

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF PORT ORCHARD**

In the Matter of the Application of	)	No. LU16-PLAT PRELIM-01
	)	
<b>Mike Brown, on behalf of</b>	)	
<b>Housing Kitsap</b>	)	Sherman Ridge PP and PRD
	)	
For a Preliminary Plat and	)	FINDINGS, CONCLUSIONS,
<u>Planned Residential Development</u>	)	AND DECISION

**SUMMARY OF DECISION**

The request for a preliminary plat and planned residential development to subdivide 4.83 acres into 27 single-family lots; a private access and utility tract; a recreational space tract; a tract containing a storm facility, recreational space, and a Category III wetland and associated buffers; and a public right-of-way, located at the southwest corner intersection of Melcher Street West and Sherman Avenue, to be addressed as 128 Melcher Street West, is **GRANTED**. Conditions are necessary to mitigate specific project impacts.

**SUMMARY OF RECORD**

Hearing Date:

The Hearing Examiner held an open record hearing on the request on September 29, 2017.

Testimony:

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

James Fisk, City Associate Planner  
Nick Bond, Director of Community Development  
Dean Nail  
Laureen Walton

Exhibits:

1. Letter from Stephanie Andrews to Kitsap County Consolidated Housing Authority, dated October 12, 2015
2. Application submittal, including the following documents:
  - A. Preliminary Plat Application, received July 20, 2016
  - B. Property owners list verification, dated July 15, 2016, with map and mailing addresses
  - C. Narrative for POMC 16.13.195, WNEK Engineering, received July 20, 2016
  - D. Statement for POMC 16.13.193, WNEK Engineering, received July 20, 2016
  - E. SEPA Environmental Checklist, dated July 20, 2016
  - F. Preliminary Drainage Report, WNEK Engineering, dated July 19, 2016
  - G. Pacific Northwest Title Supplemental Plat Guarantee, dated July 12, 2016

*Findings, Conclusions, and Decision  
City of Port Orchard Hearing Examiner  
Sherman Ridge Preliminary Plat/PRD, No. LU16-PLAT PRELIM-01*

- H. Preliminary Plat plan set (11 sheets), dated July 19, 2016
3. Application Transmittal– Request for Review, dated July 25, 2016
4. Property Report and Map, dated July 25, 2016
5. Application Comments
  - A. Email from Tomas Hunter, Public Works Foreman, to Jim Fisk, dated August 3, 2016
  - B. Letter from Martine Penhallegon, P.E., PACE, to Dean Nail, Non-binding Letter of Water Availability, dated January 29, 2016, with Plat Plan
6. Determination of incompleteness, dated August 9, 2016
7. Additional documents, received August 10, 2016
  - A. Legal Description
  - B. Geotechnical Engineering Report, EnviroSound Consulting Inc., dated March 28, 2016
  - C. Wetland Determination and Offsite Wetland Categorization Report, Ecological Land Services, Inc., dated February 15, 2016
8. Email from Ellen Ferguson, to Jim Fisk, dated August 15, 2016, with email string
9. Memo from Brad Wiggins, Deputy Fire Marshal, to Jim Fisk, dated August 16, 2016
10. Application Transmittal – Request for Review, dated August 18, 2016
11. Notice of Completeness, dated August 23, 2016
12. Notice of Application, dated September 2, 2016
13. Affidavit of Publication, *Port Orchard Independent*, dated September 2, 2016, with ad copy
14. Affidavit of Mailing, dated September 2, 2016
15. Affidavit of Posting, dated September 2, 2016, with photo
16. Email from Mike Brown to Jim Fisk, dated September 6, 2016, with email string
17. Letter from James Fisk to Housing Kitsap, dated September 30, 2016, with Memo from Brad Wiggins, Deputy Fire Marshal, to Jim Fisk, dated August 16, 2016
18. Email from Jim Fisk to Renee Turner, with email string
19. Annotation of City letter dated 09/30/2016, undated
20. Department of Community Development Meeting Summary, dated October 4, 2016
21. Email from Jim Fisk to Renee Turner, dated October 12, 2016
22. Additional documents, received November 18, 2016
  - A. Letter from James Fisk to Housing Kitsap, dated September 30, 2016, with Memo from Brad Wiggins, Deputy Fire Marshal, to Jim Fisk, dated August 16, 2016; Storm Comments Responses, undated; Email from Mike Wnek to Jim Fisk, dated October 19, 2016, with email string
  - B. Revised Preliminary Plat plan set (11 sheets), dated November 14, 2016
23. Application Transmittal – Request for Review, dated November 18, 2016
24. Additional documents, received November 29, 2016
  - A. Letter from Joanne Bartlett to Mike Brown, dated September 20, 2016
  - B. Phase I Environmental Site Assessment Report, Partner Engineering and Science, Inc., dated May 25, 2011
25. Application Transmittal – Request for Review, dated November 29, 2016

*Findings, Conclusions, and Decision*  
*City of Port Orchard Hearing Examiner*  
*Sherman Ridge Preliminary Plat/PRD, No. LU16-PLAT PRELIM-01*

26. Letter from James Fisk to Housing Kitsap, dated December 7, 2016
27. Additional documents, received December 29, 2016
  - A. Letter from James Fisk to Housing Kitsap, dated December 7, 2016, with Annotated Review Comments, dated December 28, 2016
  - B. Revised Preliminary Plat plan set (11 pages), dated November 14, 2016, and December 28, 2016
28. Application Transmittal – Request for Review, dated December 30, 2016
29. Buffer Mitigation Plan, Ecological Land Services, Inc., dated January 5, 2017
30. Application Transmittal – Request for Review, dated January 6, 2017
31. Email from Jim Fisk to Mike Brown, dated January 17, 2017, with Phillips Burgess Client Alert, dated January 5, 2017, on *Snohomish County et al v. Pollution Control Hearings Board*
32. Email from Jim Fisk to Mike Brown, dated January 20, 2017, with email string
33. Email from Jim Fisk to Scott Maharry, dated January 20, 2017, with email string
34. Letter from Andrea Archer-Parsons, P.E., to Mike Brown, dated January 25, 2017
35. Email from Chad Wallin to Jim Fisk, dated January 26, 2017, with email string
36. Letter from Joanne Bartlett to Jim Fisk, dated January 31, 2017, Housing Kitsap Follow-up Delineation Information
37. Letter from Mark R. Dorsey, P.E., to Mike Brown, dated February 1, 2017
38. Letter from Michael Wnek, P.E., to Mark Dorsey, P.E., dated February 2, 2017
39. Email from Chad Wallin to Scott Maharry, dated February 2, 2017, with email string and Grette Associates Environmental Consultants description of work, dated February 2, 2017
40. Email from Jim Fisk to Mike Brown, dated February 3, 2017, with email string
41. Letter from James Fisk to Housing Kitsap, dated February 15, 2017, with three photos, undated
42. Email from Mike Brown to Mark Dorsey, dated February 16, 2017, with email string
43. Email from Mike Brown to Jim Fisk, dated March 20, 2017, with email string and letter from Joanne Bartlett to Jim Fisk, dated March 14, 2017, and attachments
44. Email from Jim Fisk to Chad Wallin, dated March 22, 2017, with email string
45. Email from Mike Brown to Jim Fisk, dated April 14, 2017, with email string
46. Additional documents received June 23, 2017
  - A. Letter from Joanne Bartlett to Mike Brown, dated June 22, 2017
  - B. Narrative for POMC 16.13.195, WNEK Engineering, received June 23, 2017
  - C. Wetland Delineation and Buffer Averaging Report, Ecological Land Services, Inc., revised June 22, 2017
  - D. Drainage Report, Wnek Engineering, dated June 15, 2017
  - E. Revised Preliminary Plat plan set, dated June 15, 2017
47. Application Transmittal – Request for Review, dated June 27, 2017
48. Technical Memorandum prepared by Chad Wallin, Grette Associates, LLC, for Jim Fisk, dated June 30, 2017
49. Memorandum from Mike Pleasants, P.E., to Jim Fisk, dated July 13, 2017
50. Memo from Brad Wiggins, to Jim Fisk, dated July 21, 2017

51. Letter from James Fisk to Housing Kitsap, dated July 24, 2017
52. Additional documents received July 28, 2017
  - A. Narrative for POMC 16.13.195, WNEK Engineering, received July 28, 2017
  - B. Revised Preliminary Plat plan set, dated July 25, 2017
    - i. Preliminary Plat Plan (Sheet C0)
    - ii. Existing Conditions Plan (Sheet C0a)
    - iii. Plat Plan (Sheet C1)
    - iv. Grading Plan (Sheet C2)
    - v. Erosion Control Plan (SWPPP) (Sheet C3)
    - vi. "R1" Plan & Profile (Sheet C4a)
    - vii. "R2" Plan & Profile (Sheet C4b)
    - viii. "Melcher St." Plan & Profile (Sheet C4c)
    - ix. Storm Plan & Profile (Sheet C5a)
    - x. Detention Pond Plan & Profile (Sheet C5b)
    - xi. Sewer Plan & Profile (Sheet C5c)
    - xii. Water Plan & Profile (Sheet C5d)
53. Application Transmittal, dated July 28, 2017
54. Memorandum from Mike Pleasants, P.E., to Jim Fisk, dated August 11, 2017
55. Mitigated Determination of Nonsignificance (MDNS) for Sherman Ridge Preliminary Subdivision, dated August 11, 2017
56. Affidavit of Publication, with *Port Orchard Independent* ad, dated August 11, 2017
57. Affidavit of Emailing and Mailing, dated August 11, 2017, with email from Ellen Ferguson to various parties, dated August 11, 2017; SEPA checklist and MDNS distribution mailing addresses, updated November 3, 2016; MDNS; and Environmental Checklist, dated July 20, 2016
58. Affidavit of Mailing, dated August 11, 2017, with MDNS and mailing labels
59. Affidavit of Emailing, dated August 11, 2017, with email from Jim Fisk to Mike Brown, dated August 11, 2017
60. Affidavit of Posting, dated August 11, 2017, with photo, undated
61. Email from David Brice to Planning Mailbox, dated August 24, 2017
62. Notice of Public Hearing, issued September 1, 2017, with project location aerial
63. Affidavit of Publication, with *Port Orchard Independent* ad, dated September 1, 2017
64. Affidavit of Mailing, dated September 1, 2017, with Notice of Public Hearing, project location aerial photo, and mailing labels
65. Email from Jim Fisk to Mike Brown, dated September 1, 2017, with Notice of Public Hearing and project location aerial
66. Capacity Reservation Certificate, issued September 12, 2017
67. Public Notices Index
68. Email from Mike Pleasants to Jim Fisk, dated September 20, 2017
69. Staff Report and Recommendation to the Hearing Examiner
70. Traffic Impact Analysis, Transportation Solutions, Inc., dated June 2016

*Findings, Conclusions, and Decision*  
*City of Port Orchard Hearing Examiner*  
*Sherman Ridge Preliminary Plat/PRD, No. LU16-PLAT PRELIM-01*

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

## **FINDINGS**

### Application and Public Notice

1. Mike Brown, on behalf of Housing Kitsap (Applicant), requests approval of a preliminary plat (PP) and planned residential development (PRD) to subdivide 4.83 acres into 27 single-family lots. The proposed subdivision would also include a private access and utility tract; a recreational space tract; a tract containing a storm facility, recreational space, and a Category III wetland and associated buffers; and a public right-of-way. The property is located at the southwest corner intersection of Melcher Street West<sup>1</sup> and Sherman Avenue, to be addressed as 128 Melcher Street West.<sup>2</sup> *Exhibit 2.A; Exhibit 52.B; Exhibit 69, Staff Report, pages 1 and 2.*
  
2. The Applicant submitted an application for a 33-lot single-family preliminary plat and planned residential development on July 20, 2016. The City of Port Orchard (City) determined that the application was complete on August 23, 2016. The City provided Notice of Application consistent with Chapter 23.30 Port Orchard Municipal Code (POMC) on September 2, 2016, by mailing to surrounding property owners, the Applicant, and the Applicant's representative and by publishing notice in the *Port Orchard Independent*. On the same day, Joel Klemp posted notice on the property. Robin Vergara submitted an email comment with concerns about increased density, traffic, lack of sidewalks, and other concerns about impacts to the neighborhood.

On November 18, 2016, the Applicant submitted a revised 33-lot preliminary plat, which included an underground stormwater facility within a required wetland buffer. The Applicant submitted a revised application on June 23, 2017, and submitted an additional revision that reduced the number of proposed lots to 27 on July 28, 2017. City Planner James Fisk testified that the reduced number of lots was due to the delineation of an on-site wetland and because the Applicant changed the proposed stormwater detention facility from below ground to above ground. Because fewer lots were proposed in the revised application, Mr. Fisk stated that a new notice of application was not required. On August 11, 2017, Joel Klemp posted the property with notice of the open record hearing

---

<sup>1</sup> Exhibit 2.A, the application, gives the address as 128 Melcher St. West. Exhibit 3, the City's Application Transmittal, addresses the property as 128 SW Melcher Street. Exhibit 4, a parcel report, refers to 128 Melcher St. W. Exhibit 17 includes a letter from James Fisk referring to 128 W Melcher and a memo from Brad Wiggins referring to 128 Melcher Street W. Exhibit 22A, a letter from James Fisk refers to 128 W Melcher. Exhibit 52.B, the preliminary plat plan set drawings, depict "Melcher Street." Exhibit 55, the MDNS, and Exhibit 69, the staff report, also refer to Melcher Street. Because the parcel report (Exhibit 4) gives the address as 128 Melcher St. W, this decision will refer to the street as "Melcher Street West."

<sup>2</sup> The parcel is identified by Tax Assessor's Account No. 352401-2-038-2008. *Exhibit 69, Staff Report, page 1.* A legal description is provided as Exhibit 7.A.

associated with the application. On September 1, 2017, the City mailed or emailed notice to surrounding property owners; other interested parties; the Applicant; and the Project Engineer and also published notice in the *Port Orchard Independent*. *Exhibit 2.A; Exhibits 11 to 15; Exhibit 21; Exhibit 59; Exhibits 60 to 65; Exhibit 67; Testimony of Mr. Fisk.*

#### State Environmental Policy Act Review

3. The City acted as lead agency and analyzed the environmental impacts of the proposal under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW. The City reviewed the Applicant's environmental checklist and other information on file and determined that, with a condition to mitigate impacts, the project would not have a probable significant adverse impact on the environment. The mitigation condition requires an extension of a six-foot-wide concrete sidewalk from the site's northwesterly property corner to a point approximately 160 feet west, along the southside of the Melcher Street West roadway, and requires an ADA-compliant crossing from the terminus of the sidewalk to existing sidewalks located at Heron Ridge Ave. The City issued a Mitigated Determination of Nonsignificance (MDNS) on August 11, 2017. The same day, the City mailed the MDNS to surrounding property owners and to reviewing agencies, emailed notice to the Applicant, and published notice in the *Port Orchard Independent*. No comments were received and the MDNS was not appealed. *Exhibit 2.E; Exhibits 55 to 58; Exhibit 67; Exhibit 69, Staff Report, pages 4 and 19.*

#### Comprehensive Plan, Zoning, and Surrounding Properties

4. The City determined that the date of complete application, August 23, 2016, vested the application to the Interim Subdivision Code (Title 26 POMC) in effect at that time. Mr. Fisk testified that he reviewed the application under former interim Titles 23 and 26, including former POMC 26.20.050, Criteria for Approval, and that the City has made no changes to Title 18 (Environmental Regulations, which include critical areas) or to the planned residential developments code (current POMC 16.13.179). He testified that he applied the current Title 16, the Land Use Regulatory Code zoning designations and requirements, to the application. *Exhibit 69, Staff Report, pages 7 through 19; Testimony of Mr. Fisk.*
5. The City's Comprehensive Plan designates the site as Medium Density Residential, which includes the R8 zone. The Medium Density Residential designation provides for a mix of single-family, detached and attached, housing types in locations appropriate for urban densities and allows only those accessory and complementary nonresidential uses compatible with higher density, single-family residential communities. The City identified City Comprehensive Plan's Goals and Policies applicable to the proposed plat.<sup>3</sup> *Exhibit 69, Staff Report, pages 1 and 2.*

---

<sup>3</sup> City staff identified the following Port Orchard Comprehensive Plan Goals and Policies as specifically relevant to the proposal: Sec. 2.6 Land Use Goal 1, Policy LU-4, and Goal 2, Policy LU-8; Sec. 5.3.1 Geologically Hazardous Areas Goal 3, Policies PONS-1 through 4; and Sec. 8.11 Transportation Policies

6. The City zoned the site R8, for up to 8 units per net useable acre<sup>4</sup>. Detached single-family dwelling units are a permitted use within the R8 zone. *POMC 16.30.080*. The purpose of the R8 zone is to define areas that allow a moderate dwelling unit density; that implement Comprehensive Plan goals and policies; and that efficiently use residential land, public services, and energy. *POMC 16.13.130(1)*. The R8 zone mandates a minimum lot size of 5,445 square-feet, maximum lot coverage of 75 percent, a minimum landscaping site coverage of 25 percent, a building height limit of 33 feet, side-yard setbacks of five feet, and rear-yard setbacks of 10 feet. *POMC 16.40.025; Table 16.40.025*. Surrounding properties to the east, south, and west are designated Medium Density Residential with single-family residential uses. Property to the north is designated High Density Residential, zoned R-20, and is undeveloped. Property to the east is zoned Commercial and R-20, property to the south is zoned R-8, and property to the west is zoned Greenbelt. *Exhibit 69, Staff Report, page 2*.

#### Existing Site and Proposed Plat

7. The 660 feet by 320 feet rectangular site is oriented east to west, and contains a residence and two outbuildings on the east half of the property. A low ridge runs across the middle of the property from north to south. The eastern portion of the property slopes down to Sherman Avenue, and the western portion slopes down to a mowed pasture area with a small forested Category III wetland that extends off-site to the west. The Applicant's Environmental Checklist identified songbirds as observed or known to be on or near the site. No listed threatened or endangered species were identified as known to be on or near the site. The proposed lots would meet the City's setback and height limits. The City reviewed the Applicant's density bonus and determined that the density proposed would be less than the maximum allowed of eight dwelling units per acre. Approximately 15,842.95 cubic yards of cut and 15,372.95 cubic yards of fill would be required in order to provide buildable lots. *Exhibit 2.E; Exhibit 7.B; Exhibit 29; Exhibit 52.B.iv; Exhibit 69, Staff Report, page 10*.
8. The Applicant submitted a Geotechnical Engineering Report (GER), prepared by EnviroSound Consulting, Inc., and dated March 28, 2016. The GER identified the on-site soils as Vashon recessional outwash and Vashon till. The GER determined that the project can be developed, provided the GER recommendations are addressed concerning shallow foundations, pile foundation, lateral earth pressures and retaining structures, pavement, erosion control, drainage, earthwork consideration, and infiltration. *Exhibit 7.B*.

---

TR-1, TR-2, TR-3, TR-7, TR-8, TR-11, TR-35, TR-38, TR-41, TR-53, TR-83, TR-84, TR-96, TR-97, and TR-112. *Exhibit 69, Staff Report, pages 5 through 7*.

<sup>4</sup> *Net usable site area* is defined as "the total site area less sensitive environmental features (equal to gross useable site area) and dedications as these areas are defined elsewhere in this code." *POMC 16.40.040*.

*Findings, Conclusions, and Decision*  
*City of Port Orchard Hearing Examiner*  
*Sherman Ridge Preliminary Plat/PRD, No. LU16-PLAT PRELIM-01*

### Critical Areas

9. The Applicant submitted a Wetland Delineation and Offsite Wetland Categorization Report, dated February 15, 2016, and a Buffer Mitigation Plan for the Sherman Plat, dated January 5, 2017, prepared by Ecological Land Services, Inc. (ELS). The City contracted with Grette Associates, LLC, to review these documents. Grette Associates completed a site visit on February 13, 2017, and determined that the on-site wetland boundary, originally flagged by ELS, largely demarcated the boundary of the maintained vegetation and not the wetland. Grette Associates determined that areas east of ELS's flagged delineated area meet all three of the US Army Corps of Engineers wetland criteria. In response, ELS prepared a revised Wetland Delineation and Buffer Averaging Report, dated June 22, 2017. The wetland was rated a Category III wetland with a 50-foot buffer. *POMC 18.04.030*. The Applicant proposes to construct a stormwater pond in the western portion of the property, where elevations are at their lowest point. The Applicant requests buffer averaging, which may be allowed when the wetland contains variations in sensitivity due to existing physical characteristics; when low-intensity uses would be located within 300 feet of an area where buffer width is reduced and the land use is guaranteed in perpetuity by covenant, deed, easement, or other legal binding mechanism; or when averaging is necessary to avoid an extraordinary hardship to the Applicant caused by circumstances peculiar to the property. A wetland buffer cannot be reduced more than 50 percent of the standard buffer width. *POMC 18.04.040(5)*. The proposed development would reduce the extreme southeastern end of the wetland buffer by 1,662 square feet, or 25 percent. Meanwhile, the wetland buffer would be expanded upslope of the wetland. *Exhibit 7.C; Exhibit 29; Exhibit 46.C; Exhibit 48; Exhibit 69, Staff Report, pages 17 and 18.*
10. Prior to site development activities, the Applicant would fence all wetland buffers with protective fencing. *POMC 18.04.040*. Prior to final plat approval, the Applicant would provide split-rail fencing along the edge of all wetland buffers, as well as signage indicating the presence of critical areas on the fencing, spaced 1,000 feet apart. The Applicant would record a Critical Area and Buffer Notice to Title prior to final plat. *POMC 18.01.100*. The Applicant would place the wetland buffer in Tract A, which would include the wetland (3,765 square feet), the wetland buffer (14,204 square feet), a stormwater detention pond (19,309 square feet), and a recreation space (17,000 square feet). *Exhibit 52.B.iii; Exhibit 69, Staff Report, page 22.*
11. Although Kitsap Area Critical Areas maps identify the site's eastern portion as a geologically hazardous area, the Applicant submitted a Drainage Report prepared by WNEK Engineering, dated June 15, 2017, which identified an average slope of less than 10 percent and a maximum slope of less than 15 percent. Mr. Fisk testified that all the slopes are less than 30 percent, and therefore, the property is not considered a geological



hazardous area under Chapter 18.08 POMC. *Exhibit 46.D; Exhibit 69, Staff Report, pages 6 and 19; Testimony of Mr. Fisk.*

#### Proposed Planned Residential Development

12. As proposed, only two lots would meet the minimum lot size requirement of POMC 16.40.025 (5,445 square-feet), and the smallest proposed lot size would be 3,419 square feet. Deviation from the minimum lot size requirement is allowed through approval of a Planned Residential Development (PRD). The purpose of a PRD is to provide for site design flexibility; preserve unique or sensitive physical features, such as steep slopes; and to promote more economical and efficient use of land. *POMC 16.13.179*. PRD permitted uses in the R8 zone include detached single-family homes. *POMC 16.13.180*. A PRD development must be a benefit to the surrounding neighborhood and community at large, and must comply with specific criteria in the City code. *POMC 16.13.183*. The proposed PRD, with reduced lot sizes, would allow the Applicant to provide a total of 20,538 square feet of recreational and open spaces in Tracts A and C for the benefit of the local community, as well as preserve a wetland along the west property line. No other modifications of the underlying zoning development standards are proposed with the PRD. *Exhibit 52.A; Exhibit 52.B.iii; Exhibit 69, Staff Report, pages 9 through 13.*

#### Stormwater Management

13. The Applicant submitted a Drainage Report prepared by WNEK Engineering, dated June 15, 2017. The property contains Alderwood very gravely sandy loam and McKenna gravelly loam. In-place infiltration testing results were poor, and storm infiltration concepts were not pursued. The project is within the Sinclair Inlet watershed. There is no off-site drainage onto the property. The site flows either west, to an existing culvert in the northwest corner of the property on Melcher Street West, discharging to an unnamed stream flowing north to Sinclair Inlet, or east, to an existing ditch along Sherman Avenue and then along Port Orchard Boulevard, also discharging to Sinclair Inlet. Stormwater from the dwellings and parking areas would be routed through a storm system discharging to a stormwater detention pond in the northwest corner of the property. Overflow would be conveyed to a proposed Type I catch basin, then to an unnamed stream that discharges into Sinclair Inlet. The Applicant would prepare a stormwater site plan and construction stormwater pollution prevention plan (SWPPP). The acreage exceeds one acre of construction land disturbance; therefore, the Applicant would need to obtain a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the Washington State Department of Ecology. The owner or a homeowners' association (HOA) would be responsible for maintenance of the storm drainage facilities following construction. *Exhibit 46.D; Exhibit 69, Staff Report, page 2.*
14. Assistant City Engineer Andrea Archer-Parsons sent a letter to the Applicant, dated January 25, 2017, which included an analysis of a recent Washington State Supreme Court decision, *Snohomish County et al v. Pollution Control Hearings Board*, No. 92805-3 (December 29, 2016). In that case, the Washington State Supreme Court indicated that

land use applications do not vest to local storm water regulations adopted under the federal and state stormwater permit system in place at the time of complete application and that new regulations may be applied retroactively at the time of home construction. Ms. Archer-Parsons informed the Applicant that the project may need to meet the requirements of the City's currently adopted 2012 Stormwater Management Manual for Western Washington. Although the preliminary plat application may be processed in accordance with the 2005 DOE manual, the Applicant was encouraged by the City to review the submittal for compliance with the 2012 Stormwater Management Manual. *Exhibit 31; Exhibit 34.*

#### Landscaping

15. The Applicant would provide street trees on abutting public external rights-of-way and public internal rights-of-way. Street trees would be spaced 25 feet on center. Planting areas would be at least five feet in width. The location and placement of trees in intersection sight triangles would be subject to the Public Works Director's approval. Landscaping not installed prior to final plat approval would be bonded, as set out in POMC 16.50.295. *Exhibit 69, Staff Report, pages 13, 14, and 22.*

#### Access and Traffic Impacts

16. The site is bordered to the north by Melcher Street West, an east-west local access street, and to the east by Sherman Avenue, a north-south local access street. Existing access is from two unpaved driveways from Melcher Street West. The Applicant submitted a Traffic Impact Analysis (TIA) prepared by Transportation Solutions, Inc., dated June 2016, for a 33-lot subdivision. The Applicant's Environmental Checklist determined that such a project would generate 300 average daily trips. The TIA determined that a 33-lot subdivision would generate an estimated 33 net new PM peak trips and that there would be no significant increase in delays at intersections in the project vicinity. The City issued a Capacity Reservation, dated September 12, 2017, reserving transportation system capacity under Chapter 16.71 POMC. Nick Bond, Director of Community Development, testified that a full traffic impact analysis was not required to be prepared for the 27-lot proposal. *Exhibit 2.E; Exhibit 7.B; Exhibit 29; Exhibit 30; Exhibit 66; Exhibit 70; Testimony of Mr. Bond.*
17. Melcher Street West would provide access to the plat from the north. An internal, 50-foot-wide roadway would run south and then east, ending in a cul-de-sac. Parking would be provided on both sides of the roadway. A narrower, 20-foot-wide alley, Tract B, would loop north from the cul-de-sac and back to the west. The Comprehensive Plan encourages the creation of a continuous street grid. The City determined that the cul-de-sac is permitted by POMC 16.55.030 and by the City Public Works' development regulations. Vehicular access for Lots 1-11 and 22-27 would be provided only from Tract B. The developer would provide half-street improvements on Melcher Street West, including on-street parking, landscape strips, sidewalks, and shared lane markings. Street lighting installations would meet, and be in compliance with, all requirements of the City

of Port Orchard Road Standards, Project Contract Provisions of Plans and Specifications accepted for construction by City of Port Orchard, MUTCD Manual on Uniform Traffic Control Devices, NEMA National Electrical Manufacturer's Association, NEC National Electrical Code, WSDOT Standard Specifications & Standard Plans, and the Occupational Safety & Health Administration (OSHA). *Exhibit 52.B.i and iii; Exhibit 69, Staff Report, pages 5, 14, 21, and 25.*

18. The MDNS requires the extension of a six-foot-wide concrete sidewalk from the site's northwesterly property corner to a point approximately 160 feet west, along the southside of the Melcher Street West roadway, and requires an ADA-compliant crossing from the terminus of the sidewalk to existing sidewalks located at Heron Ridge Avenue to increase pedestrian activity. *Exhibit 69, Staff Report, page 21.*
19. The state subdivision code, RCW 58.17.110, requires that new subdivisions include appropriate provisions to ensure safe walking conditions for students who walk to and from school. The local school district provided no comments on the application. Mr. Fisk testified that Cedar Heights is the closest school, but is not within walking distance. The proposed subdivision internal sidewalks would connect to sidewalks leading to bus stops. *Exhibit 52.B.iii; Exhibit 55; Testimony of Mr. Fisk.*

#### Utilities and Services

20. Puget Sound Energy would provide electric service to the property, and Cascade Natural Gas would supply natural gas. The City would provide water and sewer service to the property. The City's non-binding letter of water availability to the Applicant, dated January 29, 2016, determined that the City's Comprehensive Plan shows a slight future water deficit with or without the project. This is due to dead or impounded water in the existing City's 390 Zone reservoirs: additional storage is needed with or without the project. The City recommends that the issue be addressed prior to construction. The City issued a Capacity Reservation, dated September 12, 2017, reserving water and sewer system capacity under Chapter 16.71 POMC. South Kitsap Fire & Rescue reviewed the proposed plat and provided comments regarding fire department access, minimum fire flow of 1,000 gallons per minute, hydraulic calculations or an on-site fire flow test, and fire department vehicle access and functional fire hydrants prior to above-ground combustible construction. These comments were incorporated as conditions of plat approval. *Exhibit 5.B; Exhibit 50; Exhibit 69, Staff Report, pages 2, 22, and 23.*
21. RCW 58.17.110 requires that new subdivisions provide for parks and recreation to ensure that the public use and interest is served by the proposed plat. Park, school, and transportation impact fees would be assessed as required under Chapter 16.70 POMC. *POMC 16.70.040 to .100.*

### Public and Applicant Comment and Response

22. David Brice provided an email comment objecting to an increase in sewer gas vented down Port Orchard Blvd and to the proposed reduction in lot size to accommodate the project. *Exhibit 61.*
23. Dean Nail, Housing Kitsap Single Family Program Director, testified and explained that the proposed project would provide affordable housing under a USDA grant, where 80 percent of median household income would qualify. *Testimony of Mr. Nail.*
24. Laureen Walton testified that she has lived to the west of the proposed project since 1972. She agrees with the revised wetland report and asked whether a new sidewalk would go in front of her property. Mr. Fisk responded that a sidewalk would be constructed within the existing right-of-way. Ms. Walton requested that the Applicant coordinate with her about location of sidewalk and a new culvert. She also requested a fence to prevent intrusion into the stormwater pond. *Testimony of Ms. Walton and Mr. Fisk.*

### Staff Recommendation

25. City staff reviewed the application under Interim Ordinance 007-16, Chapter 26.20 POMC, in effect at the time of complete application. City staff determined that the proposed preliminary plat meets the subdivision criteria of POMC 26.20.050.A and .B, the RCW subdivision requirements, the PRD requirements, and the City's Comprehensive Plan. City staff recommended that the preliminary plat and PRD be approved, with conditions. Mr. Nail testified that the Applicant agrees with the proposed conditions. *Exhibit 69; Staff Report, page 24 through 26; Testimony of Mr. Fisk and Mr. Nail.*

## **CONCLUSIONS**

### Jurisdiction

The City of Port Orchard Hearing Examiner is authorized to conduct an open record hearing on a preliminary plat and planned residential development application, and issue a decision approving, denying, or approving the application with conditions. *Port Orchard Municipal Code (POMC) 2.76.080; POMC 2.76.100; POMC 2.76.110; POMC 16.01.021(3); POMC 26.20.020.*

Applications for plat approval must be submitted and processed concurrently with the application for planned residential development approval. *POMC 16.13.194.*

### Criteria for Review

#### *Preliminary Plat*

The City determined that the date of complete application, August 23, 2016, vested the application to the Interim Subdivision Code (POMC Title 26) in effect at that time.<sup>5</sup> The interim zoning ordinance provides:

---

<sup>5</sup> Zoning code citations will refer to Interim Ordinance 007-16 (POMC Title 26), where appropriate.

A proposed preliminary subdivision application shall not be approved unless the City makes written findings and conclusions that:

1. All of the requirements in Section 26.20.050(A) are satisfied;<sup>6</sup>
2. Appropriate provision 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 school grounds 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;
3. The public use and interest will be served by the platting of the preliminary subdivision and dedication;
4. There are no flood, inundation or swamp conditions that preclude approval under RCW 58.17.120. If the property is in a flood control zone as defined in chapter 86.16 RCW, the plat shall not be approved without the prior written approval of the Washington State Department of Ecology;
5. The applicant agrees to install and dedicate all Public Facilities prior to the City's approval of the final plat, unless the applicant has executed a Subdivision Improvement Agreement and has provided the necessary security for the Agreement.

*POMC 26.20.050.B.*

Any preliminary plat must also comply with the subdivision criteria described in the Revised Code of Washington before it can be approved:

Appropriate provisions must be made for the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds 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 the public interest must be served by the subdivision.

*RCW 58.17.110.*

#### *Planned Residential Development*

Planned residential developments may be proposed by an applicant to permit a residential development that otherwise could not be granted. Such a development must meet strict conditions and be a benefit to the surrounding neighborhood and community at large. The

---

<sup>6</sup> POMC 26.20.050(A) is a list of materials required for a complete application.

applicant must specifically demonstrate why the PRD is needed by addressing the following criteria in the application:

- (a) Project will benefit the community more than if the project complied with the underlying zone standards, guidelines, and policies;
- (b) All proposed residential and other land uses are presented through detailed site plans, lot layouts, and building elevations;
- (c) Project will preserve unique or sensitive physical features such as steep slopes and views, and retain natural vegetation;
- (d) Project will provide more open space and recreational amenities than would be available under conventional land development practices;
- (e) Project uses creative design techniques to promote an uncluttered appearance such as a variety of lot sizes, parking at the rear of sites and the provision of alleys;
- (f) Demonstrate the project benefit to the surrounding neighborhood and community at large;
- (g) Specify the phasing of the development; and
- (h) Provide public facility sites or improvements, such as road improvements, utilities, parks, or open space.

*POMC 16.13.183.*

The criteria for review adopted by the Port Orchard City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act and of RCW 58.17.110 to enact subdivision codes. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

#### Conclusions

1. **With conditions, the proposed plat complies with Port Orchard Municipal Code Interim Ordinance 007-16 (POMC Title 26), the R8 zoning designations and requirements, and RCW 58.17.110.** The City provided reasonable notice of the preliminary plat and PRD application and associated open record hearing. The Applicant met the requirements for submitting a complete application. Single-family residential development is an allowed use within the City's R8 zoning district, and the proposed density is within the maximum density provided by the City's Comprehensive Plan. The City acted as lead agency and determined that, with a condition to increase pedestrian activity, the project would not have a probable significant adverse impact on the environment. The proposed plat would include an internal road connecting to Melcher Street West that would provide adequate parking. The proposed road, utilities, street lighting, and street trees would be consistent with City zoning code and engineering standards. Traffic impacts from the proposed project would not adversely impact surrounding intersections. The City would provide water and sewer service to the

*Findings, Conclusions, and Decision  
City of Port Orchard Hearing Examiner  
Sherman Ridge Preliminary Plat/PRD, No. LU16-PLAT PRELIM-01*

property. Internal and frontage sidewalks would provide safe walking access for pedestrians and any students walking to bus stops.

Stormwater would be collected and diverted to an above-ground stormwater detention pond, with any overflow eventually reaching Sinclair Inlet. The Applicant would prepare a detailed Stormwater Pollution Prevention Plan prior to final plat approval.

With conditions, the public use and interest would be served by the platting of the preliminary subdivision. Conditions are necessary to ensure consistency with existing regulations and to meet the public interest including those to ensure that the Applicant complies with the SEPA MDNS condition; that wetland buffers are fenced with signage spaced 100 feet apart; that the Critical Area and Buffer Notice to Title is recorded; that landscaping is implemented, including installation of street trees; that there is compliance with the fire prevention code; that there is compliance with the currently adopted storm water requirements at the time of complete SDP Application; that there is compliance with the City's road standards; and that the Applicant prepares a final plat map in compliance with RCW 58.17. *Findings 1-25.*

2. **With conditions, the proposed development would be consistent with the Comprehensive Plan.** Single-family residences are a permitted use within the Medium Density Residential designation. Although a Comprehensive Plan goal is the creation of a continuous street grid, the City determined that the proposed cul-de-sac is permitted under POMC 16.55.030. In addition, although most of the proposed lot sizes are below the minimum lot size for the R8 zone, lot sizes may be modified through a Planned Residential Development. Conditions are necessary, as described in Conclusion 1, above. *Findings 1-25.*
  
3. **With conditions, the proposed plat would comply with the Planned Residential Development criteria provided in POMC 16.13.183.** The site contains a wetland. The Applicant requested buffer averaging in order to site a stormwater detention pond. To accommodate Tract A's on-site wetland, wetland buffer, stormwater detention pond, and recreation space, the Applicant requested a Planned Residential Development to allow lots smaller than the minimum lot size of 5,445 square feet in the R8 zone. The PRD criteria were addressed in the application, as required. The PRD would benefit the community by the inclusion and design of recreation and open space areas available to the community. The Applicant has submitted a detailed preliminary plat plan, including lot layout. The proposed PRD would preserve the existing on-site wetland. Buffer averaging would be used to accommodate a stormwater facility in Tract A. The proposed lot layout would provide a variety of lot sizes, as well as an alley. There are no project phases proposed. Conditions are necessary to ensure compliance with existing regulations and to meet the public interest, as described in Conclusion 1, above. *Findings 1-25.*

## DECISION

Based on the above findings and conclusions, the request for a preliminary plat and planned residential development to subdivide 4.83 acres into 27 single-family lots; a private access and utility tract; a recreational space tract; a tract containing a storm facility, recreational space, and a Category III wetland and associated buffers; and a public right-of-way, located at the southwest corner intersection of Melcher Street West and Sherman Avenue, to be addressed as 128 Melcher Street West, is **GRANTED**, with the following conditions:<sup>7</sup>

**SEPA MDNS.** Compliance with the conditions of the MDNS issued August 11, 2017, as follows:

1. **Impact: Transportation**

Increase in pedestrian activity is identified as a potential impact of the proposed development.

- a. **Mitigation:** The proposed extension of a six-foot wide concrete sidewalk, as depicted in the July 20, 2016 preliminary plat submittal, from the site's northwesterly property corner to a point approximately 160 feet west along the southside of the Melcher Street West roadway, and an ADA-compliant crossing provided from the terminus of the sidewalk to existing sidewalks located at Heron Ridge Avenue will adequately mitigate the increase in pedestrian activity created from the proposal.

## LAND USE

2. Covenants, Conditions, and Restrictions (CC & R's) providing for maintenance of any common open space, private roadways, and stormwater infrastructure must be submitted with the final plat application.
3. Submit a coordinated sign plan for street signs, stop signs, and any traffic regulatory signs at the time of site development activity permit application (SDAP).
4. For building sites at the tops of slopes, buildings shall be setback a distance of twenty-five (25) horizontal feet from the edge of exterior footings for both natural and engineered fill slopes unless site-specific engineering plans are approved by the department.
5. The front façade of any structures constructed on Lots 1-9 shall be oriented toward Melcher Street West.
6. Vehicular access for Lots 1-11 and 22-27 shall only be provided from Tract B. A note shall be provided on the face of the final plat to release access from abutting all external right-of-way as follows: "Vehicular access from Melcher Street West and Sherman Avenue is prohibited. All lots shall be provided vehicular access only from internal right-of-way or access tracts."

---

<sup>7</sup> Conditions include both legal requirements applicable to all developments and conditions to mitigate the specific impacts of this development.



## **ENVIRONMENTAL**

7. Prior to site development activities, all stream and wetland buffers shall be fenced with protective fencing. POMC 18.04.040 requires that fencing be provided along buffers and shall be constructed of a durable barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment into critical area buffers.
8. Prior to final plat, provide split-rail fencing along the edge of all stream and wetland buffers. In areas of overlapping buffers or where conflicts occur, the fencing shall be placed along the outermost buffer from the critical area. Signage indicating the presence of critical areas shall be placed on the fencing, spaced 100' apart.
9. Prior to final plat, Critical Area and Buffer Notice to Title shall be recorded in accordance with POMC 18.01.100.
10. All required buffers shall be dedicated as open space tracts, or an easement or covenant encumbering the buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat.

## **LANDSCAPING**

11. Street trees shall be provided on abutting public external rights-of-way and public internal right-of-way. Street trees shall be spaced 25 feet on center. Planting areas shall be at least five feet in width and shall not include any impervious surface. Street tree species shall be deciduous and may be selected from appropriate species identified in POMC 16.50.297. The location and placement of trees in intersection sight triangle is subject to the Public Works Director's approval.
12. Prior to Final Plat approval, any landscaping that has not been installed must be bonded according to provisions of POMC 16.50.295. The landscape bond must be submitted on a City form.

## **FIRE PREVENTION CODE**

13. Fire department access must consist of the following:
  - a. The unobstructed width of a fire apparatus access road shall be not less than 20 feet.
  - b. Residential Private Access. Where frontage from a public road not less than 20 feet is not provided, Group R-3, R-4, occupancies allowed on a private access if a residential sprinkler system is installed in each new structure. Exception to fire sprinkler requirement: There are not more than two Group R-3 or R-4 occupancy.
14. Required with NFPA 13D residential sprinkler system will reduced the following requirements
  - a. The public access road shall not exceed a 12% grade.
  - b. The unobstructed width of a fire apparatus access road shall be not less than:

*Findings, Conclusions, and Decision*  
*City of Port Orchard Hearing Examiner*  
*Sherman Ridge Preliminary Plat/PRD, No. LU16-PLAT PRELIM-01*

- i. Twenty (20) feet, with no roadside parking.
    - ii. Thirty (30) feet, parking allowed on (1) one side.
    - iii. Forty (40) feet, parking allowed on both sides of the road.
  - c. Fire Hydrants shall be installed per City of Port Orchard standard
  - d. The turning radius of a fire apparatus access road shall be a minimum of 35 feet inside diameter and 48 feet outside diameter
  - e. All dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with approved provisions or the turning around of fire apparatus.
15. A minimum fire flow of 1,000 gallons per minute, measured at a residual pressure of 20 p.s.i., is required for structures not exceeding 3,600 gross square feet. This fire flow will need to be provided by at least one hydrant within 300 feet of the property.
  16. Hydraulic calculations or an on-site fire flow test conducted shall be provided to the Fire District showing that adequate fire flow can be severed. This information will need to be provided and approved by the Fire District before the District can approve any building permits.
  17. Before above ground combustible construction may begin, fire department vehicle access must be provided and fire hydrants must be functional. Access roads shall be provided for all structures more than 150 feet from a public access road. Access roads shall be a minimum of 20 feet in unobstructed width, be designed and maintained to support the imposed loads of fire apparatus (45,000 pounds) and must have a surface that provides all-weather driving capabilities.

**PUBLIC WORKS – GENERAL**

18. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer’s engineer shall be submitted to City of Port Orchard for review and acceptance. No construction shall be started prior to said plan acceptance.
19. Approval of the preliminary plat shall not be construed to mean approval of the total number of lots or configuration of the lots and tracts. These parameters may be required to be revised for the final design to meet all requirements of City of Port Orchard Municipal Code.
20. Prior to approval of the construction plans, all off-site easements must be recorded and submitted to the City.
21. Preliminary plat shows utilities through private property. All public utilities shall be in City right-of-way, tracts, or easements.
22. Alley Tract B shall have access granted for utilities and access to the City.

23. The following statement shall be recorded on the face of the final plat: No permanent structures shall be installed within utility easements.

### **STORMWATER**

24. The SDP<sup>8</sup> Application(s) submitted shall comply with the currently adopted storm water requirements at time of complete SDP Application in compliance with the currently issued City of Port Orchard Municipal National Pollutant Discharge Elimination System (NPDES) Permit.
25. The information provided demonstrates this proposal is a Major Development as defined in the most current City of Port Orchard Developer's Handbook at the time of complete application, and as such will require a Stormwater Permit from Public Works.
26. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with the most current City of Port Orchard Developer's Handbook. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with City of Port Orchard Ordinances in effect at the time of application.
27. The Washington State Department of Fish and Wildlife (WDFW) may require a Hydraulic Project Approval. The proponent is responsible to comply with all requirements set forth by WDFW, if applicable.
28. The project proponent shall be responsible for installing any necessary off-site downstream drainage improvements as identified within the downstream capacity analysis. Procurement of any permits and/or easements necessary to install said off-site improvements shall be the responsibility of the project proponent. As indicated above, prior to approval of the construction plat, all easements must be recorded and submitted to the City.
29. The site plan indicates that greater than 1 acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. This permit is required prior to issuance of the Site Construction Permit.
30. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encounters meet the design assumptions.

---

<sup>8</sup> Stormwater Drainage Permit.

The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Public Works.

31. All detention and wet pond facilities shall be a minimum of 200 feet from any slope steeper than 30 percent. This distance may be reduced based on a geotechnical engineering report. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.
32. The owner or homeowners association (HOA) shall be responsible for maintenance of all storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant Associated with Maintenance and Operation of Storm Drainage Facilities that guarantees the City that the system will be properly maintained. Wording must be included in the covenant that will allow the City to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner or HOA and giving him/them a reasonable time to do the necessary work. Should City forces be required to do the work, the owner or HOA will be billed at the current City rates.
33. The following statement shall be recorded on the face of the final plat: The City of Port Orchard will not be responsible for any damage to any private roads, tracts, and/or easement areas that may occur during routine maintenance activities and that in City of Port Orchard's judgment occur, in whole or in part, because of any construction materials or techniques, or any maintenance materials or techniques. This includes, but is not limited to, damage to pavement or vegetated areas caused by maintenance trucks.

#### **TRAFFIC AND ROADS**

34. Roads shall not exceed 12 percent grade.
35. Construction of handicap access facilities within existing or proposed City right-of-way shall conform to the requirements of the Americans with Disabilities Act.
36. All lots shall access from interior roads only. This note shall appear on the face of the final plat map.
37. The property owners (within the plat) shall be responsible for maintenance of all roadway improvements and landscaping within the existing and proposed private right-of-way including all storm drainage facilities and traffic signage. A note to this effect shall appear on the face of the final plat map and the accepted construction plans.

*Findings, Conclusions, and Decision*  
*City of Port Orchard Hearing Examiner*  
*Sherman Ridge Preliminary Plat/PRD, No. LU16-PLAT PRELIM-01*

38. Wheelchair ramps shall be provided on both sides of the site approach. Include on the plan set curb ramp details that meet the requirements of the Americans with Disabilities Act per WSDOT Standard Plan F-40, as applicable, cement concrete sidewalk and approach details.
39. Any required sidewalk shall be constructed prior to roadway paving. This note shall appear on the face of the final construction drawings.
40. The developer's engineer shall certify that there is adequate entering sight distance at the site entrance. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The sight distance shall meet the requirements of the City of Port Orchard Road Standards. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.
41. All work, equipment & materials for street lighting installations shall meet and be in compliance with all requirements of the City of Port Orchard Road Standards, Project Contract Provisions of Plans and Specifications accepted for construction by City of Port Orchard, MUTCD Manual on Uniform Traffic Control Devices, NEMA National Electrical Manufacturer's Association, NEC National Electrical Code, WSDOT Standard Specifications & Standard Plans, and the Occupational Safety & Health Administration (OSHA).
42. Any work within the City right-of-way shall require a permit to perform work on City right-of-way and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted separately. The need for and scope of bonding will be determined at that time.
43. Developer shall provide half-street improvements consistent with City of Port Orchard Standards Local A on Melcher Street West. Improvements shall include on-street parking, landscape strip, sidewalk, and shared lane markings. Overhead utilities shall be relocated underground, or alternatively, the subdivider may provide curb extensions at utility pole locations to the satisfaction and at the discretion of the City of Port Orchard Public Works Director.
44. Developer shall extend the sidewalk from the subdivision west to Heron Ridge Avenue.
45. Per Port Orchard Municipal Code Section 16.55.030, dead end streets shall end in cul-de-sacs.

46. Developer shall pay the City for fabrication and Developer shall install all street signage required. Installation of the signage may be provided by the Developer or by City Staff. If City Staff installs the signage, reimbursement shall be required from the Developer for all time and materials for installation.

#### **SEWER**

47. All sanitary sewer system improvements shall comply with the most current City of Port Orchard Developer's Handbook.

#### **WATER**

48. All water system improvements shall comply with the most current City of Port Orchard Developer's Handbook.
49. If residential sprinklers are required by South Kitsap Fire and Rescue, then a Residential Fire Protection Plan shall be submitted to Public Works for review and approval prior to the issuance of a LDAP Permit. The Plan shall include at a minimum how the fire protection requirements shall be met for the lot(s) in the development. No residential sprinklers would be required if subdivision road remains public and the building code has not changed prior to the LDAP being approved.
50. The water main on Melcher Street West between Heron Ridge Avenue and Sherman Avenue needs to be replaced with an 8-inch ductile iron main. The new main shall be installed within the roadway Melcher Street West.

#### **SURVEY**

51. The final plat map shall be prepared in compliance with RCW 58.17.
52. Protective Covenants, Conditions and Restrictions (CC&Rs) shall be established prior to final plat approval to ensure the perpetual maintenance of storm drainage facilities and common open space.
53. Ownership and maintenance of all tracts shall be addressed on the face of the plat as well as in the CC&Rs.

#### **SOLID WASTE**

54. Contact the solid waste service provider Waste Management @ (360) 674-3166 for information on implementing the service provider's solid waste/recycling storage requirements for the proposed activity. Indicate method of waste disposal on the final plan.

#### **ADDRESSING**

55. All addressing shall be assigned by the City. An address request form is required.

56. A Road Name Application form shall be submitted with the Land Disturbing Activity Permit application.

Decided this 10<sup>th</sup> day of October 2017.



---

THEODORE PAUL HUNTER  
Hearing Examiner  
Sound Law Center