Exhibit "1"

Permit Recommendation & SEPA Determination

Date: December 11, 2023

Project: Gages Crossing (LUP 6-23)

Location: 900 South Pine Street

Parcel(s): P133596, P133597, P72178, P72179, P72181, P62772, and P62771

Applicant: Anna Nelson, Landed Gentry Development, Inc.

Staff: Brad Johnson, Community Development Director BJ

Summary:

On July 19, 2023 the City received an application for preliminary plat approval to divide a 13.36-acre (581,962 sq. ft.) site into 89 residential lots. The resulting lots will be developed with horizontally attached townhouse units for individual sale. The project will involve demolishing existing buildings, clearing, grading, the installation of related landscaping, stormwater, and utility improvements. An internal street system will be constructed to provide access to the individual units and offsite street improvements will also be constructed. The development will include approximately 7.70 acres (335,534 sq. ft.) of open space. After reviewing the applicant's proposal, the conditions of the surrounding area, and the relevant approval criteria, the Community Development Department recommends the proposed development be approved.

Findings:

General

1. The proposed development will divide a 13.36-acre lot into 89 residential lots and 13 special purpose tracts (exhibit "5"). The resulting residential lots will be developed with horizontally attached townhouse units for individual sale.

2. The projects site is located at the sound end of Pine Street (exhibit "2"). The site has an area of 13.36 acres (581,962 sq. ft.) and is comprised of seven separate tax parcels. The property was previously used as a farm, but the farm is no longer in use. A number of

agricultural buildings are located on the property. These buildings will be demolished as part of the development. The site is bounded to the east by South Pine Street and to the west by the Burlington Northern Railroad (BNSF) right-of-way (ROW). The area to the east and north of the site is developed with detached homes on large lots, most of which pre-date the City's annexation of the area.

3. Gages Slough, a regulated wetland, crosses the southern end of the site. While the site is mapped as a regulatory floodplain on the applicable Flood Insurance Rate Map (FIRM), the applicant has provided a Letter of Map Amendment (LOMA) approved by the Federal Emergency Management Agency (FEMA) removing the property from the floodplain. The LOMA indicates the base flood elevation is 30.90 feet and the area being developed has a ground elevation of 32 feet or more (exhibit "3").

4. The development site is zoned RA-1 (Residential Attached) and has a comprehensive plan designation of RA (Residential Attached). The property to the east and north of the site is also zoned RA-1. To the south, the property abuts an unopened city road right-of-way (East Gilkey Road), which is zoned PFT-1 (Public Facilities and Transportation). The BNSF ROW to the west is also PFT (exhibit "4").

5. Access to the site is provided by South Pine Street. South Pine Street is not currently improved to city standards and lacks full width paving, curbs, and sidewalks. The nearest arterial street, South Anacortes Street, is located one block, approximately 350 feet, east of the site. From South Pine Street, South Anacortes Street can be accessed by East Sharon Avenue and numerous other cross streets to the north. East Sharon Avenue does not meet current city standards and lacks full width paving, curbs, and sidewalks. The travel distance to the nearest commercial area along Fairhaven Avenue is approximately 2,497 feet. The travel distance to the nearest school, Lucille Umbarger, is approximately 2,185. A City of Burlington park, Rotary Park, adjoins Lucille Umbarger school to the east (exhibit "2").

6. Internal circulation will be provided by a private network of streets and pedestrian paths. Offsite improvements will include extending a higher capacity sewer line south along Pine Street. Pine Street will be improved from its intersection with East Sharon Avenue to its southern terminus. The proposed improvements consist of full width paving, stormwater management improvements, curbing on both sides, and a continuous sidewalk along the western side of the street. East Sharon will be improved from its intersection with South Pine Street to South Anacortes Street. The proposed improvements to East Sharon include full width paving, curbs, stormwater improvements, and a sidewalk along the south side of the street (exhibit "6").

<u>Procedural</u>

7. Under Washington State law (RCW 58.17.020(1) & RCW 58.17.040) and Burlington Municipal Code (BMC 16.01.020.B and 16.01.060) the division of land into ten or more lots requires approval through a "subdivision" process. Because the application involves the

creation of ten or more lots, this proposal has been reviewed using the standards and procedures for preliminary subdivision approval identified in chapter 16.10 BMC.

8. Subdivisions require both a preliminary approval and a final approval (BMC 16.10.020 and 16.10.110). The purpose of the preliminary plat approval process is to verify compliance with zoning and development regulations, and to identify any necessary improvements, conditions, or restrictions (BMC 16.10.030). A preliminary plat must be approved before an application for final plat approval may be submitted (BMC 16.10.110 and 16.20.060). Preliminary subdivision approvals are classified as "type III" permits (BMC 16.10.050.B and 14A.05.060.C.5). Type III permit decisions must be made by the City Hearing Examiner (BMC 14A.05.060.C).

9. Preliminary subdivision applications that comply, or that can, in the Hearing Examiner's opinion, be made to comply with all applicable Burlington Municipal code requirements shall be approved (BMC 16.10.080). Preliminary subdivision approvals may be conditioned to ensure compliance with applicable municipal code requirements and Washington State law. Conditions shall also be used to identify any specific improvements or actions which must be taken prior to final plat approval (BMC 16.10.080).

10. In addition to the plat approval, the proposed development also requires critical area and site plan approvals. Under BMC 16.10.050.C and 14A.05.060, applications involving multiple reviews or permits shall be grouped together and processed under the highest associated permit classification. Consistent with this requirement, the reviews and permits for this project have been combined and presented to the Hearing Examiner as a single type III review.

11. Gages Slough, a complex of interconnected wetlands, crosses the southern portion of the development site. Gages Slough is hydraulically connected to, and influenced by, the Skagit River. The Skagit River is classified as a "shoreline of the state" and is subject to the jurisdiction of the Washington State Shoreline Management Act (SMA) and the City of Burlington's Shoreline Master Program (SMP). The jurisdiction of the SMA and Burlington SMP extends 200 feet inland from the Ordinary High-Water Mark (OHWM) of the Skagit River and includes associated wetland areas (RCW 90.58.030(2)(d)(d) & (e)). Because Gages Slough is hydraulically connected to the Skagit River, it is considered an "associated wetland" and is subject to regulation under the SMA and the Burlington SMP. The jurisdictional boundaries of the SMA and SMP end at the wetland boundaries and do not include any upland or buffer areas (see Washington State Department of Ecology Shoreline Administrator's Handbook).

12. The development will not involve any work in the wetland itself; however, the proposal includes plans to install an underground water supply line by boring beneath the wetland. The plans provided with the application (exhibit "11") indicate the bore pits for this work will not be located within the required wetland buffer. As proposed, the installation of the

bored water line will not involve any vegetation or surface disturbances within the wetland or wetland buffer. Because the work described above is consistent with the definition of "development" in BMC 18.03.040 & RCW 90.58.030, and because the work does not meet the precise terms of an "exempt development" listed in WAC 173-27-040(2) or BMC 18.09.020.A.1, a Shoreline Substantial Development Permit (SDP) is required. This report addresses the relevant approval criteria for an SDP.

13. The application for this permit was submitted on July 19, 2023. Following the submittal of a land use application the City is required, within 28 days, to determine whether the application constitutes a "complete" application. On August 1, 2023 the City determined the application was complete and notified the applicant (exhibits "9" and "10").

14. Once an application has been deemed complete, public notice of the application is required and a 14-day comment period must be provided (BMC 14A.050.100 & 14A.05.090.C). In accordance with these requirements, notice of the proposed development was published in the Skagit Herald, mailed to surrounding property owners, and a public notice sign was posted on the site. Given the scope of the proposed offsite improvements, the area included in the mailing list was expanded to encompass properties within 600 feet of the offsite road and utility work. The public comment period began on May 1, 2023 and ended on May 15, 2023. It is the City's practice to accept, and consider, any comments submitted prior to the preparation of the staff report/Hearing Examiner recommendation.

15. As of December 11, 2023, the City had received comments from 11 individuals or households (exhibit "7"). The City also received comments from two agencies, including the Skagit River Systems Cooperative (SRSC) and Skagit Area Transit (SKAT) (exhibit "8"). Individual comments expressed a range of concerns including traffic, water quality, the capacity of public facilities and services, and wildlife. SRSC provided detailed comments regarding the wetland report and mitigation plan submitted with the application. SKAT requested information regarding pedestrian access points and possible coordination with future SKAT bus stop improvements.

Zoning

16. The development site is zoned RA-1 (Residential Attached). Horizontally attached housing is permitted outright in the RA-1 zone (BMC 17.20.050). The proposal will result in 89 units of horizontally attached housing. Therefore, the proposed use is permitted outright under Burlington's zoning regulations.

17. The applicant is proposing to use the optional "cluster development" standards authorized by BMC 17.20.100. Burlington's cluster development standards allow subdivisions to deviate from the normally applicable standards for lot size, width, and depth. The cluster developments standards also allow impervious surface and building coverage limits to be averaged across the entire development site. At least 30 percent of a cluster

development's area must be permanently protected as open space and placed in separate dedicated tracts. Wetlands, critical areas, and buffers must be included in the required open space tracts. Open space tracts may also include publicly accessible open space areas, low impact development (LID) features, bio-retention areas, or other non-structural storm-water management features (BMC 17.20.100.D).

18. The proposed plat identifies nine open space tracts, labeled as tracts A, B, C, D, H, I, K, L, and M. The open spaces tracts have a combined area of 7.70 acres (335,534 sq. ft), meaning that 58 percent of the 13.36-acre (581,962 sq. ft) site will be preserved as open space. The area of the proposed open space tracts will significantly exceed minimum open space requirements for a cluster development. In addition, the open space tracts will include wetland areas, wetland buffers, non-structural storm-water management features, and community space. To ensure compliance with municipal code requirements, the final plat shall include restrictive plat notes for the open space tracts (condition "13").

19. The maximum permitted density for a cluster development in the RA-1 zone is 38 dwelling units per acre. The maximum permitted density may be averaged across the entire site. (BMC 17.20.100). The development site has a total area of 13.36 acres and 89 dwellings are proposed, resulting in a total planned density of 6.7 dwellings per acre, which is well below the maximum permitted density. As a condition of approval restrictive plat notes should be included referencing the applicable density limits and permitted building types (condition "13").

20. The RA-1 zone limits building and impervious surface coverage to 70 percent (BMC 17.20.090.D). For cluster developments, building and impervious surface coverage calculations may be averaged across the entire site. The preliminary stormwater report provided with the application indicates the development will include a total of 134,431 sq. ft. of impervious surface coverage (exhibit "11"). This represents approximately 23 percent of the total site area (581,962 sq. ft.) and is well below the maximum permitted impervious surface coverage. As a condition of approval restrictive plat notes should be included limiting the addition of new buildings or impervious surfaces that exceed the maximum permitted coverage (condition "13").

21. The standard lot width requirement for cluster developments in the RA-1 zone is 30 feet. Lots as narrow as 15 feet may be approved if an "alternative street design plan" is approved, and on-street or off-street visitor and overflow parking is provided within 400 feet of dwellings abutting the alternative street section (BMC 17.20.100.E). The applicant has submitted an alternative street design plan, and the preliminary plat indicates that each of the proposed lots will be at least 20 feet wide.

22. Each group of townhouses will contain between two and six dwellings. In the RA-1 zone additional design standards apply to townhouse buildings that include more than four dwellings (BMC 17.20.080.I). The preliminary plan includes four groups of townhouses with

more than four dwellings, units 22-26, 17-21, 78-83, and 84-89. The project architect submitted a letter addressing the applicable building design standards (exhibit "12"). This letter adequately addresses the architectural design standards in BMC 17.20.080.I.7 & 8, and the proposed buildings will comply with the applicable requirements. Other design standards are addressed below:

a. *Except as part of a cluster development, medium multiunit buildings may only be permitted on lots within 1,320 feet (travel distance) of a school, park, bus route, or commercially zoned parcel (BMC 17.20.080.1).*

   This requirement is not applicable. The proposed development is a cluster development and will include horizontally attached dwellings, not multiunit dwellings (see "dwelling" definitions in BMC 17.01.050).

b. *Buildings shall be designed by a licensed architect and detailed elevation drawings shall be provided with the permit application (BMC 17.20.080.I.2).*

   Exhibit "12" includes a letter from the project architect and includes elevation drawings for proposed building types. As a condition of approval, the plan submitted at the building permit must be stamped by a licensed architect (condition "16").

c. *For horizontally attached dwellings, each dwelling shall have frontage on a public or private street and shall have its own exterior entrance. Each unit's primary exterior entrance shall face the street and direct pedestrian access shall be provided (BMC 17.20.080.I.3). Primary building entrances shall incorporate a covered porch or landing with a minimum area of 20 square feet and a minimum depth of three feet (BMC 17.20.080.I.4).*

   Each of the proposed units will have frontage on Pine Street or the private internal street system. As shown on the site plan (exhibit "5") and elevation drawings (exhibit "12"), each unit will have a covered entrance and sidewalks have been provided between each building entrance and the nearest street(s). Except for unit 83, it appears the primary entrance for each unit will face the street. The dimensions of the covered porches are not clearly shown on the plans; however, it appears that most of the porches will be at least six feet deep with an equivalent or greater width. As a condition of approval, unit 83 will need to be redesigned so the primary entrance faces the street and design details will need to be provided for the covered porches (conditions "16 & 17").

d. *A consolidated garbage and recycling area shall be provided and shall be screened from view in accordance with the applicable landscaping standard (BMC 17.20.080.I.5)*

The plans do not depict the consolidated garbage recycling areas. As a condition of approval, the plans will need to be revised to include consolidated waste enclosures for each building group containing more than four units (conditions "16" & 17).

e. *The maximum building length shall not exceed 180 feet (BMC 17.20.080.I.6).*

As depicted on the site plan (exhibit "5"), the groups of townhouse buildings will all be less than 180 feet in length.

23. The standard property line setback and building separation requirements for the RA-1 zone are as follows (BMC 17.20.090.B):

a. Front: 17 feet

b. Street side (as side facing a street other than the front): 10 feet

c. Side: 5 feet (except for the common walls separating horizontally attached dwellings)

d. Rear: 20 feet

e. Building separation: 10 feet (except for the common walls separating horizontally attached dwellings)

24. In accordance with BMC 17.20.090.B.5 (setback exceptions) and BMC 17.20.100 (cluster development standards), building setbacks may deviate from the standard setback requirements identified above. Building outlines are shown on the site plan (exhibit "5"). The proposed building footprints largely comply with the standard setbacks for the RA-1 zone. However covered porches projecting from the front and sides of some buildings will extend into required front and side setback areas. These projections are consistent with the goal of creating modulations in building facades and differentiating between individual units expressed in BMC 17.20.080.I 7 & 8 and should be permitted under the applicable deviation allowances. To ensure ongoing compliance, the final plat should include restrictive notes identifying the applicable property line setbacks and permitted deviations (condition "13").

<u>General Development & Landscaping Standards</u>

25. Fences in the RA-1 zone are limited to a maximum height of 3.5 feet between buildings and streets and a maximum height of six feet in all other locations (BMC 17.70.070.B). The fences shown on the landscaping plan will comply with these standards.

26. All new developments are required to comply with the City's outdoor lighting standards (BMC 17.70.105). These standards require that a lighting plan be submitted. The lighting plan must identify the location and type of all proposed lighting fixtures, illumination levels, lighting spill over onto neighboring properties, and manufacture's specifications for each fixture type (BMC 17.70.105.A.2). A lighting plan was provided with the application (exhibit "14"). The lighting plan addresses each of the required elements identified above.

27. Lighting plans must demonstrate compliance with applicable Washington State Energy Code requirements and all lighting fixtures must be full cutoff designs and "dark sky" rated. The manufacturer's specifications included with the lighting plan indicate the proposed streetlights will be full cutoff designs, but do not specify whether the fixtures are dark sky rated. No information regarding energy code compliance was provided. In addition, the lighting plan does not appear to depict the southern end of the development site (units 78 – 84). As a condition of approval, a revised lighting plan should be submitted showing the entire site, demonstrating compliance with the Washington State Energy Code, and including dark sky rated fixtures (condition "11").

28. In the RA-1 zone, the maximum permitted height for outdoor lighting fixtures is 14 feet. The maximum illumination level is five foot-candles. The maximum lighting spillover beyond the site boundary is 0.1 foot-candles for residentially zoned properties or wetland buffers. For all other use categories, including public streets, the maximum permitted spillover is 0.8 foot-candles. Except with respect to the wetland buffer area lying south of units 78-81, which is not shown on the lighting plan, the proposed lighting will comply with the applicable spillover limits. The light fixtures poles depicted on the plans are 14 feet in height and comply with the maximum height limit. As a condition of approval, a revised lighting plan should be submitted and must demonstrate compliance with the maximum spillover permitted into wetland buffers (condition "11").

29. Low Impact Development (LID) stormwater management features must be incorporated into all development proposals unless demonstrated to be infeasible through an engineering analysis (BMC 17.70.135.C). As depicted on the civil engineering plans (exhibit "6"), and as described in the preliminary stormwater report (exhibit "11"), most of the stormwater runoff generated from the development will be managed using a series of landscaped swales and bio-retention cells, and excess runoff will be directed to a landscaped infiltration pond. The stormwater report addresses the City's LID requirements and the requirements of the Department of Ecology's Stormwater Manual for Western Washington. The proposed LID measures and associated engineering analysis have been reviewed by the City's stormwater engineer and sufficiently address the code requirements outlined above. As a condition of approval, a final stormwater design and civil plans will need to be submitted (condition "8").

Landscaping

30. A landscaping plan is required for this project and must demonstrate compliance with the City's landscaping standards (BMC 17.81.020 and 17.81.050.). The landscaping plan must be prepared by a licensed landscape architect (BMC 17.81.050.B). The application included a preliminary landscaping plan prepared by a licensed landscape architect (exhibit "13").

31. A minimum of 15 percent of the site must be landscaped (BMC 17.81.060.C). The landscaping plans include a calculation table indicating that more than 40 percent of the site will be landscaped. The proposed landscape coverage will exceed the City's minimum requirements.

32. Street frontage landscaping, consisting of a strip at least ten feet wide planted with street trees at intervals of 30 feet, must be provided along all street frontages (BMC 17.81.070.B.1). The landscaping plan indicates that an adequate number of street trees will be provided along South Pine Street. Most of the internal access streets also include an adequate number of street trees; however, there are several areas where street trees are missing or where they are provided at intervals that exceed 30 feet. This is particularly notably along the western side of the main internal access street, where street trees are shown at intervals of 60 feet or more. Street trees are also missing along the southernmost extension of the private street system. As a condition of approval, a revised landscaping plan should be submitted showing an adequate number of street trees (condition "9").

33. Landscaping areas must be used, to the maximum extent possible, to treat, store, or infiltrate storm-water runoff (BMC 17.81.060.E). As shown on the landscaping plans, landscaped swales, bioretention areas, and infiltration ponds will be used to manage stormwater.

34. A "type IV" buffer is required between the proposed development and the adjacent BNSF ROW (BMC 17.81.110.C). A type IV buffer requires either (a) a masonry wall and a buffer 15 feet in width, or (b) a solid site obscuring fence and a buffer 30 feet in width. Under both options a hedge must be established using triangulated rows of evergreen trees planted at intervals of 15 feet, combined with a mixture of shrubs (BMC 17.80.110.B.4). The landscaping plan depicts the required buffer, fence, trees, and shrubs.

35. Landscaping plans must either include a design for an automatic irrigation system or employ a draught tolerant landscaping plan. Note "15" on the landscaping plans indicates the landscape architect has employed a draught tolerant landscaping plan. As indicated by note "15", and as required by BMC 17.81.060.D.2, a temporary irrigation system will be required for the first year after planting to ensure the landscaping is fully established. A condition of approval a more detailed plan should be submitted describing how watering will be provided during the first year. In addition, the landscape architect should inspect

the site after the first year and verify the landscaping is fully established and that any dead or dying landscaping has been removed and replaced (condition "9").

Access

36. The proposed plat will be accessed from a public street, South Pine Street; however, internal circulation will be provided using a private street network. As an alternative to the standard design requirements listed in BMC 17.85.140, the City may authorize the use of an alternative street design plan (BMC 17.85.150). The alternative design standards allow for narrower street sections and deviations from conventional sidewalk requirements. In exchange the design must employ extensive traffic calming measures to reduce vehicle speeds and ensure pedestrian safety. The civil engineering plans (exhibit "6") and street design plans (exhibit "15"). These plans indicate the proposal will substantially comply with applicable code requirements. The specific design criteria are addressed individually below.

    a. *Entrances. Entrances to the private street system shall be clearly delineated using signage and other visual or tactile indicators, such as pavement markings, bollards, planters, or restricted turning radiuses (BMC 17.85.150.A).*

    The proposed internal street system is comprised of a loop road with access to South Pine Street at the north and south ends of the development. Three minor cross streets, labeled as tracts "E", "F", and "G" will also be provided. As shown on the street design plans, the entrances to the loop road will be identified with textured pedestrian crossings and curb bulbs along South Pine Street. Tracts "E", "F", and "G" will be one way street sections with restricted turning radiuses and entrance signage. These features comply with the requirements identified above; however, appropriate signage should be posted at all entrances (condition "8").

    b. *Paving and curbs. The design shall incorporate a variety of paving materials to create a varied surface that visually distinguishes the location of intersections, parking lanes, crosswalks, and pedestrian paths (BMC 17.85.150.B).*

    The civil engineering plans (exhibit "6") and the proposed road design details (exhibit "15") adequately address how contrasting pavement materials will be used to differentiate entrances and pedestrian crossings. However, no information has been provided regarding the proposed parking lanes. The plans do not show how contrasting paving materials will be used to identify the parking lanes. As a condition of approval, the civil plans and road design drawings should be amended to include the use contrasting textures, tactile markers, or paving materials to distinguish the location of on-street parking areas (condition "8").

    c. *Traffic calming. Traffic calming measures, such as raised intersections, chicanes, on-street parking areas, or extensive street frontage landscaping shall be*

incorporated into the design. The overall design should create a street that encourages traffic to move at, or near, the speed of pedestrians (BMC 17.85.150.C).

The proposed design will incorporate bollards at key locations, raised pedestrian crossings, restricted turning radiuses, on-street parking areas, entrance signage, and narrow lanes widths. These design measures adequately address the applicable traffic calming criteria.

d. *Roadway width. The standard roadway width for two-way traffic shall be 20 feet. Narrower street widths may be approved consistent with applicable fire code requirements and for one-way street segments (BMC 17.85.150.D).*

The primary loop road providing access to the development will be 20 feet wide with an additional parking lane provided in places. Three secondary access streets, labeled as tracts "B", "C", and "D", are designed for one-way access and will be 15 feet wide. South Pine Street and the interior loop road can provide code compliant fire access. The secondary roads are not needed for fire access and will support local traffic only. The City Fire Marshal has reviewed the proposed street design and determined that it complies with applicable fire access requirements.

e. *Pedestrian circulation. A pedestrian access path shall be provided along at least one side of the street. The pedestrian access path shall be at least five feet in width, physically separated from vehicle circulation areas with curbing, landscaping, or bollards, and shall be paved with conventional or porous concrete. A separate pedestrian path shall not be required for street segments less than 150 feet in length consistent with the following: (1) The street segment serves only the dwelling units adjoining it and does not function as part of the overall street system, or the segment terminates in a dead end; and (2) The roadway surface contains an area delineated for pedestrian travel using a contrasting paving material, such as concrete or stamped asphalt (BMC 17.85.150.E).*

The internal street system includes a continuous sidewalk along one side of the internal loop road. This sidewalk also extends to the north end of the site. No sidewalks are shown along the internal cross streets, tracts "B", "C", and "D" or along the southern most extension of the street system. Each of these street segments is less than 150 feet in length, and, based on the criteria outlined above, separate sidewalks are not required. However, a separate area designated for pedestrian travel must be designated along these segments using a contrasting paving material, and the plans do not illustrate how this will be accomplished. As a condition of approval, the civil plans and road design details should be revied to designate a pedestrian travel path along these street segments (condition "8").

f. *On-street parking. At least one on-street parking space shall be provided for every four dwelling units in the development. On-street parking spaces may be grouped together and configured as parallel, angled, or parking pocket designs. On-street parking areas shall be differentiated from adjacent travel lanes using painting, pavement markers, or contrasting paving materials. On-street parking spaces shall be within 400 feet of the dwellings they are associated with (BMC 17.85.150.F).*

   On-street parking will be provided along the north side of the internal loop road and along South Pine Street adjacent to the development. The development contains 89 dwellings, meaning a minimum of 22 on-street parking spaces must be provided (one space for every four dwellings). The road design details (exhibit "15") show 23 spaces along the internal loop road. An additional 26 spaces will be provided along South Pine Street. The number of on-street parking spaces provided will exceed the City's minimum requirements.

g. *Stormwater. Private streets shall be designed and constructed consistent with the requirements of Title 14 BMC and shall incorporate LID features consistent with the provisions of BMC 17.85.140.E.*

   The city stormwater engineer has reviewed the preliminary drainage report, stormwater plans, and civil engineering submitted with the application for preliminary compliance with Title 14 BMC. As a condition of approval, final civil engineering and stormwater plans will need to be submitted for review and approval (condition "8"). As demonstrated in finding "19", the proposed design will sufficiently address the City's LID requirements.

h. *Street maintenance agreement. A street maintenance agreement must be approved by the City Engineer and recorded with the Skagit County Auditor.*

   A street maintenance agreement will need to be recorded with the Auditor prior to final plat approval (condition "14").

<u>Critical Areas & Shorelines</u>

37. Gages Slough crosses the south end of the development site. Gages Slough is a series of interconnected wetlands that bisects the City of Burlington. The slough is hydraulically connected to the Skagit River at both ends and is characterized by standing or flowing water along most of its length. The slough is regulated as a wetland under the City's critical area regulations (Title 14 BMC). In addition, the wetland areas of the slough are considered shorelines of the state and are within the jurisdiction of the City's Shoreline Master Program (SMP) and the Washington State Shoreline Management Act (SMA). The jurisdiction of the SMA and SMP does not extend beyond the boundaries of the wetland

and does not include associated buffer or upland areas. Therefore, buffer impacts are subject to regulation under Title 14 BMC, while direct wetland impacts are regulated by the City's SMP.

38. As illustrated on the project site plan (exhibit "5") there will be two small areas of the wetland buffer impacted by the development, which the applicant proposes to address through buffer averaging and buffer enhancement. A water supply line will be bored beneath the wetland and wetland buffer. Although the bored water supply line will not result in any surface or vegetation disturbance, the proposed work constitutes "development" under the SMA and SMP. Because this work is not consistent with any of the "exempt developments" identified in the SMA and SMP, a Shoreline Substantial Development Permit (SDP) is required.

39. As documented in a wetland report (exhibits "17" and "19") prepared by Soundview Consultants, a qualified environmental consultant, the portion of Gages Slough crossing the property is classified as a category III wetland. A protective buffer 150 feet in width is required around all category III wetlands (BMC 14.15.185-1).

40. Generally, development is not permitted in wetland buffers; however, buffers may be reduced if mitigation is provided and it can be shown, based on accepted scientific knowledge and practices, that the proposed mitigation will provide the same level of protection as the existing buffer (BMC 14.15.150.A.3 & 14.15.150.C). The wetland report included with the initial application materials addresses the City's wetland protection requirements. This report states that 205 square feet of buffer will be impacted by the development. The report includes a mitigation plan which calls for enhancing the existing wetland buffer and expanding it to include an additional 49,820 square feet (exhibit "17" and "19"). Except for the 205 square feet of buffer impacts identified above, the entire buffer, including the expansion area, would be placed in a restrictive tract(s) and permanently protected from development.

41. During the comment period the City received a letter from the Skagit River Systems Cooperative (SRSC) (exhibit "8" – email from Nora Kammer). In their letter SRSC highlighted technical concerns with the wetland rating prepared by Soundview Consultants. The Community Development Department concurred with many of the concerns noted by SRSC and, in response, requested that the applicant provide a revised wetland report and mitigation plan addressing the concerns and questions raised by SRSC (exhibit "18").

42. In response to the City's request for a revised wetland report and mitigation plan, Soundview Consultants submitted a revised wetland report and cover memo dated October 19, 2023 (exhibit "19"). The revised Soundview report addresses the issues identified in the City's comment letter. Soundview also adjusted the points assigned to several wetland rating categories and provided revised wetland rating sheets. The wetland rating remains "category III". Provided the mitigation work identified in the revised

Soundview report is fully implemented, monitored, and maintained the City's wetland protection standards will be addressed (conditions "13" and "14").

43. The City's wetland protection regulations require that wetlands and wetland buffers be delineated and be placed in separate tracts and be permanently protected through a conservation easement (BMC 14.15.150.A.5.a & 14.15.160.B). In this case a portion of the adjacent wetland is already owned by the City. The remaining portions of the wetland and wetland buffer will need to be placed in a separate tract and conservation easement must be recorded (conditions "13" and "14").

44. In accordance with Burlington Municipal Code requirements, temporary construction fencing must be installed to identify and protect wetlands and wetland buffers (BMC 14.15.130.A & 14.15.185.E.1). As a condition of approval, the applicant will be required to install temporary construction fencing along the edge of the wetland buffer (condition "8").

45. To identify the edge of wetland buffers, signs and permanent fencing must be installed (BMC 14.15.160.A.3 & 14.15.185.E). As a condition of approval, the fencing and the required signs must be installed (condition "14").

46. Gages Slough is an extensive linear wetland complex which is functionally and hydrologically connected to the Skagit River and is therefore within the jurisdiction of the City's SMP and the SMA (RCW 90.58.040, 90.58.030(2)(g), 90.58.030(2)(e), 90.58.030(2)(d), 90.58.030(2)(f), and 90.58.030(2)(h)).

47. Pursuant to RCW 90.58.030(2)(f)(v)(A) and RCW 90.58.030(2)(f)(vi), the Skagit River, and the wetland areas associated with the Skagit River, which include the project site, are classified as a "Shoreline of Statewide Significance".

48. Because the proposal involves development activities within the jurisdiction of the City's SMP and a Shoreline of Statewide Significance, a Shoreline Substantial Development Permit (SDP) is required unless the proposal qualifies for, and meets the precise terms of, one of the exempt activities identified in BMC 18.09.020.A.1 or WAC 173-27-040(2).

49. The development proposed by the applicant will involve construction and ground disturbing activities within the jurisdiction of the City's SMP and the SMA and is not consistent with any of the exemptions enumerated in BMC 18.09.020.A.1 or WAC 173-27-040(2); therefore, an SDP is required.

50. Washington State Department of Ecology (DOE) regulations state that an SPP may only be granted when it can be shown that a proposed development is consistent with; (a) the policies and procedures of the SMA, (b) applicable DOE regulations, and (c) the City's SMP (WAC 173-27-150(1)). DOE regulations also permit the City to attach conditions to an SDP

to ensure consistency with the regulatory requirements identified above (WAC 173-27-150(2)).

51. In accordance with BMC 18.03.170, the City's SMP consists of both the goals and policies of the City's comprehensive plan applicable to shorelines, and the use and development regulations identified in Chapter 18 BMC.

52. The project site has a shoreline environment designation of "Urban Conservancy" (UC) (BMC 18.07.040.A.3.b). The proposed work involves the installation of an underground water line. Utilities, such as water lines, are permitted in the UC shoreline environment (BMC 18.16.010).

53. The SMP requires that pipelines be located to assure no net loss of shoreline ecological functions, cause minimum harm to the shoreline, and be located outside the shoreline area where feasible, and shall be consistent with the SMP environment designation (BMC 18.16.110.B.2 & C.1). The proposed waterline will be installed using subsurface boring techniques. No surface disturbances or vegetation impacts will occur. The bore pits providing access to the pipeline will both be located outside the wetland and wetland buffer, and beyond the boundaries of SMA/SMP jurisdiction. Therefore, there will be no impacts to the shoreline environment.

54. The applicant submitted an approved LOMA (Letter of Map Amendment) (exhibit "3") removing the development site from the regulatory floodplain. As a result, most of the City's floodplain regulations will not apply to the proposed development. However, under BMC 14.15.400, buildings outside the regulatory floodplain must still comply with the elevation requirements identified in BMC 14.15.430. Importantly, the City requires that the lowest finished floor of all new buildings be at least one foot above the base flood elevation. Based on the LOMA documentation included with the LOMA, the base flood elevation for the site is 30.9 feet and the lowest portion of the site being developed has an elevation of 32 feet. Provided the residential buildings are constructed at, or above, the existing site grades the buildings will comply with the applicable elevation requirements. As a condition of approval, a letter prepared by a licensed surveyor will need to be submitted documenting the finished floor height of the completed buildings (condition "18").

<u>Platting and Land Division</u>

55. All land divisions in the City of Burlington are subject to the City's land division regulations (BMC 16.01.020.A). Land divisions are classified as either "exempt" or "non-exempt". A non-exempt land division requires "platting review" (BMC 16.01.020.B). The proposed land division is not consistent with any of the listed exemptions identified in BMC 16.01.050; therefore, it is classified as non-exempt and platting review is required.

56. Platting review requires both preliminary and final approval steps (BMC 16.01.060, 16.10.020, and 16.20.050).

57. The applicant is proposing to divide the site into 89 residential lots. The division of land into ten or more lots is classified as a "subdivision" or "long plat" (BMC 16.01.060).

58. As required by the Burlington Municipal Code (BMC 16.10.070) this application was submitted to the Fire Marshal, Building Official, and City Engineer for review. The Public Works Department requested that civil engineering plans and a storm-water plan be submitted prior to final plat approval. No other comments were provided.

59. Under BMC 16.10.090, no lot may be created that lacks an adequate building site unencumbered by critical areas or critical area buffers, unless restrictive notes are included on the face of the plat permanently prohibit development off the encumbered lots or tracts. As discussed in the critical area findings, the wetland and wetland buffer areas will be placed in separate tracts and permanently protected from development. Restrictive notes will also be provided for all other special purpose tracts. None of the residential lots will be constrained by critical areas or critical area buffers (conditions "13" and "14").

60. All subdivisions are subject to the survey and design standards identified in Chapter 16.40 BMC (BMC 16.40.020).

61. Newly created lots must have access to a public street unless it can be demonstrated that the proposed land division meets a number of criteria (BMC 16.40.050.B), each of which is addressed individually below.

    a. *The goals of the zoning code to provide for adequate light, air, and usable open space between structures would not be compromised.*

       The zoning code contains specific provisions regulating the development of horizontally attached housing and cluster developments. The purpose of these provisions is to provide adequate light, air, and usable open space. As demonstrated in this report, the proposed townhouse development complies with all applicable property line setback, building separation, and coverage limits. The proposed cluster development will also provide significant open space areas.

    b. *The dedication and improvement of a public street is not necessary to facilitate the provision of public utilities such as water sanitary sewer, and storm drainage.*

       As a condition of final plat approval, a public access and utility easement must encompass the road, sidewalk, utilities, and storm-water infrastructure. This easement will permit the installation, inspection, maintenance, and replacement

of all public utilities; therefore, a public road is not necessary to facilitate the provision of public utilities. The street and stormwater management tracts shown on the plat will address this requirement without the need for a public street system provided the required easement and plat notes are provided (condition "13").

c. *The dedication and improvement of a street is not necessary or desirable in order to provide on-street parking for overflow conditions.*

The proposal has been reviewed for compliance with the City's alternative private street design standards. The alternative private street design standards require that on-street parking be provided to address overflow conditions. In addition, on-street parking will be provided along South Pine Street. Each dwelling will include two off-street parking spaces.

d. *No potential safety hazards would result from multiple access points between existing and future developments without curbs and with limited site lines.*

The private road network has been designed to comply with the City's alternative private street design standards. These standards are intended to ensure vehicle traffic moves at, or near, the speed of pedestrians. The standards also require extensive traffic calming measures, including curbs, sidewalks, bollards, chicanes, raised pedestrian crossings, and extensive landscaping.

e. *There is no potential for extending the street system to connect with existing streets, or to serve potential development sites adjacent to the plat or binding site plan.*

The development is bounded by South Pine Street to the east, a regulated wetland to the south, the BNSF ROW to west and partially developed parcels to the north. As such, there is no opportunity to extend the street system to the south or west. As a condition of approval, the private access street and sidewalk at the north end of the development will need to be stubbed out to the northern site boundary to provide emergency vehicle access and pedestrian circulation in the event adjacent parcel is developed. However, this connection will serve a minor function, primarily for pedestrian, fire, or emergency vehicle access and is not necessary to complete the public street network in the area (conditions "8", "13", and "14").

62. A "block" is defined as a unit of land surrounded, on all sides, by intersecting streets (BMC 16.01.060). Blocks must be identified on the face of the plat by letters or numbers. In the RA-1 zone, the maximum permitted block length is 600 feet, and the maximum permitted block perimeter is 1,600 feet (BMC 16.40.060.A.1 & 2). Exceptions to the maximum block

length and perimeter requirements may be granted when street connections are not feasible due to the presence of critical areas or railroad ROW (BMC 16.40.060.A.7 & C.2). The lots adjacent to the BNSF ROW and Gages Slough lack the street connections required to form complete blocks. However, as noted above, street extensions and complete blocks are not required when critical areas or railroad ROW prevents street extensions. As shown on the preliminary plat (exhibit "20"), the other blocks created by development will fully comply with the applicable length and perimeter limits. The final plat will need to identify the proposed blocks with letter or numbers (condition "13").

63. Street connections shall be provided to all adjoining streets and street stub-ends that abut the boundary of the land division, and streets must be extended to the plat boundaries and stub-ends must be provided to allow for future connections. Exceptions to the street extension requirements may be granted in areas where extensive critical areas or railroad ROW make future street extensions infeasible (BMC 16.40.060.C). The proposed development will include street connections to South Pine Street at regular intervals. Street extensions to the south are not feasible due to the presence of Gages Slough. Streets cannot be extended to the west because of the BNSF ROW. However, the northernmost extension of tract "J", which is currently shown as stopping short of the northern plat boundary should be stubbed out to the property line to comply with the street extension requirements (conditions "8", "13", and "14").

<u>Offsite Improvements and Other Requirements</u>

64. Improved right-of-way is required for all development projects (BMC 12.28.010.A). Currently the portion of Pine Street providing access to the site is not fully improved. It lacks sidewalks, curbs, gutters, and full width paving. This portion of Pine Street is classified as an "access street" (BMC 12.28.080). As such, the improved right-of-way must be consistent with the following standards and previous guidance provided by the City Engineer (BMC 12.28.150.D &E, 16.40.050.D, and 17.85.120):

    a. Two paved travel lanes, each with a minimum width of 10 feet.

    b. One paved parking lane along the west side of the street with a minimum width of 8 feet.

    c. A continuous sidewalk with a minimum width of 5 feet along the west side of the street from its southern terminus to the Sharon Avenue intersection.

    d. Curbing, full width pavement, and storm-water management improvements.

65. The preliminary civil plans provided by the applicant include right-of-way improvements consistent with the requirements outlined above. The City's Engineering Department has reviewed the preliminary civil plans and has no objection to proposed offsite improvements.

66. Consistent with the requirements of RCW 58.17.110, provisions must be included to ensure safe walking routes to nearby schools. Lucille Umbarger Elementary School is located to the east of the project site along South Skagit Street. The total walking distance between the proposed development and the school is 2,193 feet. A multiuse path currently exists on the east side of South Anacortes Street, along an undeveloped portion of East Sharon Street. Continuous sidewalks and marked crossings exist between the multiuse path and the school. Currently there are no sidewalks along South Pine Street or the portion of East Sharon Avenue connecting Pine Street to Anacortes. Also, there is no marked crossing at the intersection of Sharon Avenue and Anacortes Street. To provide a safe route for students walking to school, and to provide adequate pedestrian access to the site, the following improvements should be required:

    a. A continuous sidewalk along the west side of South Pine Street from its southern terminus to its intersection with Sharon Avenue.

    b. A continuous sidewalk along the south side of Sharon Avenue from its intersection with South Pine Street to Anacortes Street.

    c. A marked pedestrian crossing at the intersection Sharon Avenue and Anacortes Street to provide a connection between the development and the multiuse path on the east side of South Anacortes Street.

67. The preliminary civil plans provided by the applicant are largely consistent with the requirements outlined above; however, a marked pedestrian crossing will be needed at the intersection of Sharon Avenue and Anacortes Street and at all intersections between Anacortes Street and the southern terminus of Pine Street, including appropriate pavement markings and signage. Pavement markings, signage, and a pedestrian activated rectangular flashing beacon will also be needed for the crossing at South Anacortes Street to provide adequate pedestrian access and to create a safe route to school (SEPA conditions).

68. Fiber optic communications conduit and vaults must be provided along all street frontages (BMC 12.28.095), and public sewer and water connections must be provided to each of the proposed lots (BMC 16.40.070). The preliminary civil engineering plans submitted with the application show appropriate sewer and water infrastructure but do not appear to include fiber optic conduit and vaults as required by the municipal code. As a condition of approval, the final civil plans must be amended to include fiber optic conduit and vaults (condition “8”).

SEPA Determination:

Mitigated Determination of No-Significance (MDNS)

The lead agency for this proposal has determined that it does not have a probable significant impact on the environment subject to the mitigating conditions of approval identified below. An environmental impact statement (EIS) is not required under RCW 43.21C.0330(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. This MDNS was issued after using the optional DNS process in WAC 197-11-355. There will be no further comment period for this MDNS.

This SEPA MDNS may be appealed to the City of Burlington Hearing Examiner. Appeals must be filed within 14 days of the date of this determination. The date of this determination is December 11, 2023. SEPA appeals will be consolidated and considered together with the underlying permit decision.

1. Except for the impacts identified below, all impacts associated with this proposal will be adequately mitigated through the application of Burlington Municipal Code requirements. Therefore, all construction, work, clearing, grading, filling, excavation, and other development activities shall be in full compliance with applicable Burlington Municipal Code requirements and the conditions identified below under the "Permit Recommendation" heading.

2. Higher density residential developments near schools, parks, commercial areas, bus lines, and public services can generate significant pedestrian traffic. Absent adequate provisions for pedestrian and transit access and safety residential development can cause a growth in per-capita vehicle travel and greenhouse gas emissions. It is the policy of the City of Burlington (Burlington Comprehensive Plan goals and policies 8.7.3, 8.7.4, 8.7.4.1, 8.7.4.4, 8.7.3.2, 8.4.4.2, 8.4.4.1) to mitigate traffic, safety, public health, and air quality impacts though traffic calming measures, the construction of safe pedestrian connections, and the creation of pedestrian routes to schools, parks, and public amenities. to ensure public health, safety, transportation, and air quality impacts are mitigated to a level of non-significance the following conditions shall apply:

    a. Marked pedestrian crossings shall be established at the intersection of South Anacortes Street and East Sharon Avenue and at the intersection of East Sharon Avenue and South Pine Street. Pedestrian crossings shall be marked with suitable pavement markings and signage approved by the City Engineer.

    b. A pedestrian crossing equipped with pedestrian activated crossing light (RFB) shall be provided to create a safe crossing of Anacortes Street at its intersection with East Sharon Avenue.

c. Curb extensions and appropriate signage shall be installed at the intersection of East Sharon Avenue and South Anacortes Street to prohibit eastbound traffic from entering East Sharon Avenue and to narrow the north-south pedestrian crossing at this intersection to one lane.

d. Revised civil engineering plans, including a signage and striping plan, shall be submitted to City Engineer reflecting the required pedestrian access and safety improvements. No grading permit shall be issued until the revised civil engineering plans have been approved, and no final plat shall be approved until the required improvements have been constructed or installed and inspected by the City Engineer.

e. Exhibit "21" depicts the location of the pedestrian access improvements and traffic calming measures required to adequately provide access to schools, parks, commercial areas, and transit routes.

3. To ensure ground and surface water impacts are mitigated to a level of non-significance any existing septic systems or onsite wastewater disposals systems shall be decommissioned in accordance with Skagit County Health Department requirements. No final plat shall be approved until the Skagit County Health Department has verified, in writing, that all septic systems and private wastewater disposal systems have been decommissioned.

Permit Recommendation:

The Community Development Department has reviewed the applicant's proposal and determined that it can comply with applicable Burlington Municipal Code requirements subject to the conditions of approval identified below. The Community Development Department hereby respectfully recommends the Hearing Examiner approve Conditional Use Permit application LUP 6-23 *subject to* the following conditions of approval:

<u>General Conditions:</u>

1. This approval shall not be construed to authorize any development or site modifications beyond those described in the application and shown on the approved plans. The approved plans shall be the plans and other project documents attached to, or referenced in, this decision.

2. Except as otherwise required by the conditions of approval identified in this decision and the associated SEPA threshold determination, all work, construction, and development activities shall conform to the approved plans. The approved plans shall be the plans and other project documents attached to, or referenced in, this decision. Minor modifications necessary to implement any changes requested by the Building

Official, Fire Marshall, or City Engineer are permitted when necessary to ensure compliance with established regulatory requirements.

3. This approval shall expire two years from the date of approval. The date of approval for this decision shall be the date the Hearing Examiner's decision is signed. A final plat shall be submitted to the City of Burlington prior to the expiration of this approval.

4. This permit does not authorize the location, design, construction or installation of any signs. No signs may be installed unless authorized by a sign permit.

5. The property owner, developer, and all contractors shall be responsible for complying with all applicable laws and regulations pertaining to erosion control and water quality, including obtaining a Washington State Department of Ecology Construction Storm-Water General Permit. Any additional erosion control or construction management practices prescribed by the City Engineer or Building Official shall be immediately implemented.

<u>Grading Permit and Site Development:</u>

6. A grading permit is required prior to beginning any clearing, filling, excavation, building, construction, or other site development work.

7. A demolition permit is required prior to demolishing any building or structure. No grading permit shall be issued until the approval has been obtained from the Northwest Clean Air Agency.

8. Prior to the issuance of a grading permit civil engineering plans shall be submitted to, and reviewed by, the City Engineer for compliance with applicable stormwater, site development, and engineering requirements. A final stormwater plan shall be included with the civil plans and the plans shall include LID measures. The civil engineering plans must include the following specific information:

    a. Vicinity map legal description, survey notes, sheet index, legend, list of contacts, and signature blocks.

    b. Existing conditions, construction entrance, demolition and TESC plans.

    c. Details sheet depicting ADA compliant ramps, aprons, and sidewalks.

    d. Waterline plan and profile.

    e. Sanitary sewer plan and profile.

f. Site grading and drainage plan.

g. Waterline specifications.

h. Fiber optic conduit and vaults along all street frontages, connecting to any adjacent fiber optic conduit and vaults, and connecting to each building.

i. Pedestrian access paths and crosswalks consistent with the SEPA MDNS conditions.

j. Plans, cross section drawings, signage, and striping plans for the proposed private streets demonstrating compliance with the alternative private street standards in BMC 17.85.150. Specifically, amended street plans shall be included that:

    i. Illustrate the use of contrasting paving materials to delineate pedestrian paths along tracts “E”, “F”, and “G”. Consistent with finding “36” and applicable code requirements, these paths may be flush with the road surface and included within the proposed road width.

    ii. Signs shall be posted at each entrance to the private street system advising “shared street system, yield to pedestrians and cyclists - drive slowly”. The precise format and language of the required signs shall be approved by the City Engineer.

    iii. Contrasting pavement types, surfaces, paint, or pavement markers shall be used to delineate parking lanes.

    iv. Tract “J” shall be extended to abut the northern boundary of the site and the street and sidewalk shall be stubbed out to the northern site boundary.

k. Any fire access requirements identified by Burlington Fire Marshal.

l. Temporary construction fencing identifying the wetland buffer edge. No clearing, grading, development, or ground disturbing activities may take place until this fencing is installed.

9. No grading permit shall be approved or issued until a final landscaping plan has been submitted to, and approved by, the Community Development Department. The final landscaping plan shall be consistent with the following:

a. The landscaping plan shall be prepared by a landscape architect licensed in the State of Washington.

b. The landscaping plan shall demonstrate compliance with all applicable landscaping code requirements including but not limited to the requirements of this permit.

c. Street trees shall be provided at intervals of 30 feet or less along all street frontages. The landscaping plans shall, at a minimum, be amended to include additional street trees meeting this requirement along the west side of tract "J" and along both sides of tract "J" to its southernmost extension at lots "83 and "84".

d. If a draught tolerant landscaping plan is used in place of a permanent irrigation system, the landscape architect shall prepare a temporary irrigation and monitoring plan to ensure the landscaping is fully established before eth temporary irrigation system is removed. Any dead, dying, or damaged landscaping shall be removed and replaced. The landscape architect shall submit a monitoring report to the City one year after the completion of the landscaping work verifying the landscaping is fully established. As an alternative to this condition, a permanent landscape irrigation plan may be submitted.

10. Details shall be provided, either on the civil plans, or the landscaping plans, for an open rail fence along the outer edge of the wetland buffer.

11. No grading permit shall be issued or approved until a revised outdoor lighting plan has been submitted and approved. The revised lighting plan shall be consistent with all applicable code requirements and shall reflect the following changes:

a. Manufacture's specifications shall be provided for each proposed outdoor lighting fixture type. Documentation shall be provided for each lighting fixture demonstrating that all proposed outdoor lighting fixtures are full-cutoff designs and dark sky rated.

b. All exterior lighting shall be directed downwards and fully hooded, screened, or optically focused.

c. The lighting plan shall show light levels and spill over for the entire site including the stormwater pond and wetland tracts to the south. Spillover into the wetland protection tracts shall not exceed 0.1 foot-candles.

d. Freestanding light fixtures shall be limited to a maximum height of 14 feet.

e. Documentation shall be provided demonstrating compliance with applicable Washington State Energy Code requirements.

Final Plat Requirements

12. A final plat shall be submitted within two years of this approval. The final plat shall be consistent with the requirements for a final plat in Title 16 BMC and Chapter 58.17 RCW.

13. Restrictions, dedications, easements, and other plat notes shall be included on the face of the final plat. At a minimum, the following shall be included:

a. Notes shall be included identifying the purpose of each tract and limiting development consistent with the intended purpose of each tract.

b. An access and utility easement shall encompass the private road system, including sidewalks and pedestrian paths.

c. Building setback restrictions.

d. Lot and block numbers shall be included.

e. Building and impervious surface coverage limits for each lot.

f. All stormwater infrastructure, including LID features and ponds, shall be included in an easement granting the City of Burlington access for the purpose of inspection, maintenance, repair, and replacement.

g. All sewer infrastructure shall be included in an easement granting the City of Burlington access for the purpose of inspection, maintenance, repair, and replacement.

h. A conservation easement shall be granted to the City of Burlington for the tracts containing wetlands or wetland buffers. The conservation easement shall prohibit all development, clearing, grading, dumping, filling, and the removal of native vegetation. The City of Burlington shall also be granted access to the tracts containing the wetland and wetland buffer for the purposes of monitoring, maintenance, and restoration.

i. A note shall be included specifying that the City of Burlington has no responsibility for maintaining or repairing private roads.

j. Plat language shall be consistent with all applicable Burlington Municipal Code requirements, laws, and regulations, including but not limited to Title 16 BMC and Chapter 58.17 RCW. All plat language shall be reviewed and approved by the Community Development Department prior to approval. If language is specified by the Community Development Department, the specified language shall be used.

k. The final plat shall be amended for consistency with the final approved civil plans and the conditions of this permit.

14. No final plat approval shall be granted until:

a. Final civil engineering as built drawings have been submitted to the City Engineer for approval. No final as built drawings shall be approved until all site improvements, utilities, infrastructure, sidewalks, traffic calming measures, and signage required by the conditions of this decision or Burlington Municipal Code have been completed and inspected by City Engineer.

b. A private road maintenance agreement shall be submitted to the City Engineer for review and approval. Once approved the road maintenance agreement shall be recorded with the Skagit County Auditor's office.

c. Lot corners, monumentation, and other survey requirements shall be fully completed consistent with the requirements of Title 16 BMC, Chapter 58.17 RCW, and other applicable laws and regulations. The City Engineer shall inspect the site and verify compliance with applicable survey and monumentation requirements.

d. A wetland monitoring plan shall be submitted to the Community Development department for review and approval.

e. All wetland mitigation activities, plantings, and other requirements shall be fully addressed. Wetland mitigation requirements shall, at a minimum, include:

i. The wetland mitigation plantings and mitigation activities identified in the approved final approved mitigation plan shall be completed and inspected by the Community Development Department.

ii. Open rail fencing, consistent with the design shown on the approved plans and the conditions of this permit, shall be installed along the buffer edge, or where applicable, the outer edge of the protective tract including the wetland and wetland buffer.

iii. A conservation easement encompassing all portions of the enhanced wetland buffer located on the applicant's property shall be conveyed to the City through a dedication shown on the face of the final plat.

iv. Enamel coated metal signs with the following language shall be installed at intervals of 50 feet around the perimeter of the proposed wetland buffer:

Protected Wetland Area
No Dumping – Do Not Disturb
Thank you!

Building and Occupancy Conditions:

15. No building permits shall be issued until a final plat has been recorded.

16. Any group of townhouse dwellings including more than four units shall be designed by a licensed architect and shall comply with the design requirements in BMC 17.20.080. The revised plans shall include details for consolidated waste collection points. The building plans submitted for any such group of townhouse units shall be signed and stamped by a licensed architect.

17. The design or floor plan for unit 83 shall be revised so the entrance faces a public or private street.

18. No final occupancy or final building permit inspections shall be approved for any residential unit until documentation has been provided showing the finished floor elevations of the unit is one foot or more above the base flood elevation. This documentation can be provided in the form of a letter from a licensed surveyor. This is a City of Burlington requirement and not a requirement of the National Flood Insurance Program. Therefore, formal FEMA flood elevation certificates are *not* required.

19. All fire and life safety requirements identified by the Building Official and Fire Marshal shall be fully addressed.

Appeals:

Preliminary subdivision approvals are type III decisions. The Hearing Examiner's decision may be appealed in accordance with the applicable procedures identified in Title 14A of the Burlington Municipal Code. For information on appeal procedures please contact the Community Development Department.