Single-Family Residential, such as the western 3.45-acre portion of the subject property, where critical areas would cause a reduction in the normal developable density by at least one dwelling unit. *SMC 14.220.020.A.* The PRD form of development is available as a mutually exclusive alternative to traditional preliminary plat development under Chapter 14.215 SMC.³ *SMC 14.220.020.B.* Development of single-family detached housing is a permitted use within a PRD on property within the SFR zone. *SMC 14.220.030.* The intent of the City's PRD provisions include allowing development of land subject to critical areas while preserving the natural characteristics of the site; creating or preserving useful open space for recreation and aesthetic enjoyment of residents; permitting developers to use innovative

³ SMC 14.220.040 provides that, if the proposed PRD will have separate lots, a preliminary subdivision or short subdivision application and final plat application must be processed concurrently with the PRD. *SMC 14.220.040.*

methods and approaches not available under conventional Land Use Designation methods; providing for choices in layout of streets, utility networks, and other improvements; and encouraging infill within areas of the city that already have existing development. *SMC 14.220.010. Exhibit 1, Staff Report, pages 1 through 12; Exhibit 2; Exhibit 3; Exhibit 7.*

10. City code provides for a maximum density of six dwelling units per acre within a PRD in the SFR zone. *SMC 14.220.100.A.* The proposed development of 17 single-family lots on 3.45 acres would result in a development density of 4.9 dwelling units per acre, consistent with this requirement. The minimum allowed lot size within a PRD is 4,000 square feet, and the minimum lot width at the road frontage is 40 feet. *SMC 14.220.100.B and C.* The smallest lot size in the proposed PRD would be 4,241 square feet, and the proposed lot widths at the street frontage would range between 40 and 51 feet, consistent with these requirements. Development within a PRD is also subject to bulk dimensional requirements related to maximum floor area ratio, maximum building height, and minimum building setbacks, all of which would be reviewed with the building permit applications. In addition, PRDs are subject to requirements for the provision of open space and recreation areas and for the preservation of existing natural features, which are discussed in detail below. *Exhibit 1, Staff Report, pages 5 and 6.*
11. City staff performed a design review analysis and determined that, with conditions, the proposal would meet applicable design standards and guidelines to adequately address the intent of PRDs to achieve a high level of design and foster architectural variety within the development. Conditions specific to the design review analysis performed for the PRD require that designs and materials for the proposed homes is submitted for design review with the building permit applications; that proposed homes include architectural elements consistent with the character of the city, such as knee braces, covered porches, dentil molding, siding material changes, clerestory windows, and street-facing gables and dormers; that surface materials have the appearance of traditional building materials; that no vinyl siding is permitted; that window and door trim has a minimum width of three inches and is consistent on all sides of buildings; and that landscaping and/or seating is provided at the front entry of each home. *Exhibit 1, Staff Report, pages 11 and 24; Exhibit 6; Exhibit 21.*

Unit Lot Subdivision (East Side)

12. As noted above, the Applicant also requests approval of a ULS to subdivide the eastern 15.8-acre portion of the property into 94 fee simple unit lots for detached single-family residential development. Under *SMC 14.215.125*, the subdivision of land for certain housing types, such as detached single-family residences, is permitted where it would not otherwise be possible due to conflicts between characteristics of the development type and applicable dimension standards in Chapter 14.210 *SMC*. In such cases, the ULS process “provides opportunities for fee simple ownership of land as an alternative to condominium ownership.” *SMC 14.215.125.A.* For a ULS, the dimensional standards of

Chapter 14.210 SMC apply to the “overall site, the ‘parent lot,’ while allowing flexibility in the dimensional standards for the subordinate ‘unit lots.’” *SMC 14.215.125.A. Exhibit 1, Staff Report, pages 12 through 20; Exhibit 2; Exhibit 3; Exhibit 8.*

13. SMC 14.205.030 provides for a maximum density of 18 dwelling units per acre in the MDR zoning district. The proposed development of 94 fee simple lots on 15.8 acres would result in a development density of 5.9 dwelling units per acre, consistent with this requirement. The minimum setback requirements under SMC 14.210.330 are 20-foot front setbacks, 8-foot side setbacks, and 15-foot rear setbacks. The proposed setbacks for the parent lot are 20 feet from the zoning line on the west side (front), 15 feet from the north and south property lines (sides), and more than 400 feet from the rear property line, consistent with this requirement. The parent lot would also meet the minimum lot area and minimum lot width under SMC 14.210.330. Compliance with the maximum 35-foot building height requirement applicable to the parent lot would be reviewed with the building permit applications. *Exhibit 1, Staff Report, page 5; Exhibit 6.*
14. The proposal is subject to administrative design review under Chapter 14.230 SMC. The applicable design standards are contained in the adopted Design Standards and Guidelines (Outside the Historic District), 2004. The individual buildings would undergo a separate design review analysis during building permit review. The City performed a Design Review Analysis, dated December 10, 2020. City staff reviewed the ULS site layout and design for consistency with applicable design standards and determined that they meet all the applicable design standards, including standards for sidewalks and trees (to maintain consistent street frontage and character); curb spacing and consolidated driveways (to enhance pedestrian safety); front yards and entrances (for separation between buildings and pedestrian realms and for safe entry for pedestrians); and individual outdoor spaces (to encourage a sense of ownership by residents). Because ULSs are not held to the same standards of design as PRD subdivisions, City staff’s recommended design conditions for the PRD portion of the project, discussed above in Finding 11, would not be required for the ULS portion of the project. *Exhibit 1, Staff Report, page 9; Exhibit 6; Exhibit 7; Exhibit 23.*

Critical Areas

15. The Growth Management Act, Chapter 36.70A RCW, requires the City to designate environmentally critical areas and adopt regulations to ensure conservation of such areas. The provisions of the City’s Critical Areas Code include measures for protecting ecologically sensitive areas while allowing for reasonable use of private property; implementing the natural environmental goals of the Comprehensive Plan; protecting the public from landslides, seismic events, and flooding; protecting citizens and the environment, including fish and wildlife habitats; preventing adverse and cumulative impacts to critical areas; and protecting threatened or endangered species. *Chapter 14.255 SMC.*

16. Terra Associates, Inc., prepared a geotechnical report, revised May 17, 2020, and a geotechnical critical areas report, dated October 23, 2020, for the Applicant. The reports identified steep slope landslide and erosion hazard areas in the eastern portion of the site and recommended 10-foot buffers with a 15-foot building setback from the crest of the steep slopes. The reports noted that the proposed residential development of the western and central portions of the site would maintain the recommended buffers and would not impact the hazard areas, apart from the proposed construction of a stormwater outfall pipe along the face of the slope. The reports concluded that, with implementation of its recommendations for the design and construction of the outfall pipe, the proposal would have only minimal impacts to the hazard areas and would adequately protect the hazard areas post-construction. The reports also include several recommendations for site development, including recommendations for site preparation and earthwork, foundation support, slab-on-grade floors, stormwater detention vault design, infiltration feasibility, and pavement design. *Exhibit 9.*

17. Acre Environmental Consulting, LLC, prepared a Critical Areas Study and Buffer Mitigation Plan for the Applicant, revised October 26, 2020. The eastern steep slope area of the site (associated with the ULS portion of the project) contains two Category III wetlands (Wetland A and Wetland B) with moderate habitat scores requiring standard 100-foot buffers. Wetland A is located on steep slopes in the northeastern corner of the property, extends off-site to the north, and is associated with a Type Ns stream (Stream A) with a standard 35-foot buffer. Wetland B is located on steep slopes in the east central of the property and is associated with a Type Ns stream (Stream B) with a standard 35-foot buffer. An off-site wetland (Wetland D) is located across South Machias Road to the east of the property, within the jurisdiction of Snohomish County. The wetlands, streams, and associated buffers on the eastern portion of the site are located entirely east of the recommended setback from the steep slope crest, would not be impacted by the proposed development, and would be protected in a Native Growth Protection Area (NGPA) tract (Tract 999). The northwestern corner of the site (associated with the PRD portion of the project) contains a Category III wetland (Wetland C) with a low habitat score requiring a standard 60-foot buffer. The Applicant proposes to reduce 3,575 square feet of the buffer associated with Wetland C through buffer averaging to accommodate the development of Lots 1 and 2 and a private access/utilities tract (Tract 992), within the PRD portion of the project, and to accommodate development of Lot 111, within the ULS portion of the project. The proposed buffer reduction would result in a minimum buffer width of 31 feet, less than the 50 percent reduction allowed under SMC 14.260.060.E.4. To mitigate for the reduced buffer, the Applicant would designate 4,458 square feet of new buffer area on-site, resulting in net increase of 883 square feet of buffer. In addition, the Applicant would enhance the entire on-site portion of Wetland C and the entire 14,315 square feet of on-site buffer areas by removing invasive species and plating native trees and shrubs. The Applicant would also protect Wetland C and its remaining buffer in a NGPA tract (Tract 998). The City's third-party consultant, Environmental Science Associates, reviewed the Applicant's buffer mitigation plan and determined that it would

result in an ecological lift in water quality, hydrologic, and habitat functions of Wetland C and its buffer and, therefore, would satisfy the requirements for buffer averaging under the City's critical areas code. *Exhibit 1, Staff Report, pages 3, 10, 11, 17, 18, and 23; Exhibit 13; Exhibit 14.*

Open Space, Landscaping, and Parks

Planned Residential Development (West Side)

18. SMC 14.220.105 provides open space and recreation area requirements applicable to PRD subdivisions, including requirements that a PRD provide a minimum of 20 percent of the gross site area as total open space, provide a minimum of 200 square feet of usable open space per residential unit, and develop a minimum of 20 percent of all usable open space within PRDs having 10 or more lots for active recreation uses. The proposal includes 30,453 square feet of total open space (provided in Tracts 995 and 998) within the 150,751 square foot PRD portion of the site, exceeding the 30,150 square feet of total open space that would be required. A total of 17,651 square feet of usable open space would be provided in Tract 995, exceeding the 3,400 square feet of usable open space required for the 17 lots proposed within the PRD. Tract 995 would be developed with open play and seating areas, consistent with active recreational use requirements. An existing large maple tree within Tract 995 would be preserved. As noted above, an NGPA easement would be placed over Tract 998 due to the presence of critical areas. Approximately 12,802 square feet of natural area would be preserved within the portion of Tract 998 that would be located in the PRD. City staff determined that the proposal would make appropriate provisions for open spaces and recreational amenities in accord with requirements under RCW 58.17.110. Park impact fees would be assessed and collected at the time of final plat approval. *Exhibit 1, Staff Report, page 6 and 7; Exhibit 3; Exhibit 7.*

Unit Lot Subdivision (East Side)

19. Development projects within the City's MDR zone are required to provide a minimum of 20 percent of the site area as open space. The proposal includes 288,522 square feet of open space (provided in Tracts 996, 997, and 999) within the 689,382 square foot ULS portion of the site, exceeding the 137,976 square feet of open space that would be required. Tract 997 would be developed with seating areas, an open play area, playground equipment, and a sports court. Tract 996 would contain an open play area with a pedestrian trail and landscaping. As noted above, an NGPA easement would be placed over Tract 999 due to the presence of critical areas. The Applicant would provide a minimum of 400 square feet of private usable open space on each dwelling lot, designed as open lawn areas, in accord with ULS provisions of the City code. *SMC 14.215.125.G.2.* City staff determined that the proposal would make appropriate provisions for open spaces and recreational amenities in accord with requirements under RCW 58.17.110. Park impact fees would be assessed and collected at the time of final plat approval. *Exhibit 1, Staff Report, pages 13 and 14; Exhibit 3; Exhibit 8.*

Stormwater Management

20. CPH Consultants prepared a Stormwater Site Plan for the proposal, dated November 6, 2020. The site is comprised of two drainage subbasins, with stormwater runoff currently traveling primarily as sheet and shallow concentrated flows. Stormwater within the west basin currently flows from a ridge running north to south, at the central portion of the project site, to lower elevations to the west, toward Terrace Avenue. Stormwater within the east basin currently flows from the same ridge to lower elevations to the east, toward Machias Road. All stormwater runoff from the western portion of the site would be collected and conveyed to an underground vault located at the southwest portion of the site, in Tract 995, for detention and water quality treatment before discharging to the City's stormwater system off-site at the intersection of Terrace Avenue and 16th Street. The Applicant would be required to remove an existing cedar tree within the right-of-way adjacent to 1604 Terrace Avenue to facilitate the proposed stormwater improvements. All stormwater runoff from developed areas in the eastern portion of the site would be collected and conveyed to an underground vault located at the southeastern portion of the site, in Tract 997, for detention and water quality treatment before discharging to an existing culvert on the west side of Machias Road connecting to an existing Municipal Separated Storm Sewer System in the Snohomish County right-of-way at South Machias Road. The City's Engineering Department reviewed the Applicant's proposed stormwater management system and determined that it would meet the minimum requirements of the 2012 Department of Ecology Stormwater Management Manual for Western Washington, provided that Snohomish County approves the proposal to discharge to its storm sewer system. Snohomish County provided preliminary approval of the Applicant's proposal to discharge to its existing storm sewer system but noted that a right-of-way use permit from the County would be required. *Exhibit 1, Staff Report, pages 9 and 16; Exhibit 3; Exhibit 7; Exhibit 8; Exhibit 11; Exhibit 29; Exhibit 31.*

Access and Traffic Impacts

21. Access to the property would be provided from the west via two access points along Terrace Avenue, which would connect to two new public roads within the subdivision (Roads A and B). Several new public roadways would loop through the subdivision to provide access to the individual lots, including proposed Roads A, B, and C within the PRD portion of the project and proposed Roads D, E, F, and G within the ULS portion of the project. Proposed Roads A, B, and C would be constructed in accordance with the City's local access "B" standards and would include a 50-foot-wide public right-of-way, with 32 feet of pavement, concrete vertical curbs and gutters, 5-foot-wide sidewalks on each side, and a 4.5-foot-wide planter strip on one side. Proposed Roads D, E, F, and G would be constructed in accordance with the City's local access "A" standards and would include a 50-foot-wide public right-of-way, with 28 feet of pavement, concrete vertical curb and gutter, 5-foot-wide sidewalks on each side, and 5-foot-wide planter strips on each side. The Applicant proposes to plant street trees within the planter strips, consistent with the street tree requirements under SMC 14.240.040.A.1. A 22-foot-wide private access/utilities tract (Tract 992) would provide access to Lots 1 through 3. A 20-

foot-wide private access/utilities tract (Tract 994) would provide access to Lots 53 through 54 and to the park and stormwater facility located in Tract 997. A panhandle on Lot 96 would provide access to Lots 97 and 98 through a private access easement. The Applicant would be required to make improvements along the property's frontage with Terrace Avenue, including pavement widening and the installation of a sidewalk, a planter strip, and curbs and gutters. City engineering staff reviewed the proposed new internal public roadways and improvements to Terrace Avenue and determined that the project would be consistent with the City's Engineering Development Standards. The Applicant would be required to provide a minimum of two off-street parking spaces for each dwelling unit. Compliance with the off-street parking requirement would be reviewed at the time of building permit application. *Exhibit 1, Staff Report, pages 7, 8, and 14 through 16; Exhibit 3; Exhibit 7; Exhibit 8; Exhibit 31.*

22. Gibson Traffic Consultants, Inc., provided a Traffic Impact Analysis (TIA) for the proposal, dated October 2020. The TIA determined that the proposed PRD and ULS projects would generate a total of 589 new average daily trips, with 57 new AM peak-hour trips and 77 new PM peak-hour trips, discounting trips that were generated from the former uses of the property. The TIA also determined that all studied intersections would continue to operate at acceptable levels of service with the development. In addition, the TIA provided a collision analysis, which determined that all studied intersections have a collision frequency below one collision per year and collision rates below 0.4 collisions per million entering vehicles, except for the intersection at Pine Avenue and 10th Street, which has a collision frequency of 5.2 collisions per year and a collision rate of 1.48 collisions per million entering vehicles. The TIA noted, however, that 23 of the 26 reported collisions occurring at the Pine Avenue/10th Street intersection were due to "Entering at Angle," with "Inattention" identified as the most common contributing circumstance. The TIA further noted that there were no reported pedestrian or cyclist collisions and that only four collisions leading to a possible injury were reported. Based on its collision analysis, the TIA determined that no additional safety analysis or mitigation should be required for the project. On December 17, 2020, the City Planning Director issued a Determination of Concurrency, which determined that the proposed subdivision would not cause affected intersections to drop below acceptable levels of service and that the payment of traffic impact fees would adequately mitigate for the project's impacts to the City's transportation system. Traffic impact fees would be accessed and collected at the time of final plat approval. *Exhibit 1, Staff Report, pages 8, 9, 15, 16, and 23; Exhibit 12; Exhibit 32.*

Utilities and Services

23. The City would provide water and sewer service to the property, Puget Sound Energy would provide natural gas service, Snohomish County PUD would provide electricity service, and Zply Fiber and Comcast would provide telecommunications service. Each lot within the ULS portion of the project would have individual sewer service, water service, and a power meter specific to the unit as required under SMC 14.215.125.G.1.

Each dwelling unit within the PRD portion of the project would be connected to City water and sewer utilities, as required under SMC 14.220.070. A ten-foot utility easement would be required along the front property line of all lots for the installation of underground utilities serving the lots. The Applicant proposes to loop a new eight-inch water main through the site that would connect at two separate locations to an existing eight-inch main in Terrace Avenue and to relocate the City's 16-inch transmission main, which supplies the water reservoir to the south of the property. The City Engineer determined that, with a condition requiring the City's existing transmission main to be protected and remain in service until the new 16-inch transmission is installed, the proposal would meet minimum water service requirements. The Applicant also proposes to loop a new eight-inch sewer main through the site that would connect to an existing 10-inch main in Terrace Avenue. City engineering staff determined that adequate conveyance and treatment capacity exists in the system to serve the proposed development. City staff determined that, with conditions, appropriate provisions would be made for potable water supplies and for sanitary wastes under RCW 58.17.110. *Exhibit 1, Staff Report, pages 2, 9, 10, 16, 17, 22, and 23; Exhibit 3; Exhibit 7; Exhibit 8; Exhibit 31.*

24. Chapter 14.290 SMC requires mitigation of school impacts as a condition of development or as a condition of building permit issuance. Payment of school impact fees would be made at the time of building permit issuance. Snohomish School District #201 reviewed the proposal and determined that established school mitigation fees are acceptable to the School District. As noted above, students in the future development would ride the bus to Central Elementary, Erickson Elementary, Centennial Middle School, and Snohomish High School. The nearest bus stop would be located at the intersection of Terrace Avenue and Road B. Safe walking conditions to schools are required under RCW 58.17.110. Sidewalks are proposed within the plat, and along the frontage to Terrace Avenue, which would create a continuous sidewalk system providing safe pedestrian conditions for students. *Exhibit 1, Staff Report, pages 12 and 20; Exhibit 27.*
25. Sharon Pettit, the City Building/Fire Official, reviewed the proposal and determined that conditions would be necessary to ensure that all development complies with the municipal buildings codes, that the Applicant provides a fire flow analysis for review upon completion of proposed water system improvements, that lots receiving access from private access driveways provide addresses at the intersection of the private access driveways and public streets, and that the Applicant provides design and construction details and geotechnical findings and recommendations for proposed retaining walls. *Exhibit 1, Staff Report, pages 12 and 20; Exhibit 30.*

Written Public Comments and City Staff Responses

26. As noted above, the City received several public comments on the proposal, mostly from area residents opposed to the project. These comments generally related to the following topics:

*Findings, Conclusions, and Decision
City of Snohomish Hearing Examiner
Walsh Hills PRD and ULS, Nos. PRD20-0001; PP20-0001*

- Traffic and Pedestrian Safety Impacts:** Comments on this topic expressed concerns that: area roads cannot support the traffic that would be generated by the project; the proposed frontage improvements to Terrace Avenue would be inadequate for the proposed development; the Applicant's TIA is flawed; the speed limit on Pine Avenue should be lowered; the project would adversely impact pedestrian safety; the City should require the Applicant to pay additional infrastructure costs; and that the City should adopt a skinny streets plan. For example, several area residents, including David and Jeanne Andrews, Bill and Michele Coady, Jeff and Kim Fenney, Dave Goldsmith, Penelope Guntermann, Autumn Caruso, and Brian Mills commented that area streets and intersections are already heavily congested and, without several significant improvements, would not be able to support the additional traffic that would be generated from the proposed development; Sandra Campbell, Chelsea Garrity, Nicole Twedt, and Janis Cotton commented that the existing road conditions in the area are dangerous for pedestrians and that the additional traffic generated by the proposal would increase these dangerous conditions; Kelly Chrisman, Dennis Cziske, Joe Willis, and Dave Sims commented that the Applicant's TIA appears to underestimate the trips that would be generated by the project; and Matt Borselli commented that the City should adopt a skinny street plan to reduce impervious surfaces and increase pedestrian safety.
- Slope Stability:** Comments on this topic expressed concerns that the proposal would adversely impact steep slope areas on the eastern portion of the property and that the geotechnical report submitted for the project was inadequate. For example, Bill and Michele Coady raised concerns that development at the northeast corner of the project area, including fill activity and installation of retaining wall, would adversely impact nearby landslide hazard areas; Faith Lykken commented that construction activity should be supervised to ensure that the developer's fill activities comply with the recommendations of the geotechnical report; and Joe Willis commented that the geotechnical report simplifies the potential risk associated with installing a 16-foot retaining wall at the top of an 85 percent slope with wetlands below.
- Density and Dimensional Standards:** Comments on this topic expressed concerns about the proposed number of dwelling units on the 19.29-acre site, the proposed lot sizes, and the MDR zoning classification for the eastern portion of the site. For example, several area residents, including Bill and Michelle Coady, Michael Caldwell, Edward Chin, Janis Cotton, Colleen Gallagher, Penelope Guntermann, Michael Clifford, Kelly Holderman, and Susan Sellers opposed the proposed density of the development, noting that it would be out of character with surrounding single-residential development and would have adverse impacts to neighborhood aesthetics, safety, traffic, and home values; also, Faith Lykken and Ival Salyer commented that the MDR zoning classification for the eastern portion of the property is inappropriate and should be changed to reflect the characteristics and infrastructure associated with the surrounding area.

- **School Impacts:** Comments on this topic raised concerns about impacts to area schools and about student safety. For example, Matt Borselli and Sandra Campbell commented that sidewalks would be necessary to ensure safe walking conditions for students and other pedestrians; Janis Cotton, Penelope Guntermann, Michael Clifford, Keegan Uderitz, and Sandi Cross commented that the proposed development would impact already overcrowded schools in the area; and Joe Willis commented that the developer should be required to pay school impact fees.
- **Utility Impacts:** Comments on this topic raised concerns about impacts to the City's water and sewer systems, impacts to internet speeds, and requirements for underground power lines. For example, Edward Chin, Penelope Guntermann, Michael Clifford, Susan Sellers, and Ken Roberts raised concerns that the proposed development would max out the sewer system capacity for the neighborhood; Ken Roberts and Faith and Aaron Lykken commented that existing power lines should be installed underground; Penelope Guntermann and Michael Clifford commented that the development would increase internet usage; Ken Roberts commented that the proposal should not impact water pressure to adjacent properties;
- **Stormwater:** Comments on this topic raised concerns about the stormwater runoff impacts of the proposal. For example, Matt Borselli and Ival Salyer commented that runoff from the site is an issue for surrounding properties and that the Applicant's stormwater site plan does not address how the proposal would mitigate water flowing to properties to the north and south of the project site; also, Ken Roberts raised concerns about increased runoff from new impervious surface areas.
- **Landscaping/Screening:** Comments on this topic raised concerns about landscape screening to protect the privacy of surrounding residential development and about the preservation of existing trees on the property. For example, Ival Salyer, Penelope Guntermann, and Michael Clifford raised concerns about measures to preserve the privacy of neighboring residential properties; Matt Borselli commented that native plants be used in landscaped areas on the property; and Mike Gallagher commented that an existing large maple tree on the property should be preserved.
- **Construction Impacts:** Several area residents, including Mike Gallagher, Edward Chin, Penelope Guntermann, and Michael Clifford raised concerns about noise, traffic, and other impacts of construction activity that would be associated with the development.
- **Parking:** Several areas residents, including Faith and Aaron Lykken, Bill and Michelle Coady, Jesse Podoll, and Sandra Campbell raised concerns that the proposed development would not provide adequate parking, resulting in increased on-street parking in surrounding neighborhoods. Ken Roberts commented that street parking should not be allowed along Terrace Avenue.

- **Parks:** Jessica Arlantino provided commented that she generally supports the proposal but would like to see more park space within the development. Jesse Podoll commented that his neighborhood has a small park and walking trail that would cost residents more to upkeep from additional use by future residents of the neighboring development. Shyra Davis Shenker commented that the proposed park area in the development would be enclosed by trees, which could attract criminal activity and create safety issues for children using the park.
- **Other concerns:** Michael Caldwell commented that, due to the COVID-19 outbreak, the application process should be postponed to allow members of the public more time to review and provide comment on the proposed development. Martin Robinett provided a comment expressing concerns that the ULS provisions of the municipal code would not allow for the proposed development of single-family residences but, instead, must be reviewed concurrently with an application for the development of detached condominiums.

Exhibit 22; Exhibits 34 through 37; Exhibit 41; Exhibit 42.

27. City staff provided detailed responses to the concerns raised by area residents in each of the topic areas listed above:

- **Traffic and Pedestrian Safety Impacts:** The TIA submitted for the project was prepared in accordance with the established methodology and standards applicable to TIAs and fulfills all requirements of the Snohomish Municipal Code. The Highway Capacity Manual was used to evaluate motor vehicle delay at the identified intersections, and all intersections were determined to continue to operate at LOS C or better. The minimum LOS standard adopted by the City is LOS D. The collision rates and frequencies for the identified intersection were found to be lower than generally accepted industry thresholds that trigger mitigation. The Applicant would be required to pay traffic mitigation fees that would be used to pay for improvements identified in the City's transportation deficiency plan. The Applicant would be required to dedicate 10 feet of right-of-way to the City and to construct frontage improvements along the full-length of the property's frontage on Terrace Avenue. Sidewalks would be required on all internal roads. The City does not have the authority to require a developer to fix historical neighborhood street deficiencies that existed prior to the development application. The project proposes two points of access to Terrace Avenue, and no other points of access are required. The City may consider adopting a skinny street standard but cannot apply it retroactively to this project.
- **Slope Stability:** The geotechnical report submitted for the project fulfills all requirements of the Snohomish Municipal Code, and the project would be required to follow all recommendations of the report. City staff has no reason to believe that the report is incorrect or that further analysis is required.
- **Density and Dimensional Standards:** The proposed density is approximately 6 units per acre, which is the maximum density allowed in the SFR zone, even though most of the site is zoned MDR, which would allow a maximum density of

18 dwelling units per acre. Maximum floor area ratio requirements for the PRD portion of the project would be applied at the time of building permit application. The size of residences in the ULS portion of the project would largely be determined by fire code separation requirements and underlying zoning regulations, which include open area requirements. The fire code would require a minimum 6-foot separation between houses in the ULS portion of the project. Because the project is vested to the development regulations in place at the time of complete application, rezoning the MDR portion of the property would not affect how the project can be developed.

- **School Impacts:** The School District provided comments that existing facilities would be adequate to serve the development. The developer would be required to pay school impact fees.
- **Utility Impacts:** The City's wastewater infrastructure has adequate capacity to service the proposed development. The City's Engineering Standards and the municipal code require undergrounding of all new utilities for new developments. The development would be required to meet minimum water pressure and fire flow requirements. Internet is not a utility that is controlled by the City.
- **Stormwater:** The proposed development project would construct new off-site drainage facilities along Terrace Avenue. Additional mitigation to improve downstream drainage cannot be required because the developed site's runoff would not be greater than that of the predeveloped site. Stormwater management would be required to comply with the Department of Ecology's Stormwater Management Manual for Western Washington. By collecting all on-site stormwater in two separate detention vaults before releasing it at a controlled rate, the developed site would generate less stormwater flow than in its predeveloped state.
- **Landscaping/Screening:** The development would include rear yards for the proposed lots. There is no requirement, however, for greenbelts or perimeter landscape buffering where the proposed development type is the same as the neighboring properties (detached, single-family homes), as the code considers this to be a compatible land use. Native plants are encouraged, but not required, for landscaped areas located outside of critical areas or buffers. The proposed development would preserve a large maple tree located in proposed Tract 996.
- **Construction Impacts:** Under Chapter 8.16 SMC, construction would be limited to 7:00 AM to 9:00 PM on weekdays and 9:00 AM to 9:00 PM on weekends and holidays.
- **Parking:** Each dwelling unit would be required to provide a minimum of two off-street parking spaces, and driveways must be large enough to accommodate two cars. The interior streets for the proposal would allow for on-street parking. Rules for parking on existing streets are determined outside of the development review process.

- **Parks:** The property is privately owned and zoned for residential use. Private parks are proposed for future residents to use. The Applicant would be required to pay park impact fees.
- **Other concerns:** The City cannot postpone or delay a land use decision under state law.

Exhibit 23.

Testimony

28. City Planner Brooke Eidem testified generally about the proposal and how it would comply with the City Comprehensive Plan, zoning ordinances, and critical areas ordinances, as well as with the specific criteria for approval of a PRD and a ULS, as described in detail above. She explained that applications were submitted for two separate subdivisions subject to different development regulations but that the applications were reviewed as a single development project. Ms. Eidem noted that PRDs are permitted on the western portion of the property located within the SFR zoning district but are not permitted on the eastern portion of the property located within the MDR zoning district. She noted that architectural variety of the residences in the PRD portion of the project would be ensured through enforcement of the City's adopted design standards during building permit review. Ms. Eidem also noted that the ULS portion of the project would comply with all requirements applicable to residential development within the underlying MDR zoning district and with the specific criteria for approval of a ULS. *Testimony of Ms. Eidem.*
29. City Planning Director Glen Pickus testified in response to a comment provided by Martin Robinett, which expressed concerns that the ULS provisions of the municipal code would not allow for the proposed development of single-family residences but, instead, must be reviewed concurrently with an application for development of detached condominiums. He noted that City staff investigated this issue when the application was first submitted and determined that the ULS code contains inconsistencies, particularly with regard to its cross-references to other code sections. Mr. Pickus explained, for example, that the purpose stated in the ULS code is to provide opportunities for fee simple ownership as an alternative to condominiums but that another section of the ULS code provides that detached single-family residences can only be developed within a ULS as detached condominiums. He also pointed out that detached condominium code provisions state that the purpose of detached condominiums is to allow for the development of more than one detached dwelling unit on a single lot. Mr. Pickus stated that, as the City Planning Director, SMC 14.05.050 provides him with broad authority to interpret the City's development code and that he interprets the ULS code to provide a mechanism for detached single-family dwelling units to be developed on their own lots within multi-family zoning districts. He therefore determined that the Applicant's ULS proposal is allowed under the municipal code. *Testimony of Mr. Pickus.*
30. Ival Salyer testified that he is not opposed to residential development on the subject property but that he would like to see modifications to the proposal to ensure that it

would be compatible with surrounding residential development. He expressed concerns about the proposed density of the project and about its traffic and pedestrian safety impacts to surrounding neighborhoods. *Testimony of Mr. Salyer.*

31. Michael Gallagher testified generally about his concerns with the density of the proposed development and about its impacts to the surrounding area. He also noted his concern that Terrace Avenue is too narrow to support a school bus stop. *Testimony of Mr. Gallagher.*
32. Edward Chin testified about his concerns with the traffic impacts of the proposal and stated that he would like more information about a proposed 20.5-foot-high wall that would be installed close to his backyard. *Testimony of Mr. Chin.*
33. Heather Cox testified about her concerns with the density of the proposed development and about its impacts to traffic and to the City's ability to provide emergency services. *Testimony of Ms. Cox.*
34. Anthony Walborn testified that he is opposed to a proposed wall that would be installed behind his backyard. He also stated his concerns with the proposal's impacts to pedestrian safety from the increased traffic that would be generated. *Testimony of Mr. Walborn.*
35. Greg Rivett expressed his concerns about pedestrian safety along Terrace Avenue. He also noted that his neighborhood has only one access point at Terrace Avenue and, therefore, the ingress and egress of his neighborhood would be impacted by the increased traffic along Terrace Avenue that would be generated from the proposed development, as well as from construction vehicles that would use Terrace Avenue to access the project site during construction. *Testimony of Mr. Rivett.*
36. Barbara Rivett reiterated the concerns raised by Mr. Rivett about impacts to Terrace Avenue and noted that several other residential neighborhoods rely on Terrace Avenue to access their property. *Testimony of Ms. Rivett.*
37. Milt Grover raised concerns about who would be responsible for paying for necessary infrastructure improvements required to support the proposed development. He also raised concerns about the traffic impacts of the proposal, particularly to Terrace Avenue. *Testimony of Mr. Grover.*
38. Tony Stapleton testified that Terrace Avenue is narrow and unsafe for pedestrians. He also expressed concerns about the proposal's impacts to Pine Avenue. *Testimony of Mr. Stapleton.*

39. Dottie Nelson expressed concerns about the proposal's traffic and pedestrian safety impacts to Terrace Avenue. *Testimony of Ms. Nelson.*
40. Penelope Guntermann testified that the proposed density of the development would not be compatible with surrounding residential development. She expressed concerns that the proposal is inconsistent with the zoning code and with comprehensive plan goals and policies encouraging new development to enhance and to be compatible with surrounding neighborhoods. Ms. Guntermann also expressed concerns with the proposal's traffic, noise, and aesthetic impacts. *Testimony of Ms. Guntermann.*
41. Michael Caldwell testified that Terrace Avenue should be improved before construction begins. He stated that the proposal is out of character with surrounding neighborhoods. *Testimony of Mr. Caldwell.*
42. Linda Redmon testified that she is a member of Snohomish City Council. She inquired about whether the Applicant's TIA addressed pedestrian and vehicular safety along Terrace Avenue. *Testimony of Ms. Redmon.*
43. Chuck Stockton testified about his concerns with a proposed wall that would be located along the backyard areas of neighboring properties. He expressed his frustration with the zoning classification for the ULS portion of the property. Mr. Stockton also expressed concerns about the proposal's impacts to wildlife. *Testimony of Mr. Stockton.*
44. Sheldon Zwerling testified that the proposed development would not enhance the character of surrounding neighborhoods and expressed concerns about the proposed tree removal plan. *Testimony of Mr. Zwerling.*
45. Dennis Cziske expressed concerns about the traffic and emergency access impacts of the proposal. *Testimony of Mr. Cziske.*
46. Kirsten Carlson testified about her concerns with a proposed wall adversely impacting neighboring properties. *Testimony of Ms. Carlson.*
47. Sandy Mitchell testified about her concerns with the project's potential impacts to wildlife. She also inquired about who would be responsible for paying for infrastructure improvements and for upkeep and potential repairs to the proposed wall. *Testimony of Ms. Mitchell.*
48. Mark Imsland expressed concerns about the project's impacts to the City's sewer system capacity, noting that he had previously spoken with the City about existing sewer system capacity and that the City had told him that there was insufficient capacity to support new development. *Testimony of Mr. Imsland.*

49. Kristine Hansen testified that she shares her neighbor's concerns about the proposed wall and the vehicular and pedestrian safety issues along Terrace Avenue. *Testimony of Ms. Hansen.*
50. Maureen Lumis reiterated the concerns expressed by other area residents and stated that her primary concern is public safety. She stated that living along Terrace Avenue has been a challenge because she enjoys walking. Ms. Lumis noted that she has raised her concerns with City staff, City Council, and with the Mayor but has been dismayed about the lack of effort to improve Terrace Avenue. *Testimony of Ms. Lumis.*
51. Faith Lykken reiterated concerns expressed by other area residents and stated that the area of the project is not suitable for medium density development. *Testimony of Ms. Lykken.*
52. Project Engineer Matt Hough responded to concerns expressed about the proposed density of the development project, noting that the overall density of proposal would be 5.75 dwelling units per acre, which is less than the maximum density allowed in the SFR zoning district. He also stressed that, although lots in the ULS portion of the project would be smaller, they would be developed with detached single-family residences that would be of a character similar to surrounding residential developments located in the SFR zone. Mr. Hough addressed concerns about proposed retaining walls, noting that they would have to be large due to the topography of the site. He stated that the majority of the retaining walls would face open space tracts but that a portion of the walls would face neighboring residential properties. Mr. Hough explained that the retaining walls would have architectural features but that the final design is still unknown at this time. He also explained that adjacent property owners would not be responsible for the maintenance or repair of the proposed retaining walls. Finally, Mr. Hough addressed concerns about construction impacts of the proposal, noting that the developer would be responsible for any damage to roads caused by construction vehicles, that the project would adhere to the construction hours allowed under City code, and that the project would employ erosion control measures. *Testimony of Mr. Hough.*
53. Edward Koltonowski, of Gibson Traffic Consultants, Inc., testified about the TIA prepared for the project. He noted that the TIA utilized standard trip generation rates provided by the Institute of Transportation Engineers, as required by City standards. Mr. Koltonowski explained that traffic counts at affected intersections were conducted in December 2019, while schools were in session and before COVID-19 restrictions were implemented. He stated that a five-year collision history for Terrace Avenue revealed only two collisions, which did not involve pedestrians or bicyclists. Mr. Koltonowski noted that the project would be required to pay for traffic mitigation fees, which would represent the project's proportionate share of citywide transportation improvement projects, including a planned project to construct a new pedestrian/bicycle path from Terrace Avenue to Pine Avenue. *Testimony of Mr. Koltonowski.*

54. Project Representative Raelyn Hulquist, of D.R. Horton, testified that the proposed retaining walls would be maintained by either a homeowners association or by the property owner of the lot upon which the retaining wall is constructed. *Testimony of Ms. Hulquist.*
55. Attorney for the Applicant, Duana Koloušková, noted that the City would have the authority to compel a future property owner or homeowners association to make any necessary repairs to the proposed retaining wall should issues arise in the future. In response to public concerns about existing road conditions, she stated that the developer has the responsibility to address the project's impacts to road conditions but that the City is responsible for addressing existing conditions. She asserted that the project would meet all code requirements and requested that the Hearing Examiner approve the PRD and ULS requests with the conditions recommended by City staff. *Argument of Ms. Koloušková.*
56. City Planner Brooke Eidem responded to concerns about the project's impacts to wildlife, noting that wildlife issues were addressed through the SEPA process. She explained that the buffers associated for Wetlands A and B would not be modified under the proposal and that the proposed buffer reduction for Wetland C is allowed under City code. Ms. Eidem also responded to safety concerns associated with locating a school bus stop on Terrace Avenue, noting that there would be adequate room for a bus to pull over. *Testimony of Ms. Eidem.*
57. City Engineer Yosh Monzaki responded to concerns about the project's temporary construction impacts, noting that construction trucks would be required to use the City's designated truck routes. He also responded to concerns about existing road conditions, noting that the City adopts a 6-year Transportation Improvement Plan (TIP) every year to address priority transportation projects. Mr. Monzaki noted that the TIP process contemplates public input and provides a forum for public comment. He stated that he is unaware of any Terrace Avenue improvement projects being proposed during the last TIP process. *Testimony of Mr. Monzaki.*
58. City Utilities Engineer Andy Sics testified that the TIP process also takes into consideration grant opportunities to fund transportation projects. *Testimony of Mr. Sics.*
59. City Planning Director Glen Pickus disputed any assertion that the development would not be consistent with MDR zoning regulations or with comprehensive plan goals and policies. *Testimony of Mr. Pickus.*
- Staff Recommendation
60. Recommending approval, City staff determined that, with conditions, the proposal would meet the requirements of the City code and would be consistent with the City

Comprehensive Plan. Ms. Koloušková stated that the Applicant would adhere to the conditions of approval, with minor technical revisions proposed by the Applicant. Ms. Eidem testified that City staff reviewed the Applicant's proposed revisions to the recommended conditions of approval and agrees with the changes. *Exhibit 1, Staff Report, pages 21 through 24; Exhibit 38; Exhibit 40; Argument of Ms. Koloušková; Testimony of Ms. Eidem.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for preliminary plats, planned residential developments, and unit lot subdivisions that would consist of five or more lots. *Snohomish Municipal Code (SMC) 2.33.080; SMC 14.20.020; SMC 14.95.010; SMC 14.215.125.F; SMC 14.220.040.*

Criteria for Review

Preliminary Plat

SMC 14.215.020.B contains the criteria for approval of a preliminary plat, which include:

1. The criteria stated in RCW 58.17.110.
2. If the property is in the NE Sewer Area, a showing that the criteria in SMC 15.04.047 will be satisfied.
3. Consistency with the Comprehensive Plan.
4. Consistency with this Development Code and the adopted City of Snohomish Engineering Standards Manual.
5. Consistency with the concurrency requirement of SMC 14.20.090.
6. Provision of off-site improvements or dedications of land to the public which are needed to mitigate the development's impacts and which are proportional to those impacts.
7. Compliance with the requirements of SMC Title 15, entitled "Sewer, Water, and Stormwater."

RCW 58.17.110(2) requires that a proposed subdivision shall not be approved unless the Hearing Examiner finds that:

- (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
- (b) the public use and interest will be served by the platting of such subdivision and dedication.

Planned Residential Development

In addition to the applicable subdivision criteria described above, a Planned Residential Development must meet the requirements of Chapter 14.220 SMC, including specific requirements related to density, lot area, setbacks, FAR, building height, open spaces, and landscaping.

Unit Lot Subdivision

In addition to the applicable subdivision criteria described above, a Unit Lot Subdivision is subject to the following requirements under SMC 14.215.125.G:

1. Each unit lot shall have individual sewer service, water service, and a power meter specific to that unit.
2. Private usable open space of at least four hundred (400) square feet, exclusive of required parking, shall be provided for each dwelling unit on the same unit lot as the dwelling unit it serves. Such areas shall have a minimum dimension of fifteen (15) feet and shall be usable.
3. Parking shall be calculated and designed for each lot in compliance with Chapter 14.235 SMC, although parking required for a dwelling may be provided on a different lot or tract within the parent lot as long as the right to use that parking is formalized by an easement declared on the plat. Where parking for detached single-family buildings is provided on a different lot or tract, parking allowances for detached single-family residences in Chapter 14.235 SMC, including tandem parking and backing into a street, shall not apply.
4. Access and utility easements, joint use and maintenance agreements, and covenants, conditions, and restrictions identifying the rights and responsibilities of property owners and/or the homeowners association shall be executed for use and maintenance of common garage, parking, and vehicle access areas; drainage facilities, underground utilities; common open space (such as common courtyard open space); exterior building facades and roofs; and other similar features, and shall be recorded with the Snohomish County Auditor.
5. Subdivision of common wall or zero (0) lot line development such as townhouses shall provide a five (5) foot wide building maintenance easement for external walls, eaves, chimneys, and other architectural features that rest directly on the lot line. The maintenance easement shall be shown on the face of the plat.

6. The final plat shall note all conditions of approval, that unit lots are not buildable lots independent of the overall development, and that additional development of the individual unit lots, including but not limited to reconstruction, remodel, maintenance, and addition, shall comply with conditions of approval and may be limited as a result of the application of development standards to the parent lot or other applicable regulations.
7. The application for unit lot subdivisions shall include a detailed, scaled site plan with building footprints. Adequate information shall be provided to determine compliance with all applicable criteria.

The criteria for review adopted by the City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

1. **With conditions, the development would be consistent with the requirements for a preliminary plat under SMC 14.215.020 and RCW 58.17.110.** The preliminary subdivision would make appropriate provisions for the public health, safety, and general welfare and for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, and schools and school grounds. The City acted as lead agency, reviewing the proposal under SEPA, and determined that the proposal would not have any probable significant adverse environmental impacts. The DNS was not appealed.

The proposal includes a total of 318,975 square feet of proposed open space, with 30,453 square feet of open space proposed within the western PRD portion of the site, in Tracts 995 and 998, and 288,522 square feet of open space proposed within the eastern ULS portion of the site, in Tracts 996, 997, and 999. Tracts 998 and 999 contain critical areas and buffers. Critical areas and buffers within Tract 999 would not be impacted by the proposal and would be protected through a Native Growth Protection Area (NGPA) easement. The Applicant proposes to reduce 3,575 square feet of wetland buffer associated with a Category III wetland (Wetland C) within Tract 998. The Applicant would mitigate for the proposed buffer reduction by designating an additional 4,458 square feet of new buffer area on-site and by enhancing the on-site portion of Wetland C and all on-site buffer areas through the removal of invasive species and the planting of native trees and shrubs. An NGPA easement would be placed over Tract 998 to protect Wetland C and its remaining buffer. The City's third-party consultant reviewed the Applicant's buffer mitigation plan and determined that it would result in an ecological lift and would satisfy the requirements for buffer averaging under the municipal code. Open play and seating areas are proposed in Tract 995. An open play area with a pedestrian

trail and landscaping are proposed in Tract 996. Seating areas, an open play area, playground equipment, and a sports court are proposed in Tract 997. Ultimately, common open space in the PRD portion of the site would constitute over 20 percent of the gross site area for that portion of the property, and common open space in the ULS portion of the site would constitute 41.9 percent of the gross site area for that portion of the property, in addition to the private open space for each lot. A 10-foot utility easement is proposed along the front of all lots for installation of underground utilities to serve the lots. The Applicant would loop an eight-inch main extension through the development and would relocate the City's existing 16-inch transmission main. Appropriate provisions are proposed to connect each unit to City water and sanitary sewer services, as well as for potable water supplies and for sanitary wastes. The proposal, with conditions, meets minimum water service requirements. Adequate conveyance and treatment capacity exists in the system to accommodate the proposed development, and proposed sidewalks would create a continuous sidewalk system, providing safe pedestrian conditions for students.

The site is comprised of two drainage basins. All stormwater runoff in the western basin would be collected and conveyed to an underground vault located in Tract 995 for detention and water quality treatment before discharging to the City's stormwater system off-site at the intersection of Terrace Avenue and 16th Street. All stormwater runoff from developed areas in the eastern basin would be collected and conveyed to an underground vault located in Tract 997 for detention and water quality treatment before discharging to an existing culvert on the west side of Machias Road, which connects to an existing Municipal Separated Storm Sewer System in the Snohomish County right-of-way at South Machias Road. The stormwater management system would be consistent with applicable stormwater regulations and would meet the minimum requirements of the 2012 Department of Ecology Stormwater Management Manual for Western Washington.

Access to the property would be provided from two access points along Terrace Avenue. The Applicant would make improvements along the property's frontage with Terrace Avenue, including pavement widening and the installation of a sidewalk, a planter strip, and curbs and gutters. New public roadways (Roads A, B, C, D, E, F, and G) are proposed within the subdivision. Proposed Roads A, B, and C would be constructed in accordance with the City's local access "B" standards and would include a 50-foot-wide public right-of-way, with 32 feet of pavement, concrete vertical curbs and gutters, 5-foot-wide sidewalks on each side, and a 4.5-foot-wide planter strip on one side. Proposed Roads D, E, F, and G would be constructed in accordance with the City's local access "A" standards and would include a 50-foot-wide public right-of-way, with 28 feet of pavement, concrete vertical curbs and gutters, 5-foot-wide sidewalks on each side, and 5-foot-wide planter strips on each side. All proposed new roadways and improvements to Terrace Avenue would be consistent with the City's Engineering Development Standards. The Applicant would provide a minimum of two off-street parking spaces for each dwelling unit, in accord with City requirements. The Applicant submitted a Traffic

Impact Analysis (TIA) for the proposal, which determined the proposal would generate a total of 589 new average daily trips, with 77 new PM peak-hour trips, discounting trips that were generated from the former uses of the property. The TIA also provided a collision analysis, which determined that no additional safety analysis or mitigation should be required for the project. The City Planning Director reviewed the TIA and issued a concurrency determination, which noted that the proposed subdivision would not cause affected intersections to drop below acceptable levels of service and that the payment of traffic impact fees would adequately mitigate for the project's impacts to the City's transportation system. Currently, traffic mitigation fees would be \$1,603 per new PM peak-hour period trip, as determined by the Planning Director. The TIA calculated that the traffic impact fee would total \$123,431. Traffic impact fees would adequately mitigate the additional trips generated by the development. The proposal would meet traffic concurrency requirements. Sidewalks are proposed within the plat and along the frontage of Terrace Avenue. The proposed sidewalks would provide safe pedestrian conditions for students walking to a school bus stop that would be located at the intersection of Terrace Avenue and Road B. School impacts would be mitigated through payment of impact fees.

The City Comprehensive Plan designates the western 3.45-acre portion of the property as "Single Family" and the eastern 15.83-acre portion of the property as "Medium Density Residential." The proposed PRD and ULS would be consistent with several goals and policies of the City Comprehensive Plan by providing for single-family residential development with a range housing types to accommodate living options for varying economic segments of the city's population and with appropriate design review to ensure that the development preserves the character of existing single-family residential neighborhoods in the vicinity and is consistent with the character of the city as a whole, while ensuring that on-site critical areas would be protected and that the City's adopted transportation level of service standard would be maintained.

The City provided reasonable notice and opportunity to comment on the proposal. As discussed in the above findings, several area residents voiced opposition to the proposal. Community displeasure, however, cannot be the basis of a permit denial. *Kenart & Assocs. v. Skagit Cy.*, 37 Wn. App. 295, 303, 680 P.2d 439, *review denied*, 101 Wn.2d 1021 (1984). Several comments opposing the development raised concerns about the project's traffic and pedestrian safety impacts, particularly with regard to Terrace Avenue. The concerns with Terrace Avenue, however, largely relate to its existing conditions, and the City does not have the authority to require the Applicant to address street deficiencies existing prior to the proposed development. Rather, the City's authority is limited to requiring the Applicant to contribute a proportionate share toward the new impacts that would be created by the development. It has done so here through the requirement that the Applicant pay traffic impact fees. As discussed above, the Applicant's TIA demonstrates that the proposal would not cause affected intersections to drop below acceptable levels of service and that no additional safety analysis or

mitigation would be required. Several area residents also expressed concerns about the proposed density of the project. The proposal, however, complies with all density and dimensional standards applicable to the PRD portion of the project within the SFR zoning district and to the ULS portion of the project within the MDR zoning district. Moreover, the total proposed density of the project is less than six dwelling units per acre, which is less than the maximum density allowed in the SFR zoning district, and all dwelling units in the ULS portion of the site would be detached single-family residences, consistent with surrounding single-family residential development. Finally, several area residents expressed concerns about overflow parking on streets in adjacent neighborhoods, stormwater impacts, impacts to schools, utility impacts, and impacts to geologically hazardous areas. As discussed above, however, the proposal would comply with all requirements for off-street parking, stormwater management, payment of school impact fees, utilities, and protection of critical areas.

Conditions, as detailed below, are necessary to ensure that a fire flow analysis of the existing and constructed water system improvements is provided to the City prior to or in conjunction with the final plat review; that retaining wall design and geotechnical recommendations are included with the civil construction permit application; that the Applicant secures approval from Snohomish County for the proposed drainage outfall pipe discharging to the County's system; that the Applicant secures all other necessary permits required for the development; that an inadvertent discovery plan and archaeological monitoring plan are provided to the City prior to ground-disturbing activities; that documentation of historic buildings on-site is conducted prior to building demolition and submitted to the Department of Archaeology and Historic Preservation prior to recording of the final plat; that the City's existing transmission line remains in service until a new line is connected; that the City is allowed to access both the existing water transmission main and the new water transmission main until the existing transmission main is no longer active and the new transmission main is active and has been dedicated to the City; that all utilities are installed underground; that the final plat map includes a Native Growth Protection Area easement over the critical areas and buffers present on the development site; that the final plat includes a 10-foot utility easement along the frontage of all lots within the plat; that a homeowners association is established prior to or at the time of recording the final plat; that the final plat identifies the responsibilities of the homeowners association to maintain, operate, and repair common areas and facilities; that the ULS final plat identifies access and utility easements and joint use and maintenance agreements; that covenants, conditions, and restrictions identifying the rights and responsibilities of property owners and/or the homeowners association are executed for use and maintenance of common garage, parking, and vehicle access areas, drainage facilities, underground utilities, common open space, exterior building facades and roofs, and other similar features; that the ULS final plat notes all conditions of approval, notes that unit lots are not buildable lots independent of the overall development, and notes that additional development of the individual unit lots must comply with conditions of approval and may be limited as a

result of applicable standards and regulations; that standards for design review of individual units in the PRD appear on the face of the final plat for the PRD; that traffic impact mitigation fees are remitted prior to issuance of building permits for individual homes for the net increase of 77 trips; that park impact mitigation fees are remitted prior to approval of the final plat for the development of 110 new single-family dwelling units; that school impact fees are paid to the school district prior to issuance of individual building permits; that all work is consistent with the submitted plans, and recommendations of the professional studies and reports relating to geotechnical, stormwater drainage, critical areas, noise, etc., as approved by the City; and that all administrative review fees for processing the preliminary approval are remitted prior to issuance of a permit for site development. *Findings 1 – 60.*

2. **With conditions, the development would be consistent with the requirements for a Planned Residential Development under Chapter 14.220 SMC.** The eastern portion of the property is eligible for a PRD due to its location within the SFR zoning district and the presence of a Category III wetland that would reduce the developable area of the property by at least one dwelling unit. The Applicant would provide for treatment of stormwater runoff, utilize City PRD development provisions and design requirements for innovative single-family residential housing development, provide for streets and sidewalks that would be constructed to adopted City standards, and would provide for off-street parking in accord with code requirements. The proposed plat and PRD would be developed at a density consistent with the property’s SFR zone and PRD standards. Compliance with applicable dimensional standards, including standards related to maximum floor area ratio, maximum building height, and minimum building setbacks, would be reviewed with the building permit applications. As discussed above in Conclusion 1, the proposal would include 30,453 square feet of open space within the PRD portion of the site, which would constitute over 20 percent of the gross site area for that portion of the property. Conditions, as discussed above and detailed below, are necessary to ensure that the proposal complies with all municipal code requirements and requirements for approval of a preliminary plat and approval of a PRD. *Findings 1 – 60.*

3. **With conditions, the development would be consistent with the specific requirements for a Unit Lot Subdivision under SMC 14.215.125.G.** As discussed in Conclusion 1, the proposed development of single-family residential dwellings is consistent with the property’s Medium Density Residential designation under the City Comprehensive Plan and would further several Comprehensive Plan goals and policies. SMC 14.210.330 provides for a maximum density of 18 dwelling units per acre. The Applicant proposes a density of 5.9 units per acre. The minimum setback requirements under SMC 14.210.330 are 20-foot front setbacks, 8-foot side setbacks, and 15-foot rear setbacks. The proposed setbacks for the parent lot are 20 feet from the zoning line on the west side (front), 15 feet from the north and south property lines (sides), and more than 400 feet from the rear property line, consistent with this requirement. The parent lot would also meet the minimum lot area and minimum lot width required under SMC

14.210.330. Compliance with the maximum 35-foot building height requirement applicable to the parent lot would be reviewed with the building permit applications. As discussed above in Conclusion 1, the proposal would include 288,522 square feet of open space, which would constitute 41.9 percent of the gross site area for that portion of the property. In addition, with conditions, the specific requirements for a Unit Lot Subdivision under SMC 14.215.125.G would be met by the proposal because: individual utilities would be provided to each lot; private usable open space would be provided for each dwelling unit; parking requirements would be met; appropriate easements, maintenance agreements, and covenants would be executed for maintaining common infrastructure and facilities; appropriate building maintenance easement would be provided, as necessary; appropriate restrictive language would be placed on the final plat; and appropriate plans for the ULS were provided with the application.

As discussed above in Conclusion 1 and detailed below, conditions are necessary to ensure the proposal complies with all municipal code requirements and requirements for approval of a preliminary plat and approval of a ULS. *Findings 1 – 60.*

DECISION

Based on the preceding findings and conclusions, the request for approval of a planned residential development subdivision to create 17 single-family residential lots, and approval of a unit lot subdivision to create 94 single-family residential lots, with associated improvements, on 19.29 acres at 1705 and 1711 Terrace Avenue is **APPROVED**, with the following conditions:⁴

1. A fire flow analysis of the improved water systems, including the existing facilities to remain along Terrace Avenue, shall be performed and approved by the City prior to application for final plat. If fire flow does not meet standards, the developer will be required to install individual fire sprinklers within any buildings having insufficient fire flow supply.
2. The application for site/civil construction shall include retaining wall design and geotechnical findings and recommendations, prepared by a qualified licensed geotechnical engineer.
3. Approval of the site civil permit for site development shall include verification that Snohomish County has approved the drainage improvement and discharge within their right-of-way for the eastern basin stormwater outfall. A permit shall be issued by Snohomish County for the drainage outfall pipe before work begins.
4. If more than 5,000 board feet of timber is cut or any is sold from the wooded area, a Class IV-G Forest Practices Permit from the Department of Natural Resources may be required.

⁴ Conditions include both those designed to mitigate impacts from the proposed project and those required by the City code.

5. An Inadvertent Discovery Plan for cultural resources following the unanticipated discovery protocol shall be submitted and approved by the City prior to any ground-disturbing activities on the site a copy of which shall be kept on site during all ground-disturbing activities.
6. An archaeological monitoring plan for all ground disturbing activities in Tract 997 shall be submitted and approved by the City prior to the issuance of a Site Civil Permit and provided to all contractors working in the area.
7. In the event that any ground-disturbing activities or other project actions related to this development uncover protected cultural material or human remains all work in the immediate vicinity of the discovery shall stop, the area shall be secured, all equipment moved to a safe distance away from the location, and all relevant steps proscribed by the Inadvertent Discovery Plan shall be implemented.
8. Prior to the demolition of the following buildings all necessary field work to accomplish a Level II documentation of the buildings shall be completed:
 - a. Administration Building
 - b. Infirmary/Building 1
 - c. Infirmary/Building 2
 - d. Infirmary/Building 3
 - e. Carriage House/Garage/Activities Building

The Level II documentation shall be completed and submitted to Washington State Department of Archaeology and Historic Preservation prior to recording of the final plat for the Unit Lot Subdivision or two months after necessary archives are reopened to the public, whichever occurs latest.

9. The City's existing transmission main must be protected and shall remain in service until the new 16-inch ductile iron water main is tied into the City's water reservoir tower on the adjacent property to the south.
10. All new utilities serving the development shall be installed underground.
11. The cedar tree within the right-of-way adjacent to 1604 Terrace Avenue shall be removed to facilitate the required stormwater improvements. The developer shall work with the property owner/resident of 1604 Terrace Avenue to reconstruct the planter.
12. No site construction activities shall be performed on Sundays and holidays without prior approval by the City due to exceptional circumstances.

13. Prior to recording of the final plat, the outer edge of critical areas buffers shall be marked with signage and fencing approved by the City. The final plat map shall include Native Growth Protection Area easements over the critical areas and buffers present on the development site (Tracts 998 and 999).
14. A homeowner's association (HOA) shall be established prior to or at the time of recording of the final plat. The HOA shall provide all property owners within the PRD and ULS an equal and undivided interest in all private common areas and community facilities, including the storm drainage detention and treatment vaults. The final plat shall include language identifying the specific common areas and facilities that the HOA shall be responsible for the continued maintenance, operations, and any necessary repairs. The final plats will also include language specifying that the aforementioned interests will be shared equally among all the property owners in the event that the HOA becomes dissolved or was never established.
15. The final plat shall include a ten-foot utility easement along the frontage of all lots that front onto a public right-of-way within the plat.
16. Addresses for Lots 1-3, 53-55, and 96-99 shall be posted at the adjacent dedicated public streets as well as the buildings.
17. Traffic impact mitigation fees shall be remitted prior to approval of the final plat unless a deferral in accordance with SMC 14.295.135 is requested and approved for the net increase in vehicular trips resulting from the development of 111 new single-family residential units. Calculation of the net increase in vehicle trips will include credit for previously approved uses on the site. The rate charged shall be the rate in place at the time of final plat submittal. The current rate is \$1,603 per P.M. peak hour trip. However, the total fee may change if the rate changes before the final plat is submitted.
18. Park impact mitigation fees shall be remitted prior to approval of the final plat unless a deferral in accordance with SMC 14.300.065 is requested and approved for the development of 110 new single-family dwelling units. The rate charged shall be the rate in place at the time of final plat submittal. The current rate is \$4,150 per single-family dwelling unit. However, the total fee may change if the rate changes before the final plat is submitted.
19. School impact mitigation fees shall be remitted to the School District with evidence of payment provided to the City prior to issuance of individual building permits unless a deferral in accordance with SMC 14.290.125 is requested and approved. The rate charged shall be the rate in place at the time of building permit issuance.
20. The Unit Lot Subdivision final plat shall identify access and utility easements and joint use and maintenance agreements. Covenants, conditions, and restrictions identifying the

rights and responsibilities of property owners and/or the homeowners association shall be executed for use and maintenance of common garage, parking, and vehicle access areas; drainage facilities, underground utilities; common open space; exterior building facades and roofs; and other similar features.

21. The Unit Lot Subdivision final plat shall note all conditions of approval, that unit lots are not buildable lots independent of the overall development, and that additional development of the individual unit lots, including but not limited to reconstruction, remodel, maintenance, and addition, shall comply with conditions of approval and may be limited as a result of the application of development standards to the parent lot or other applicable regulations.
22. The following standards for design review of individual units shall appear on the face of the final plat for the Planned Residential Development:
 - a. Individual designs and materials shall be submitted for Design Review with application for building permits. Each design shall be subject to the adopted Design Standards of Chapter 14.230 SMC.
 - b. Surface materials shall have the appearance of traditional building materials. Vinyl siding shall not be permitted.
 - c. Window and door trim shall have a minimum width of three (3) inches and shall be consistent on all sides of the buildings.
 - d. Proposed homes shall include architectural elements are consistent with the Snohomish character, such as knee braces, covered porches, dentil molding, siding material changes, clerestory windows, street-facing gables and dormers.
 - e. Landscaping and/or seating shall be provided at the front entry of each home.
23. All work shall be consistent with the project plans, and recommendations of the professional studies and reports relating to geotechnical, stormwater drainage, critical areas, etc., as approved by the City.
24. Prior to issuance of a permit for site development, all administrative review fees for processing the preliminary approval shall be remitted.
25. The City shall be allowed access to both the existing water transmission main and the new water transmission main until such time that the existing transmission main is no longer active and the new transmission main is active and has been dedicated to the City, along with any associated right-of-way and Tracts upon which the new transmission main is situated. The existing Ingress/Egress Water Line Easement (Auditor's Recording Number 9009240037) shall be relinquished prior to final plat approval.

26. The final plat for the Unit Lot Subdivision can only be recorded subsequent to or concurrent with the final plat for the Planned Residential Development, unless appropriate provisions are made for necessary public access and utilities.

DECIDED this 29th day of January 2021.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center