BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEQUIM

In the Matter of the Application of	)	No. SUB-24-002
	)	
Bell Creek Investments, LLC	)	Bell Creek Subdivision
	)	
	)	
	)	FINDINGS, CONCLUSIONS,
For Approval of a Major Subdivision	)	AND DECISION

SUMMARY OF DECISION

The request for a preliminary major subdivision to subdivide an approximately 28.4-acre property, located to the south of West Brownfield Road, between South 3rd Avenue and South Sequim Avenue, into 104 single-family residential lots, with associated open space tracts and an approximately 6.7-acre critical area tract that would contain on-site portions of Bell Creek and its associated protective buffer, is **APPROVED**. Conditions are necessary to address specific impacts of the proposal.

SUMMARY OF RECORD

Hearing Date:
The Hearing Examiner held an open record hearing on the request on February 27, 2025.

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

Travis Simmons, Senior City Planner
Nicholas Dostie, City Engineer and Deputy Director of Public Works
Crystal Sasso, Applicant Representative
Holli Heavrin, Project Civil Engineer
Aaron Van Aken, Project Traffic Engineer
Claudia Konker
Scott Alair
Vernon Frykholm
Jon Sering
Joan Cotta
Stephen Schrader
Kris Ecklund

Exhibits:
The following exhibits were admitted into the record:

1. Application for a Major Subdivision, dated March 4, 2024
2. SEPA Environmental Checklist, dated September 13, 2024, with review comments, dated January 24, 2025
3. Title Insurance Report
4. Proposed Preliminary Plat (6 Sheets)
5. Preliminary Major Subdivision Plan Set (45 Sheets), revised November 18, 2024; Revised Sheets for revisions to proposed Lots 8 and 9 (3 Sheets)
6. Preliminary Storm Drainage Report, Core Design, dated October 25, 2024
7. Geotechnical Report, Krazan and Associates, Inc., dated March 9, 2020
8. Geotechnical Report Update Letter, Krazan and Associates, Inc., dated March 18, 2024
9. Traffic Impact Analysis, Heath and Associates, dated March 22, 2024
10. Notice of Complete Application, dated April 9, 2024
11. Notice of Application and SEPA MDNS
12. Statement of Mailing (Notice of Application), dated April 23, 2024
13. Affidavit of Posting Public Notice, posted April 26, 2024
14. Verification of Newspaper Publication for April 23, 2024 (Notice of Application)
15. Agency Comments:
    a. Comment from Jamestown S'Klallam Tribe, dated May 13, 2024
    b. TIA Third-Party Review Comment Letter, Transpo Group USA, Inc., dated October 31, 2024
    c. Email comment from Washington State Department of Fish and Wildlife, dated February 12, 2025, with email string
    d. Email comment from Washington State Department of Ecology, dated February 11, 2025, with attached comment letter
    e. Email comment from Washington State Department of Archeology and Historic Preservation, dated May 14, 2024
    f. City Department Traffic Design Review Comments, dated July 11, 2024
16. Public Comments:
    a. Comment from Noelle Leveque, dated April 26, 2024
    b. Comment from Carey Birkenfeld, dated May 6, 2024
    c. Comment from Kristin Ecklund, dated May 12, 2024
    d. Comment from Joan Cotta, dated May 4, 2024
    e. Comment from Lara Starcevich, dated June 7, 2024
    f. Comment from Karen Stedman, dated May 13, 2024
    g. Comment from Jerry Ouzts, dated September 24, 2024
17. Concurrency Evaluation Memorandum, Heath and Associates, dated February 19, 2025
18. Interlocal Agreement Between City of Sequim and Highland Irrigation District, dated December 12, 2016
19. Email communication with Highland Irrigation District, dated September 25, 2024
20. Plan Set Sheet showing critical areas buffers, dated March 5, 2024

21. Critical Area Report and Habitat Management Plan, Raedeke Associates, Inc., revised June 12, 2024
22. Washington State Department of Archeology and Historic Preservation Excavation Permit, issued August 20, 2024
23. SEPA Mitigated Determination of Nonsignificance (MDNS), dated January 29, 2025
24. Notice of Public Hearing
25. Statement of Mailing (Notice of Public Hearing and MDNS), dated January 29, 2025
26. Draft Declaration of Covenants, Conditions, and Restrictions
27. Verification of Newspaper Publication for January 31, 2025 (Notice of Public Hearing)
28. Verification of Newspaper Publication for January 31, 2025 (Notice of MDNS)
29. City presentation, presented at the hearing on February 27, 2025
30. Applicant presentation, presented at the hearing on February 27, 2025
31. Staff Report, dated February 20, 2025
32. Applicant request for modification to City staff recommended condition, dated February 26, 2025
33. Comment from Claudia Konker, submitted at hearing

The Hearing Examiner enters the following findings and conclusions based upon the admitted testimony and exhibits:

FINDINGS

Application and Notice

1. Bell Creek Investments, LLC (Applicant), requests approval of a preliminary major subdivision to subdivide an approximately 28.4-acre property into 104 single-family residential lots. Bell Creek flows south to north through the property, and the Applicant proposes to complete the project in two phases, with the first phase to include development of 37 single-family residential lots on the east side of the Bell Creek ravine and the second phase to include development of the remaining 67 lots on the west side of the Bell Creek ravine. Associated improvements would include the construction of internal public roadways providing access to the eastern lots from two points along South Sequim Avenue and providing access to the western lots from four points along South 3rd Avenue; street frontage improvements along the east side of South 3rd Avenue that would include a 6-foot sidewalk and 3.5-foot landscape planter and/or potentially other pedestrian/bicycle infrastructure approved by the City of Sequim (City); street frontage improvements along the west side of South Sequim Avenue that would include a 10-foot shared-use path; a public trail easement to provide connection to the existing Bell Creek trail system; landscaping; open space; stormwater management features, and utility infrastructure. The Applicant would pay a fee in lieu of providing frontage improvements along West Brownfield Road to assist the City in funding the future realignment of, and improvements to, West Brownfield Road. The currently unaddressed

subject property is located to the south of West Brownfield Road, between South 3rd Avenue and South Sequim Avenue.[1] *Exhibit 1; Exhibits 3 through 5; Exhibit 17; Exhibit 20; Exhibit 21; Exhibit 29; Exhibit 30; Exhibit 31, Staff Report, pages 1 through 5, and 8 through 10.*

2. The City determined that the application was complete on April 9, 2024. The City provided notice of the application by posting notice at the project site on April 26, 2024; by mailing notice to property owners within 300 feet of the subject property on April 23, 2024; and by publishing notice in the *Peninsula Daily News* on April 23, 2024, with a comment deadline of May 13, 2024. The City provided notice of the open record public hearing associated with the application by mailing notice to property owners within 300 feet of the subject property on January 29, 2025, and by publishing notice in the *Peninsula Daily News* on January 31, 2025. *Exhibits 10 through 14; Exhibits 24 through 27; Exhibit 31, Staff Report, pages 2 and 3.*

3. The City received the following written comments on the proposal from members of the public in response to its notice materials:
   - Noelle Leveque expressed opposition to the proposed development, stating that there is no need for more homes in the area.
   - Carey Birkenfeld raised concerns about the traffic safety impacts of the proposed development and other planned developments in the area. She noted that Brownfield Road is narrow and does not have lines or shoulders. Ms. Birkenfeld also expressed concerns about the number of access points that would be created along South 3rd Avenue.
   - Kristin Ecklund commented that the proposal should include a sidewalk along South Sequim Avenue, noting that this roadway is used by students walking to a local school bus stop, as well as other pedestrians. She also inquired about where power lines would be located and noted some potential errors in the City's notice materials regarding the location of the subject property.
   - Joan Cotta raised concerns about the number of access points that would be created along South 3rd Avenue, noting that additional measures may be necessary to ensure traffic safety due to motorists speeding along this stretch of roadway. She also noted that the existing conditions of Brownfield Road are unsafe and expressed concerns that it would not be improved in time to handle the additional traffic impacts of the proposed development. In addition, Ms. Cotta raised concerns about the potential for runaway cars on South 3rd Avenue to crash into existing residential units and suggested that barriers be installed to protect these properties.

[1] The subject property is identified by Tax Assessor Parcel No. 0330130110000. *Exhibit 31, Staff Report, page 2.*

- Lara Starcevich expressed concern about the proposed development generally, noting that there is no need for additional housing in the area and that existing dilapidated housing in the city should be renovated.
- Karen Stedman raised concerns about the proposal's impact on the area's existing water supply. She also raised concerns about the project's traffic and pollution impacts.
- Jerry Ouzts raised concerns about the proposed development's proximity to Bell Creek and about its potential stormwater impacts to the creek. He also noted that all new developments should require green space, trails, and night sky lighting.

Exhibit 16.

4. The City also received the following agency comments on the proposal in response to its notice materials:
   - The Jamestown S'Klallam Tribe noted the urgent need for housing in the city and that it generally supports the proposal provided that it would adequately protect against adverse impacts to critical habitat associated with Bell Creek. In this regard, the tribe requested that the Applicant be required to submit a Habitat Management Plan, that the stormwater design for the proposal identify how it would prevent degradation to Bell Creek, and that the City modify the standard 100-foot buffer for Bell Creek to 150 feet. The Applicant's habitat management plan and preliminary storm drainage report for the proposed development are discussed in detail later in this decision.
   - The Washington State Department of Fish and Wildlife (WDFW) noted that hydraulic project approval would be required for any trail or boardwalk over Bell Creek. The Applicant's project plans do not propose any new trails within Bell Creek or its associated buffer but, rather, include new trails outside of the buffer that would connect to existing trails within the buffer.
   - The Washington State Department of Ecology (DOE) noted that the Applicant's critical areas report should indicate where test pits were dug to ensure property delineation methods were used and that the map should indicate the location of swales 1 and 2. DOE also noted that there are no toxics cleanup sites within 750 feet of the proposed project area but that the Applicant should report any contamination unexpectedly encountered on-site.
   - The Washington State Department of Archaeology and Historic Preservation (DAHP) noted that, due to the presence of reported archaeological sites on the property, an archaeological excavation permit from DAHP would be required. DAHP later issued the required permit on August 20, 2024, with conditions.

   Exhibit 5; Exhibit 6; Exhibit 15; Exhibit 21; Exhibit 22.

State Environmental Policy Act

5. The City acted as lead agency and analyzed the environmental impacts of the proposal under the State Environmental Policy Act (SEPA), chapter 43.21C Revised Code of

Washington (RCW). The City reviewed the Applicant's environmental checklist and other information on file and determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the City issued a Mitigated Determination of Nonsignificance (MDNS) on January 29, 2025, with a comment deadline of February 12, 2025. The City received comments on the environmental review of the proposal from interested agencies, as detailed in the finding above. *Exhibit 2; Exhibit 15; Exhibit 23; Exhibit 25; Exhibit 28; Exhibit 31, Staff Report, pages 1 through 3, 7, and 11.*

6. The MDNS was not appealed and includes the following mitigation measures:
   - All site construction shall be conducted in compliance with the most current Stormwater Manual for Western Washington.
   - Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or storm drains that lead to waters of the state. Sand, silt, clay particles, and soil damage aquatic habitat and are pollutants. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington and is subject to enforcement action.
   - The following construction activities require coverage under the Construction Stormwater General Permit:
     1. Clearing , grading and/or excavation that results in the disturbance of one or more acres and discharges stormwater to surface waters of the State; and
     2. Clearing, grading and/or excavation on sites smaller than one acre that are part of a larger common plan of development or sale, if the common plan of development or sale will ultimately disturb one acre or more and discharge stormwater to surface waters of the State. This includes forest practices (including, but not limited to, class IV conversions) that are part of a construction activity that will result in the disturbance of one or more acres, and discharge to surface waters of the State; and
     3. Any site construction activity discharging stormwater to waters of the State that Ecology:
        a) Determines to be a significant contributor of pollutants to waters of the State of Washington.
        b) Reasonably expects to cause a violation of any water quality standard.
   - If contamination is suspected, discovered, or occurs during the proposed SEPA action, testing of the potentially contaminated media must be

conducted. If contamination of soil or groundwater is readily apparent, or is revealed by testing, Ecology must be notified.

- If there are known soil/groundwater contaminants present on-site, additional information (including, but not limited to: temporary erosion and sediment control plans; stormwater pollution prevention plan; list of known contaminants with concentrations and depths found; a site map depicting the sample location(s); and additional studies/reports regarding contaminant(s)) will be required to be submitted.
- Potential air impacts shall be mitigated by watering the site as necessary, utilizing dust suppression options and techniques described in the WA Department of Ecology publication # 96-433, 2016.
- To mitigate the potential for noise impacts to surrounding properties, construction activities through complete buildout of this proposed development shall be limited from 7:00 am to 10:00 pm Monday through Friday and 9:00 am to 10:00 pm on weekends, consistent with Sequim Municipal Code 8.32.040.
- It shall be the responsibility of the Applicant to take all necessary steps to prevent the incidental taking of protected species under the Endangered Species Act through habitat modification or degradation during the life of the project or development authorized by this permit or approval. The Applicant shall notify the City through its Public Works Director or designee and the Federal Agencies with responsibility for enforcement of the Endangered Species Act immediately, in the event of damage of degradation to Endangered Species habitat by or from the project or the development subject to this permit or approval. In any such case, the applicant shall, at its sole cost and expense, take all action necessary to prevent the furtherance of the damage or degradation and to restore the habitat as required by the Federal, State, and local agencies with jurisdiction.
- Applicant has coordinated with local Jamestown S'Klallam Tribe and currently has DAHP permit #2024-29. All special conditions (1-11) included in Exhibit 22 must be followed, and continued coordination with Jamestown will be required for any new discoveries through the inadvertent discovery process during construction.
- Prior to final subdivision approval, the applicant shall submit final construction plans for review and approval by the City of Sequim Public Works Department. In accordance with SMC 17.20.040, the plans shall demonstrate, to the satisfaction of the City engineer, that curb, gutter, sidewalk, trail connections, transit stops, streets, storm drainage, sanitary sewer lines, water lines and other utilities as required, would be installed at the expense of the Applicant and would meet City specifications and applicable ordinances.

Exhibit 31, Staff Report, pages 13 through 15.

Comprehensive Plan and Zoning

7. The property is designated "Low Density Residential" under the City Comprehensive Plan. The Low Density Residential land use designation is intended to "[m]aintain Sequim's 'friendly, small-town' qualities by fostering the growth of low-density neighborhoods consisting of single and small multi-family neighborhoods that are social, walkable, and safe and provide a variety of housing types." *City Comprehensive Plan - Land Use, page 8*. City staff reviewed the proposal and determined that it would be consistent with the Comprehensive Plan, identifying as relevant to the proposal the land use goal of fostering the growth of low-density residential neighborhoods (LU goal 3.2) and the land use policy of allowing "a range of lot sizes in low-density neighborhoods to meet the lifestyle interests of citizens while still maintaining minimum densities to keep Sequim's future both social and affordable" (LU policy 3.2.3). *Exhibit 31, Staff Report, pages 2, 3, 5, 6, and 11.*

8. The subject property and all surrounding properties are zoned Residential R4-8. The intent of the R4-8 zone is to "provide land for residential development within the city. The R4-8 zone provides for consistency and predictability in the character of residential neighborhoods. New subdivisions must provide a minimum of four dwelling units per net acre." *Sequim Municipal Code (SMC) 18.20.050*. Detached single-family residences are permitted outright in the R4-8 zoning district, at a minimum density of four dwelling units per net acre. *SMC 18.20.050.* The Applicant proposes a residential density of 7.36 lots per net acre, in compliance with the minimum density requirement of the R4-8 zone. *Exhibit 5; Exhibit 31, Staff Report, pages 2, 3, and 5.*

9. Chapter 18.20 SMC provides dimensional and development standards for detached single-family residences within the R4-8 zoning district, generally requiring minimum lot sizes of 5,400 square feet; maximum lot sizes of 14,500 square feet; maximum building heights of 25 feet; minimum front and rear yard setbacks of 15 feet; minimum side setbacks of 6 feet on each side; two off-street parking spaces per residence; and maximum lot coverage of 40 percent for lots measuring 10,000 square feet or larger, with an additional 0.4 percent of lot coverage for each 100 square feet of lot area less than 10,000 square feet. *SMC 18.20.050*. City staff reviewed the Applicant's project plans and determined that the proposed lots would meet these standards. City staff would review the Applicant's site plans to ensure that the individual lots would comply with applicable standards at the time of residential building permit submittal. *Exhibit 5; Exhibit 5; Exhibit 6; Exhibit 31, Staff Report, pages 6 and 8.*

Existing Site and Proposed Development

10. The approximately 28.4-acre site is currently undeveloped, rectangular in shape, and consists largely of maintained pasture areas. The topography of the site slopes down

from the southwest corner to the northeast corner, with ground surface elevations ranging from 310 feet to 230 feet and an average gradient of 5 percent. Bell Creek flows south to north through the central portion of the site and occupies a deeply incised ravine with vertical cutbank walls reaching six to eight feet in height at some locations. The Bell Creek ravine encompasses approximately 3.9 acres and is heavily vegetated with grass, brambles, and mature trees. The creek enters a 10-foot wide open-bottom culvert at the northern edge of the property, which travels under Brownfield Road. The property is bordered to the north by undeveloped land and a portion of Brownfield Road; to the east by South Sequim Avenue; to the south by agricultural fields, residential buildings, and a restaurant; and to the west by South 3rd Avenue. Properties to the west, across South 3rd Avenue, are developed with residential neighborhoods, and properties to the east, across South Sequim Avenue, consist of undeveloped lots and lots developed with a residential neighborhood. *Exhibits 4 through 7; Exhibit 21; Exhibit 31, Staff Report, pages 2 through 5.*

Critical Areas

11. Raedeke Associates, Inc., prepared a Critical Area Report and Habitat Management Plan for the proposed development, revised June 12, 2024. The report identified Bell Creek as a Type 2 stream, which has a standard 100-foot protective buffer under the municipal code. *SMC 18.80.070.A.1.* The Applicant does not propose any development within Bell Creek or its associated 100-foot protective buffer.

The Habitat Management Plan provides that the Applicant would place the on-site portions of Bell Creek and its associated buffer within a conservation easement and would provide the following measures to mitigate impacts to the stream and buffer, consistent with the requirements for development within fish and wildlife habitat conservation areas under SMC 18.80.070.D.1:

- The 100-foot-wide buffer required for Type 2 streams would be provided. This would protect existing forested buffer along the stream corridor that provides habitat functions for fish and wildlife species.
- The portion of Bell Creek within the project site is currently bordered by mature forest, which would be preserved within the 100-foot stream buffer.
- A critical area split-rail fence would be constructed along the full length of the 100-foot stream buffer on both sides of Bell Creek. The split-rail fence would be made of wood and would have critical area signs posted. Openings along the split-rail fence would be limited to the already existing trails, and no new trails would be established. The split-rail fence would allow wildlife access to the protected habitat corridor.
- Construction activities would be scheduled to avoid any interference to wildlife or fisheries reproductive activities. The project does not propose any development activity within Bell Creek or its buffer.

- No impacts to Bell Creek or its protective buffer are proposed by the project, and all resources would be utilized to avoid impacts.
- To avoid and minimize impacts, best management practices would be implemented, which would include but would not be limited to: clearly marking the outer limits of the stream buffer prior to construction activities and communicating the presence of the stream and buffer to all work team members; installing and maintaining temporary and permanent soil erosion control measures designed to prevent sediment from entering surface waters during and after construction; and using spill control measures.
- The project has been minimized to the maximum extent possible while maintaining the goal of increasing residential housing in the region.

Exhibit 21.

12. The Applicant's project plans show that the 100-foot buffer associated with Bell Creek overlaps with the top of slopes associated with the ravine and that all development activities would be located outside of the stream buffer and the 25-foot top of slope setback. Krazan and Associates, Inc., prepared a geotechnical report for an earlier iteration of proposed development of the subject property, dated March 9, 2020, which determined that the proposed development would be feasible from a geotechnical perspective, provided that the report's recommendations are included in the project design and construction. The report provided recommendations related to site preparation, temporary excavations, structural fill, foundations, floor slabs and exterior flatwork, erosion and sediment control, drainage, utility trench backfill, and pavement. Krazan and Associates, Inc., later reviewed the current iteration of the proposed development and, in a March 18, 2024, letter, indicated that its analysis and recommendations remain the same, noting that the overall footprint of the proposed development appears to be the same as the original plan despite an increase in the residential units that would be provided. *Exhibit 7; Exhibit 8.*

Landscaping and Open Spaces

13. SMC 17.28.050 requires major subdivisions in residential zoning districts to provide a minimum of 10 percent of open space, at least half of which must be designed for active recreation. The Applicant proposes to exceed these requirements by setting aside 2.88 acres of open space within several tracts scattered throughout the site (Tracts A, B, C, D, E, G, H, J, K, L, and M), with Tracts D, E, G, J, and L providing active recreation amenities, such as exercise equipment, a bocce ball court, a pickleball court, and trails connecting to existing trails within Bell Creek and its buffer. The total open space that would be provided within the common open space tracts would amount to approximately 13 percent of the gross area of the subject property, with approximately 51 percent of that open space providing for active recreation opportunities. City staff reviewed the open space and landscape plan and determined that no additional open space or public facilities

would be necessary for the proposed development. *Exhibit 5; Exhibit 31, Staff Report, page 7.*

Access and Traffic

14. Access to each of the proposed lots would be provided by new internal public road systems. Access to the 37 residential lots on the east side of Bell Creek would be provided from two locations along the property's frontage with South Sequim Avenue, and access to the 67 residential lots on the west side of Bell Creek would be provided from four locations along the property's frontage with South 3rd Avenue. The proposed new internal roadways would include sidewalks that would connect to new sidewalk/shared-use path improvements that would be constructed along the property's frontage with South Sequim Avenue and South 3rd Avenue. The City's Transportation Master Plan identifies South 3rd Avenue as a pedestrian and mobility scooter priority route, and City staff determined that the Applicant would satisfy the required half street improvements to South 3rd Avenue by constructing a 6-foot sidewalk and 3.5-foot planter. This section of South 3rd Avenue is also identified as a collector requiring a shared use path. City staff determined, however, that no bicycle improvements would be required because only half of the corridor would be improved and that such additional improvements would be part of a future capital project. At the hearing, the City and Applicant noted that discussions about required half street improvements to South 3rd Avenue are still ongoing in light of feedback from the community. Although South Sequim Avenue is not identified as a pedestrian and mobility scooter priority route or future bike route, the Applicant proposes to voluntarily construct a 10-foot shared use path as part of its half street improvements. The City's Transportation Master Plan identifies a potential future extension of Miller Road across the southern line of the site, but the City is not pursuing a Miller Road extension due to the cost of constructing a bridge over Bell Creek, its potential environmental impacts to Bell Creek, and the location of the existing West Brownfield Road east-west connection.

    As noted above, the property is bordered to the north by a portion of West Brownfield Road, which currently meanders north before connecting with South 3rd Avenue. City staff has indicated that the City plans to realign West Brownfield Road along the entire northern property line of the site upon obtaining necessary rights-of-way. The City and the Applicant have agreed that the Applicant would pay a fee in lieu of constructing required half street improvements to the portion of West Brownfield Road bordering the subject property, which would be used to help fund the future realignment of, and improvements to, the roadway. The City would review the Applicant's right-of-way improvements to ensure compliance with applicable standards during site construction review. *Exhibit 5; Exhibit 17; Exhibit 31, Staff Report, pages 6, and 8 through 11.*

15. Heath and Associates prepared a traffic impact analysis (TIA) for the proposed development, dated March 22, 2024. The TIA determined that the proposed development

would generate 1,102 new average weekday trips, with 81 additional AM peak-hour trips, and 109 additional PM peak-hour trips. The TIA also determined that all studied intersections would operate at an acceptable level-of-service (LOS) following a full build out of the development. Although the City completed an Intersection Control Evaluation in 2023 that indicated failing service levels at the intersection of eastbound Highway 101 and South Sequim Avenue, it determined that additional mitigation would not be required because the traffic generated from the proposal would not worsen the level-of-service standards for this intersection and, moreover, the intersection is identified for improvements in the City's Six-Year Transportation Importation Improvement Plan. The TIA determined that the Applicant would not be required to provide for offsite traffic mitigation beyond the payment of transportation impact fees (TIF), which it calculated at $2,491 per single-family detached dwelling unit. The City would determine the actual amount of the TIF at the building permit stage. *Exhibit 9; Exhibit 31, Staff Report, pages 10 and 11.*

16. Chapter 20.10 SMC requires a concurrency evaluation for certain new developments, including preliminary plats, to ensure that adequate public facilities are in place to serve the new development. Heath and Associates provided a concurrency evaluation letter, dated February 19, 2025, which determined that the City's concurrency standards would be met with the proposed development. The letter stated that South 3rd Avenue is identified as pedestrian and mobility priority route under the City's Transportation Master Plan and noted that the development would provide required street frontage improvements by installing a 6-foot-wide sidewalk and 3.5-foot-wide planter strip. The letter also stated that South 3rd Avenue is identified as a future bicycle network but that the City has not requested installation of a bike lane. As noted above, and discussed further below, discussions between the City and Applicant are still ongoing regarding frontage improvements to South 3rd Avenue. Regarding South Sequim Avenue, the letter stated that it is not listed as a pedestrian priority network or future bike route and would therefore require only minimum sidewalk standards but that the Applicant proposes to exceed the minimum standards by installing a 10-foot-wide shared-use path. In addition, the letter stated that, due to a planned future City alignment project for West Brownfield Road, the Applicant would pay a fee in lieu of constructing half street improvements to this roadway. In addition, the letter reiterated the TIA's determination regarding the project's impacts to affected intersections, as detailed in the finding above. The letter acknowledged, however, that the intersection at South Sequim Avenue and eastbound Highway 101 is projected to have a failing LOS and noted that this intersection has been identified for improvements in the City's Six-Year Transportation Improvement Plan. *Exhibit 17; Exhibit 31, Staff Report, pages 8 through 11.*

Stormwater

17. The Applicant would be required to manage stormwater in compliance with the requirements of the most recent Stormwater Management Manual for Western

Washington. *SMC 13.104.030*. Core Design prepared a Preliminary Storm Drainage Report for the proposed development, dated October 25, 2024. The report indicates that stormwater runoff on the eastern portion of the site would be directed to a stormwater detention pond at the northeast corner of the property that would provide water quality and flow control before discharging at its natural location through a pipe to the northeast corner of South Sequim Avenue and Brownfield Road where runoff then flows though a catch basin that directs runoff to continue to the northeast through a piped system. Stormwater runoff on the western portion of the property would be directed to a different stormwater detention pond at the north central portion of the property that would similarly provide water quality and flow control before discharging at its natural location at Bell Creek, which flows through an existing culvert under Brownfield Road and continues north. City staff has reviewed the Applicant's preliminary stormwater plans and has determined that it would be feasible to manage stormwater on-site in compliance with applicable requirements. The City would review the Applicant's final stormwater management plans for compliance with applicable requirements at later permitting stages. *Exhibit 6.*

Utilities and Services

18. The preliminary project plans submitted by the Applicant show the location of future utility infrastructure and required utility easements. In the submitted SEPA Checklist, the Applicant notes that necessary utility services are available to serve the proposed development, including electricity, water, refuse service, telephone, and sanitary sewer. The materials submitted by the Applicant do not provide information about what entity would provide utility and other services, but additional information regarding service providers would be reviewed and considered at later permitting stages. *Exhibit 2; Exhibit 5; Exhibit 31, Staff Report, page 6.*

Major Subdivision Review Criteria

19. City staff analyzed the proposal and determined that, with conditions, the proposal would meet the criteria for approval of a subdivision under SMC 17.20.040, and chapter 58.17 RCW, noting that, in addition to the information provided in the findings above:
    - All lots within the proposed subdivision would be within the 5,400 square foot to 14,500 square foot range allowed within the R4-8 zoning district and would meet the lot design standards of chapter 17.40 SMC. The created lots would meet the intent of the underlying zone and Comprehensive Plan.
    - All lots would directly access newly created public streets that would loop through the subdivision, with dedicated driveway access meeting minimum City driveway-width standards. The first phase of development would be served by proposed Roads E, F, and G, and the second phase of development would be served by proposed Roads, A, B, C, and D, as shown on the submitted site plans.
    - The Applicant would be required to construct public right-of-way infrastructure and improvements to City engineering standards in effect at the time of

development. The Applicant's plans show all required improvements in sufficient detail for preliminary approval. Further evaluation and addition of relevant conditions would be completed during the site construction permit review stage to ensure compliance.

- All necessary easements have been shown on the preliminary plat and would be required to be on the face of the final plat prior to recording.
- Dedications for public street right-of-way would be dedicated to the City of Sequim on the face of the final plat and must be reviewed by the City prior to recording.
- Bonds would be necessary for all required improvements and must be posted before final plat approval. Bonding may be coordinated through the site construction process to ensure that all required improvements are made or bonded prior to final plat recording.
- Open space would be provided as required, and a public trail easement would be provided to connect to the existing Bell Creek trail system. Trails are allowed as an exempt activity within critical areas per SMC 18.80.055. The minimum amount of open space required for the total project is just over 95,000 square feet, and the Applicant has proposed over 125,000 square feet of open space. No additional open space or public facilities were determined to be necessary for this project.
- The mitigation measures of the final MDNS address potential impacts related to water, air, noise, animals, historic resources, and transportation. These measures are incorporated as conditions of project approval. Additionally, the Applicant has received a permit from DAHP for the alteration of the site.
- The proposed development area is not within an identified floodplain and would not create a flooding hazard.
- The public interest would be served by providing more housing options. Public improvements to South 3rd Avenue and South Sequim Avenue would benefit all current community members utilizing these streets. The provision of active open space public trail easements could benefit the whole community while certain internal tracts would specifically benefit the development.
- The requirements in Titles 17, 18, and 20 SMC are congruent with the requirements of chapter 58.17 RCW. By meeting the requirements of the SMC, the proposal would meet the requirements of chapter 58.17 RCW.
- The proposed phasing plan has been reviewed. Each phase must be completed as a standalone development and be recorded individually. With no development agreement, all phases subject to preliminary approval must submit for final plat within five years of the preliminary approval.
- The Applicant has coordinated with the Highland Irrigation District (HID) as required.

Exhibit 31, Staff Report, pages 5 through 8.

20. The Applicant also provided responses to the criteria for approval of a subdivision under SMC 17.20.040, which, as stated in the staff report, asserts that the project would comply with all applicable criteria and additionally notes:

- Various required public easements are shown on the preliminary plat plans.
- Bonding is anticipated to be an option provided as a condition of approval of the preliminary plat. This may be utilized based on market conditions prior to the start of any construction work.
- The project proposes approximately 54,165 square feet of usable open space within Tracts B, C, D, G, J, K, L, and M, and includes approximately 290,423 square feet of protected critical areas on-site. Additionally, approximately 320,000 square feet of open space would be provided on the lots.
- The project proposes two phases of development. The phasing schedule is included as sheet C1.06 of the civil plan set.

Exhibit 31, Staff Report, pages 5 through 8.

Testimony

21. Senior City Planner Travis Simmons testified generally about the proposal and how, with conditions, it would comply with the City's Comprehensive Plan and zoning ordinances and would meet the specific criteria for approval of a major subdivision. Mr. Simmons provided a detailed description of the subject property and surrounding area, consistent with the findings above. He explained that the proposal is for a 104-lot subdivision on an approximately 28.38-acre property that would be completed in two phases, with the first phase to include 37 lots on the approximately 8.27-acre portion of the site to the east of Bell Creek and the second phase to include the remaining 67 lots on the approximately 20.23-acre portion of the site to the west of Bell Creek. Mr. Simmons stated that a SEPA review was conducted and that an MDNS was issued, noting that the mitigation measures of the MDNS have been incorporated with City staff's recommended conditions of approval. He confirmed that the SEPA appeal period had expired and that no appeals were filed. Mr. Simmons detailed how the proposal would meet applicable concurrency standards related to pedestrian safety, bicycle network, and traffic capacity levels-of-service, stressing that the City would ensure compliance with applicable concurrency standards with the site construction permits for the required street frontage improvements along South 3rd Avenue and South Sequim Avenue. He explained that all necessary mitigation for critical areas protection was identified, noting that the City opted to utilize its 100-foot standard buffer for Bell Creek, as opposed to utilizing Clallam County's 150-foot buffer as requested by the Jamestown S'Klallam Tribe. Mr. Simmons further noted that, when incorporating the top of slope setback, the proposed development would essentially provide a larger buffer to Bell Creek in some areas and, therefore, provide greater protection to Bell Creek. He also explained that the Applicant would pay a fee in lieu of required frontage improvements to Brownfield Road, so that the City could construct those improvements at a later date when it secures necessary right-of-way to realign the roadway. Mr. Simmons stated that, as a mitigation measure of the MDNS, the

Applicant would be required to follow all conditions of the archaeological excavation permit issue by DAHP. *Testimony of Travis Simmons.*

24. City Engineer and Deputy Director of Public Works Nicholas Dostie testified that Brownfield Road currently extends west from South Sequim Avenue partially along the subject property's northern property line before meandering north of a steep slope and connecting with South 3rd Avenue. He noted that significant earthwork would be required to realign and re-grade the road, as well as the acquisition of necessary right-of-way and, therefore, it would be appropriate to complete the improvements all at once in the future instead of requiring the Applicant to complete half-street improvements. Mr. Dostie explained that, in light of these constraints, the City agreed that the Applicant would pay a fee-in-lieu, as permitted in the municipal code, which would provide the City with the opportunity to purchase the necessary right-of-way and to design and construct the full corridor improvements all at once. He also explained that the funding necessary for the full corridor improvements could be funded through development of the properties to the north or, potentially, through grants that the City could pursue by utilizing the fee-in-lieu. When asked by the Hearing Examiner whether the existing conditions of Brownfield Road would be adequate to serve the additional traffic that would be generated by the proposal, Mr. Dostie noted that the Applicant's TIA determined that the intersections of Brownfield Road and South Sequim Avenue, and Brownfield Road and South 3rd Street, would continue to operate at acceptable levels-of-service and that he recently looked at Washington State Department of Transportation crash data since 2018 and did not see any record of serious or fatal injuries occurring within this roadway segment. He further noted that the City recently went through the drafting and approval of a local road safety plan, which was based on crash data within the city limits, and a comprehensive safety action plan, with the assistance of its traffic engineering consultant, Transpo Group. Mr. Dostie stressed that, during this process, this segment of Brownfield Road was not identified as needing improvements due to safety concerns. He stated, however, that the City recognizes that issues regarding sight distance and lack of sidewalk create a safety risk, and, therefore, the City wanted to work with the Applicant to help fund full corridor improvements to Brownfield Road that would address these issues. *Testimony of Nicholas Dostie.*

25. Applicant Representative Crystal Sasso testified that the Applicant engaged in neighborhood outreach early in the process to address potential concerns. She reiterated that the project would be completed in two phases, noting that each phase would have its own infrastructure necessary to serve the phases as standalone projects. Ms. Sasso stated that she anticipates that site development and infrastructure for the first phase would begin in the spring of 2025, with residential structure construction to begin in fall of 2026, and that site development and infrastructure for the second phase would begin in spring of 2026, with residential structure construction to begin in winter of 2027. Ms. Sasso explained how the proposal would exceed open space requirements of the

municipal code, consistent with the findings above. She requested a modification to the language of the City staff's recommended conditions regarding the timing of a fee-in-lieu agreement and regarding required half-street improvements to South 3rd Street, noting the City's desire for an alternative to required on-street parking along this roadway, as well as concerns raised by members of the public about parking along this roadway segment. Ms. Sasso noted that the Applicant reconfigured two of the proposed lots (Lots 8 and 9) to accommodate the future realignment of Brownfield Road. She explained that stormwater on-site would be directed to detention ponds and provided with water quality treatment before being discharged to natural flow paths. In response to concerns raised by members of the public in their submitted written comments regarding traffic and pedestrian safety impacts, Ms. Sasso noted that the Applicant would voluntarily install a multi-use path along South Sequim Avenue, that the modification to the condition regarding improvements to 3rd Avenue would allow the Applicant to continue working with the City to address issues along this segment of roadway, and that the planned future realignment of Brownfield Road would benefit the community. She stated that, with the requested modifications, the Applicant would have no issue complying with City staff's recommended conditions. *Testimony of Crystal Sasso.*

26. Claudia Konker testified that she lives in a senior community located directly across the street from the subject property and a few yards from West Brownfield Road, which she stated is utilized by school buses, gravel and delivery trucks, personal vehicles, bicycles, and pedestrians. She expressed concerns about existing unsafe conditions of the road due to a blind curve, sudden elevation change, and lack of pedestrian and bicycle infrastructure, and she stated that these issues should be addressed before any new housing project in the area is approved. Ms. Konker also expressed concerns about flooding on the lower section of the roadway, which she stated causes water to spray on oncoming vehicles and temporally impairs the vision of drivers. She noted that these issues were not identified or addressed in the Applicant's TIA. Ms. Konker submitted a written copy of her comments at the hearing, which the Hearing Examiner admitted into the record as Exhibit 33. *Testimony of Claudia Konker; Exhibit 33.*

27. Scott Alair testified that he agrees with the concerns raised by Ms. Konker. He additionally noted that he utilizes Brownfield Road and that there are dangerous sight distance issues due to the elevation change and blind curve, as well as issues with flooding every time it rains. Mr. Alair stated that the development should not be approved until the roadway realignment and improvement project is fully funded. *Testimony of Scott Alair.*

28. Vernon Frykholm testified that he owns property on the northwest corner of Brownfield Road and South Sequim Avenue and that he would like to discuss the future realignment of Brownfield Road in detail with City staff at some later date. *Testimony of Vernon Frykholm.*

29. Jon Sering testified that the subject property should be acquired by the City to remain as open space. In the alternative, Mr. Sering suggested that the proposed density of the residential units should be reduced and that the City should apply Clallam County's 150-foot stream buffer to Bell Creek. He also raised concerns about the traffic impacts of the proposed development and about the number of access locations to the development, suggesting that the Applicant utilize cul-de-sacs. *Testimony of Jon Sering.*

30. Joan Cotta testified that she is the president of the HOA for Dominion Terrace, a 97-unit senior community that is located directly across South 3rd Avenue from the subject property. She stated that a member of the Applicant team, Levi Holmes, recently met with a group of the community and that she appreciates the information that he provided them. Ms. Cotta echoed the concerns raised about the existing conditions of Brownfield Road. She also noted her concerns about drivers speeding along South 3rd Avenue and requested that traffic calming measures be implemented to address this issue. She stated that she welcomes a change to the plan to provide on-street parking along South 3rd Avenue, noting that this would create additional hazards. *Testimony of Joan Cotta.*

31. Stephen Schrader echoed the concerns raised about the conditions of Brownfield Road, speeding along 3rd Avenue, and about the possibility of on-street parking along South 3rd Avenue. *Testimony of Stephen Schrader.*

32. Kris Ecklund testified that she has lived in the area since 2005 and was around when Brownfield Road was constructed between South Sequim Avenue and South 3rd Avenue. She stated that this is a vital connector for people living in her neighborhood and that she agrees with the concerns raised about the unsafe conditions of Brownfield Road and speeding along 3rd Avenue. Ms. Ecklund stated that the realignment of Brownfield Road should be a priority and should be completed prior to any new developments in the area. She also raised concerns about the visibility of proposed access locations to the east of the proposed development from South Sequim Avenue. *Testimony of Kris Ecklund.*

33. In response to the concerns raised at the hearing, Ms. Sasso testified that the Applicant would work diligently with the City to complete construction cost estimates so that the City can obtain the necessary right-of-way and work towards completing the needed realignment and improvements. She further noted that the Applicant would pay traffic impact fees, which she suggested could be used by the City to provide temporary safety measures while awaiting completion of the Brownfield Road improvement project. Ms. Sasso noted that the Applicant has heard the community concerns about parking along 3rd Avenue and has requested a modification to a recommended condition to allow the Applicant to continue working with the City on a better alternative. *Testimony of Crystal Sasso.*

34. Holli Heavrin, a civil engineer with Core Design, Inc., appearing on behalf of the Applicant, testified that the Applicant worked diligently with the City regarding the location of access points along South Sequim Avenue and that the access points meet the minimum intersection separation distance requirements of the municipal code. *Testimony of Holli Heavrin.*

35. Aaron Van Aken, a traffic engineer with Heath and Associates appearing on behalf of the Applicant, testified that the TIA prepared for the project addresses level-of-service standards for affected offsite intersections, as required by the City's concurrency standards. He noted that, although the Brownfield Road segment at issue may be substandard, he reviewed the collision history for the segment, which showed that there have been only four reported incidents in the past five years, with only one of those incidents involving a minor injury and the remaining incidents involving no injuries. *Testimony of Mr. Van Aken.*

36. Mr. Dostie stated that the City would continue to work with the Applicant regarding parking along South 3rd Avenue and that this will likely result in the required street improvements including a bike lane and sidewalk, rather than a parking lane. He noted that the City currently has a radar speed sign along South 3rd Avenue and that the City is in the process of obtaining funding for a speed study throughout the city. Mr. Dostie also noted that the City is in communications with the police department about enforcement in this area. He acknowledged the concerns about Brownfield Road and stated that the City's ability to address this issue is limited without additional funding from developments, such as that proposed, and/or from other third-party funding, such as grants. He stressed that the fee-in-lieu required by the proposal is the necessary first step for the City to address the issues with Brownfield Road. *Testimony of Nicholas Dostie.*

Staff Recommendation

37. City staff reviewed the proposal and determined that, with its recommended conditions, the proposal would be consistent with the City Comprehensive Plan and would comply with applicable requirements for approval of a major subdivision. *Exhibit 31, Staff Report, pages 5 through 15; Testimony of Mr. Simmons.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for a preliminary major subdivision and, though the City's optional consolidated permit process, for a boundary line adjustment. *SMC 2.10.070.B; SMC 20.01.030; SMC 20.01.050; and SMC 20.01.100.* This review includes the Hearing Examiner ensuring that the proposed plat would satisfy the criteria of chapter 58.17 RCW. *SMC 17.20.040.K.*

Criteria for Review

Preliminary Plat

SMC 17.20.040 sets forth the following criteria for approval of a preliminary plat application:

> The city will not approve applications for subdivisions unless it is demonstrated by the applicant that each of the following criteria has been met or will be met:
>
> A. Each lot resulting from the subdivision must conform with the comprehensive plan and zoning regulations;
> B. Each lot will adjoin a public street or a private street in the subdivision;
> C. Curb, gutter, sidewalk, trail connections, transit stops, streets, storm drainage, sanitary sewer lines, water lines and other utilities as required must be installed at the expense of the applicant and meet city specifications and applicable ordinances and the city engineer must have certified or approved the proposed plans;
> D. The applicant must provide an easement for utilities transmission services, if necessary;
> E. Private property necessary for public use for streets will be dedicated by a deed of dedication acceptable to the city or by preparing a plat to be recorded;
> F. A bond meeting city requirements (Chapter 3.78 SMC) is posted to ensure completion of those improvements required under these criteria but not yet installed or provided;
> G. Adequate public facilities will be provided, as required by the adopted capital facilities plan. These facilities may include, but not necessarily be limited to, parks, playgrounds, schools, open spaces, transit stops, and trails and trail connections;
> H. All requirements of the environmentally sensitive areas and wetlands sections of the SMC and the State Environmental Policy Act (SEPA) have been met;
> I. No development may occur which causes a flooding hazard, and until any development occurring within an identified floodplain has been properly mitigated;
> J. The public interest will be served by the proposal;
> K. All the requirements of Chapter 58.17 RCW have been met;
> L. The proposed project phasing schedule, if applicable, meets the requirements contained in SMC 17.20.090; and
> M. Only irrigation districts organized under Chapter 87.03 RCW may require improvements and only in accordance with RCW 58.17.310.

The Sequim Municipal Code incorporates the state subdivision criteria codified at Chapter 58.17 RCW, which must also be met by the application before a decision of approval can be made. Specifically, RCW 58.17.110(2) provides:

> A proposed subdivision and dedication shall not be approved unless the city, town, or county legislature body makes written findings 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.

Reconsideration and Appeal

The Hearing Examiner's decision on applications for a major subdivision and boundary line adjustment is final. *SMC 2.10.090.*

Appeals of land use decisions to superior court are provided pursuant to chapter 36.70C RCW, which provides that appeals are timely if "filed and served on all parties listed in [RCW 36.70C.040.2] within 21 days of the issuance of the land use decision." *RCW 36.70C.040.3*. Parties with standing to file an appeal include the Applicant and owner of the subject property, and other aggrieved parties who meet the conditions required under RCW 36.70C.060.2. SMC 2.10.080.F specifically provides that the City is authorized to "appeal or seek review of a hearing examiner's decision in Clallam County Superior Court."

In addition to the right to appeal, SMC 2.10.100 allows any party of record to request reconsideration of a hearing examiner's decision prior to six days after the date a decision is issued.

Conclusions Based on Findings

1. **With conditions, the proposed preliminary plat satisfies the requirements of SMC 17.20.040.** The Applicant submitted plans that ensure that, as proposed and conditioned herein, the subdivision would meet all requirements for preliminary plat approval under the municipal code. City staff analyzed the proposal and determined that appropriate provisions would be made for: the public health, safety, and general welfare; access to the newly created lots; street and utility infrastructure, including sidewalks, storm drainage, water supplies, sanitary waste service, and other utilities; open space and active recreation; access to schools, including sidewalks and other planning features that ensure safe walking conditions for students who walk to and from schools or school bus stops. City staff also determined that the public use and interest would be served by the platting of this subdivision and dedication of public infrastructure. The Hearing Examiner concurs with City staff's assessment.

   The City analyzed the environmental impacts of the proposed development and determined that, with mitigation measures, it would not have probable significant adverse

impacts. Accordingly, the City issued an MDNS for the proposal, which was not appealed. The mitigation measures required in the MDNS are incorporated herein as conditions of approval for the major subdivision and boundary line adjustment.

The City provided reasonable notice and opportunity to comment on the proposal and to testify at the open record hearing. The City received numerous comments on the proposal from members of the public, and several members of the public testified at the hearing. The primary concern raised in the written comments and at the hearing related to the existing conditions of Brownfield Road, which in its current configuration creates vehicle, bicycle, and pedestrian safety issues due to a lack of adequate bicycle/pedestrian infrastructure and sight-distance impairments caused by an elevation change combined with a blind curve, which may be worsened during rain events. Several members of the public stated that planned improvements to Brownfield Road, including a realignment of this segment of roadway, should be completed prior to approval of this proposed development or other developments in the vicinity that would create additional traffic demands.

At the outset, it must be noted that community displeasure, alone, cannot be the basis of a permit denial. *Kenart & Assocs. v. Skagit Cty.*, 37 Wn. App. 295, 303, 680 P.2d 439, *review denied*, 101 Wn.2d 1021 (1984). Rather, in analyzing the request for approval of a major subdivision, the Hearing Examiner must determine whether the request would comply with the applicable subdivision criteria of the municipal code. Although the Hearing Examiner shares the concerns raised by members of the public regarding the existing conditions of Brownfield Road and agrees that it would be ideal to address these issues prior to approving a development that would add additional traffic demands to the roadway, the City and the Applicant have presented the only feasible and reasonable path forward to completing the needed realignment project, which would benefit the entire surrounding community. Conversely, denying this proposal or similar development proposals on the basis that the needed improvements to Brownfield Road must first be fully completed would prevent the very funding mechanism necessary to complete the improvements, thereby leaving the roadway in its current, substandard condition.

More importantly, as it pertains to the Hearing Examiner's decision, the Applicant has met all applicable concurrency standards necessary for approval of the requested major subdivision under the municipal code. The Applicant's TIA and concurrency evaluation letter indicates that all studied intersections would continue to operate at acceptable levels-of-service following a full build out of the project, except for the intersection at South Sequim Avenue and eastbound Highway 101, which would operate at a deficient level-of-service with or without the proposed development. This intersection, however, has been identified for improvements in the City's Six-Year Transportation Improvement Plan. The concurrency evaluation letter also determined, and City staff agrees, that all required street frontage improvements would be constructed. Although the TIA evaluates

only impacts to intersections, and not roadway segment conditions, the Applicant's traffic engineer noted at the hearing that a collision history for this roadway segment showed only four reported incidents in the past five years, with only one of those incidents involving a minor injury and the remaining incidents involving no injuries. In addition, City Engineer Nicholas Dostie testified that citywide crash data utilized for a recent local road safety plan did not identify this segment of Brownfield Road as needing improvements due to safety concerns. In short, the Hearing Examiner determines that, with the fund-in-lieu that would be provided by the Applicant to help fund the planned realignment of Brownfield Road, all concurrency requirements necessary for approval of the requested subdivision would be met.

In addition to the concerns regarding the existing conditions of Brownfield Road, members of the public expressed concerns about the proposal's traffic impacts to, and the existing safety issues of, South 3rd Avenue; proposed on-street along South 3rd Avenue; impacts to the existing water supply; environmental impacts, including impacts to Bell Creek; and stormwater impacts.

Regarding concerns about South 3rd Avenue, the Applicant has requested, and the Hearing Examiner approves, a modification of condition language to allow the City and Applicant to continue working together to identify appropriate frontage improvements along this segment. This request was made in response to concerns about the proposed plan to include on-street parking, and the City would ensure that the street frontage improvements would meet applicable concurrency requirements of the municipal code. In addition, Mr. Dostie testified at the hearing that the City has a radar speed sign along South 3rd Avenue, is in the process of obtaining funding for a speed study throughout the city, and is in communications with the police department about enforcing speed limits in this area.

As noted above, the City analyzed the environmental impacts of the proposed development and issued an MDNS, which was not appealed. The Applicant has asserted in its SEPA environmental checklist that there is adequate water to serve the proposed development, and the City would verify the specific water provider at later permitting stages. The Applicant's Critical Areas Report and Habitat Management Plan identified Bell Creek as a Type 2 stream, which has a standard 100-foot protective buffer under the municipal code. The City has authority to determine protected stream buffer widths, in accordance with Department of Ecology guidelines, and has declined to apply the more stringent, 150-foot buffer required by the separate jurisdiction of Clallam County. The Applicant does not propose any development within Bell Creek or its associated 100-foot buffer, and the Applicant's Habitat Management Plan demonstrates that the proposal would comply with the City critical areas ordinance.

The Applicant's preliminary storm drainage report indicates that stormwater would be conveyed to stormwater detention ponds for water quality treatment and flow control before discharging at natural conditions. City staff reviewed the Applicant's preliminary stormwater plans and determined that it would be feasible to manage stormwater on-site in compliance with the most recent version of the DOE Stormwater Management Manual for Western Washington, and the City would review the Applicant's final stormwater management plans for compliance with applicable requirements at later permitting stages.

The Applicant's geotechnical report determined that the proposed development would be feasible from a geotechnical perspective, provided that the report's recommendations are included in the project design and construction. The subject property is not within a floodplain and City staff determined that there is no flooding risk with this proposal. The Applicant has shown that they are coordinating with the Highland Irrigation District.

The approximately 28.4-acre subject property is designated Low Density Residential under the Comprehensive Plan. The proposed residential development would be consistent with several Comprehensive Plan goals and policies by increasing the number and type of housing opportunities in a low-density neighborhood. The property is located in the R4-8 zone, which lists detached single-family residences as a permitted use. The Applicant's project plans demonstrate that the proposed development would comply with applicable development regulations for the R4-8 zone, including regulations related to lot dimensions, maximum lot coverage, and minimum structure setbacks.

The proposed development would be completed in two phases, with each phase providing the necessary infrastructure to support the phases as standalone developments. The first phase would include the development of 37 single-family residential lots on the east side of the Bell Creek ravine, and the second phase would include development of the remaining 67 lots on the west side of the Bell Creek ravine. Access to the eastern lots would be provided by a new internal public road system that would connect to South Sequim Avenue at two locations. Access to the western lots would be provided by a new internal public road system that would connect to South 3rd Avenue at four locations. The new internal roads would include sidewalks connecting to pedestrian improvements that would be installed along the property's frontage with South Sequim Avenue and South 3rd Avenue, which would improve walking conditions for future students residing in the subdivision.

The preliminary plat shows all necessary easements, including those required for utility services, and indicates that the newly created internal roadways would be dedicated to the City. Public right-of-way and easements will be required to be shown on the final plat. Any necessary bonding would be coordinated through the site construction process to ensure that all required improvements are completed or bonded prior to final plat recording. The proposal would meet applicable open space requirements by setting aside

tracts for dedicated common open space, including areas providing active recreation opportunities.

The Hearing Examiner determines that, as proposed and conditioned herein, the platting of the subdivision would be in the public interest. Conditions, as detailed below, are necessary to ensure that the proposal meets the requirements for preliminary plat approval under SMC 17.20.040. *Findings 1 – 37.*

2. **With conditions, the requirements of RCW 58.17.110 have been satisfied.** The criteria for preliminary plat approval under SMC 17.20.040 include the requirement that the provisions of the state subdivision act, Chapter 58.17 RCW have been met. The proposal's compliance with these provisions has been addressed above in Conclusion 1. With conditions, as detailed in full below, the proposal would satisfy all local and state requirements for plat development. *Findings 1 – 37.*

DECISION

Based on the preceding findings and conclusions, the request for a preliminary major subdivision to subdivide an approximately 28.4-acre property, located to the south of West Brownfield Road, between South 3rd Avenue and South Sequim Avenue, into 104 single-family residential lots, with associated open space tracts and an approximately 6.7-acre critical area tract that would contain on-site portions of Bell Creek and its associated protective buffer, is **APPROVED**, with the following conditions:

<u>Department of Community Development Conditions</u>

1. Within five years following approval of a preliminary major subdivision, or otherwise stipulated in RCW 58.17.140, a final plat shall be submitted to the City for review and approval prior to recording. A one-year extension may be granted by the Director of Community and Economic Development.

2. Required half-street improvements of curbs, gutters, and paving must be constructed consistent with City of Sequim Engineering standards for the street classifications outlined in this staff report or alternative approved by the City Engineer consistent with SMC 13.04.050.

3. All required easements must be clearly shown on the face of the final plat.

4. Final plat language must be consistent with adopted, "Guidelines for Standard Land Use Certification, Dedication and Declaration of Language," per SMC 17.04.040.

5. The Applicant will coordinate with the U.S. Postal service for the provision of mailboxes, if necessary.

6. Any future signage will require separate review by the Department of Community and Economic Development per chapter18.58 SMC, at which time it will be reviewed for compliance with the City's sign regulations

7. All fire hydrants must satisfy the requirements of International Fire Code (IFC), specifically IFC Chapter 507, Appendix B, Appendix C, and Appendix D.

Public Works Conditions

8. Fee-in-lieu payments for Brownfield Road improvements must be executed before issuance of a site construction permit or at such other time as determined by the director.

MDNS Mitigation Measures:

9. All site construction shall be done in compliance with the most current Stormwater Manual for Western Washington.

10. Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or storm drains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are pollutants. Any discharge of sediment laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington and is subject to enforcement action.

11. The following construction activities require coverage under the Construction Stormwater General Permit from the WA State Dept. of Ecology:
    a. Clearing, grading and/or excavation that results in the disturbance of one of more acres and discharges stormwater to surface waters of the State; and
    b. Clearing, grading and/or excavation on sites smaller than one acre that are part of a larger common plan of development or sale, if the common plan of development will ultimately disturb one acre or more and discharge stormwater to surface waters of the State. This includes forest practices (including, but not limited to, class IV conversions) that are part of a construction activity that will result in the disturbance of one or more acres, and discharge to surface waters of the State; and
    c. Any site construction activity discharging stormwater to waters of the State that Ecology:
        i. Determines to be a significant contributor of pollutants to waters of the State of Washington.
        ii. Reasonably expects to cause a violation of any water quality standard.

12. If contamination is suspected, discovered, or occurs during the proposed SEPA action, testing of the potentially contaminated media must be conducted. If contamination of soil

or groundwater is readily apparent, or is revealed by testing, WA Department of Ecology must be notified. Contact the Environmental Report Tracking System Coordinator for the Southwest Regional Office (SWRO) at (360) 407-6300. For assistance and information about subsequent cleanup and to identify the type of testing that will be required, contact SWRO, Toxics Cleanup Program at (360) 407-7529.

13. If there are known soil/groundwater contaminants present on-site, additional information (including, but not limited to: temporary erosion and sediment control plans; stormwater pollution prevention plan; list of known contaminants with concentrations and depths found; a site map depicting the sample location(s); and additional studies/reports regarding contaminant(s) will be required to be submitted. You may apply online or obtain an application from Ecology's website at: http://www.ecy.wa.gov/programs/wq/stormwater/construction/ - Application. **Construction site operators must apply for a permit at least 60 days prior to discharging stormwater from construction activities and must submit it on or before the date of the first public notice.**

14. Potential air impacts shall be mitigated by watering the site as necessary, utilizing dust suppression options and techniques described in the WA Department of Ecology publication # 96-433, 2016.

15. To mitigate the potential for noise impacts to surrounding properties, construction activities through complete buildout of this proposed development shall be limited from 7:00 am to 10:00 pm Monday through Friday and 9:00 am to 10:00 pm on weekends, consistent with Sequim Municipal Code 8.32.040.

16. It shall be the responsibility of the Applicant to take all necessary steps to prevent the incidental taking of protected species under the Endangered Species Act through habitat modification or degradation during the life of the project or development authorized by this permit or approval. The Applicant shall notify the City through its Public Works Director or designee and the Federal Agencies with responsibility for enforcement of the Endangered Species Act immediately, in the event of damage of degradation to Endangered Species habitat by or from the project or the development subject to this permit or approval. In any such case, the Applicant shall, at its sole cost and expense, take all action necessary to prevent the furtherance of the damage or degradation and to restore the habitat as required by the Federal, State, and local agencies with jurisdiction.

17. Applicant has coordinated with local Jamestown S'Klallam Tribe and currently has DAHP permit #2024-29. All special conditions (1-11) included in Exhibit 22 must be followed, and continued coordination with Jamestown will be required for any new discoveries through the inadvertent discovery process during

construction.

18. Prior to final subdivision approval, the Applicant shall submit final construction plans for review and approval by the City of Sequim Public Works Department. In accordance with SMC 17.20.040, the plans shall demonstrate, to the satisfaction of the City engineer, that curb, gutter, sidewalk, trail connections, transit stops, streets, storm drainage, sanitary sewer lines, water lines, and other utilities as required, would be installed at the expense of the Applicant and would meet City specifications and applicable ordinances.

DECIDED this 13th day of March 2025.



PEREGRIN K. SORTER
Hearing Examiner
Laminar Law, PLLC