



**City of Port Orchard Council Work Study Session**  
**July 16, 2019**  
**6:30 p.m.**

**Mayor:**

Rob Putaansuu  
Administrative Official

**Councilmembers:**

Bek Ashby (Mayor Pro-Tempore)

**Chair:** ED/Tourism/LT Committee

**Staff:** Development Director

Finance Committee

KRCC / PSRC TransPol / KRCC TransPol

KRCC PlanPol-alt / PRTPO

Shawn Cucciardi

Finance Committee

Land Use Committee

PSRC EDD-alt

Fred Chang

Utilities Committee

Sewer Advisory Committee (SAC)

**Staff:** Public Works Director

Jay Rosapepe

ED/Tourism/LT Committee

Utilities Committee

**Chair:** Lodging Tax Committee

Sewer Advisory Committee (SAC)

KRCC-alt / KRCC TransPol-alt

Kitsap Transit-alt

John Clauson

**Chair:** Finance Committee

**Staff:** Finance Director

Kitsap Public Health District-alt

KEDA/KADA-alt

Cindy Lucarelli

**Chair:** Utilities and SAC Committee

**Staff:** Public Works Director

**Chair:** Chimes and Lights Committee

**Staff:** City Clerk

KEDA/KADA

Scott Diener

**Chair:** Land Use Committee

**Staff:** Development Director

ED/Tourism/LT Committee

PSRC Growth Mgmt-alt

**Department Directors:**

Nicholas Bond, AICP

Development Director

Mark Dorsey, P.E.

Director of Public Works/City Engineer

Tim Drury

Municipal Court Judge

Noah Crocker, M.B.A.

Finance Director

Matt Brown

Police Chief

Brandy Rinearson, MMC, CPRO

City Clerk

**Contact us:**

216 Prospect Street

Port Orchard, WA 98366

(360) 876-4407

1. Affordable Housing and New Tax Revenue (Crocker)  
Estimated Time: 20 Minutes
2. Potential Revisions Tax Abatement Requirements (Bond) *Page 3*  
Estimated Time: 20 Minutes
3. Update to Development Regulations (Bond) *Page 10*  
Estimated Time: 10 Minutes
4. Zoning Map Corrections and Revisions (Bond) *Page 37*  
Estimated Time: 10 Minutes

**EXECUTIVE SESSION:** Pursuant to RCW 42.30.110(1)(i), the City Council will hold a 10-minute executive session to discuss potential and pending litigation matters.

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## City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** Potential Revisions to Tax Exemption Requirements and Allowed Areas

**Meeting Date:** July 16, 2019

**Time Required:** 20 minutes

**Attendees:** Nick Bond, Community Development Director

**Action Requested at this Meeting:** Provide feedback to staff on proposed revisions to the City’s tax exemption requirements and allowed areas.

**Background:** In July 2016, the City Council adopted Chapter 3.48 POMC, which created a multifamily property tax exemption program applicable to designated areas within the city. The program allowed an 8-year tax exemption in those areas without any affordable housing requirements. A 12-year tax exemption was allowed if a project committed to reserve at least 20% of its units as affordable housing for low and moderate income households. (Per RCW 84.14.010, based on the median county household income adjusted for family size (AMI), a “low income household” has an income that is 80% or less of the median income, and a “moderate income household” has an income between 80% and 115% of the median income.) In January 2019, the Council modified Chapter 3.48, so that only the downtown area is now eligible for a 12-year exemption with provision of affordable housing. The 8-year exemption is still available for all designated areas, including downtown, without affordable housing requirements. At the same time, the Council also added three parcels south of Sedgwick Rd to the 8-year tax exemption area, at the request of the property owner.

In 2018, the City received a request to modify the designated residential target areas map to include additional property. Since Chapter 3.48 lacked any eligibility criteria other than that found in state law, the City approved the request after much debate, and directed that staff look at revising the tax exemption program going forward, to provide guidance when situations such as this arise in the future.

**Issues:** City staff began discussions on the tax exemption code update by revisiting the goals of the program. Staff heard that the goals were numerous and varied amongst Council members but generally included the following:

1. Provide affordable housing.
2. Encourage redevelopment and revitalization of the city, especially downtown.
3. Defray project costs in areas of the city with significant infrastructure challenges facing developers.
4. Strengthen long-term revenue to fund city operations.

City staff also heard that members of the City Council had concerns about the existing tax exemption program and wanted to ensure the following:

1. The City did not want to encourage low income housing to locate in areas where public services and transit were not available.
2. The City did not want to subsidize patterns of development that are already economically viable and widespread, i.e., which do not require financial incentives for development.

There appears to be interest in reviewing the existing standards for tax abatement qualification, and potentially strengthening them to further benefit the Port Orchard community and its residents. Some of these measures could include additional affordable housing requirements to benefit our lowest-income residents, limiting certain tax abatement opportunities to those areas most in need of redevelopment, and requiring under building parking instead of surface parking lots to maximize the development potential and increase the City's long-term property tax recovery. These options are discussed in more detail below.

#### Increased Affordable Housing Requirements

Chapter 3.48 POMC currently does not require the creation of permanent affordable housing for a 12 year tax exemption. Instead, the affordable units revert to market rate units after 12 years. In addition, the current tax abatement approach bases the City's definition of "affordable housing" on a countywide standard, and uses the County's average median income (AMI) as the benchmark for Port Orchard's affordable housing needs. However, since the cost of rental housing in Port Orchard is already low compared to countywide rental costs, this approach may not best serve the lowest income levels of the City's residents, who are most in need of affordable housing. The Council may therefore wish to consider a modified affordable housing income standard, such as the one in the City of Seattle's current tax abatement ordinance (Ord. 124877), summarized below:

In projects that qualify for tax abatement, a minimum of 20% of all units in the project shall be rented to tenants whose household annual income is:

- At or below 40% of median income [for the Seattle area according to HUD], for housing units in congregate residences or small efficiency dwelling units;
- At or below 75% of median income for one-bedroom units;
- At or below 85% of median income for two-bedroom units; and
- At or below 90% of median income for three-bedroom and larger units.

In addition, Seattle's ordinance requires that the affordable units be provided at below market rate on a permanent basis.

#### Redevelopment vs. Greenfield Development

Chapter 3.48 POMC has established geographic areas ("residential targeted areas") in which projects are eligible for tax abatement. Per Ch. 3.48.030(2)(d), one consideration for the designation of a residential targeted area is that "additional housing may contribute to revitalization of a distressed neighborhood or area within the city." However, the code does not actually require that a project contribute to such revitalization and/or obtain the full tax abatement credit by redeveloping distressed, underdeveloped, abandoned or vacant infill properties. Therefore, a project may be developed on a prime greenfield site, with or without affordable housing, and can claim a full tax abatement credit as long as the property is located

within the designated area. The Council may wish to consider requiring that in the 8-year tax abatement areas (i.e., outside of downtown), a project must incorporate redevelopment instead of and/or in addition to development of prime greenfield sites in order to be eligible for tax abatement. This would likely require that the City identify and map eligible properties within the 8-year tax abatement areas.

Incentivizing the Generation of Increased Long-Term Property Tax Revenue for 8-Year Exemption

One way for the City to leverage the multifamily tax exemption program would be to create standards that require the creation of higher assessed property values, which could allow for the expansion of the program into all designated centers. For greenfield sites which do not have significant barriers to development, the City could offer tax exemption for projects that would increase assessed value over the baseline for projects that are economically viable in the absence of tax exemption.

For instance, if a project constructed under the 8-year exemption includes underbuilding parking, the developer will be able to construct more units on the site than if it was built with surface parking. The taxable value will therefore be increased after 8 years, as illustrated in the table below. If several similar projects are built in the same area, this would encourage compact urban development with attractive walkable neighborhoods that do not contain large areas of parking lots, which could increase values and therefore rents over time, which is another factor in the County Assessor’s calculations of assessed value. Likewise, the tax exemption could be limited to projects that include the development of a mixed-use storefront type of building with a percentage of ground floor retail uses.

The following table illustrates an imagined scenario for developing a real 1.37 acre site on which an apartment building was recently constructed without being offered tax exemption. Option 2 shows the decrease in revenue resulting from offering tax exemption without providing additional value to the City. Option 3 assumes that twice the number of units could be developed with underbuilding parking instead of surface parking, resulting in at least twice the assessed value. Option 4 adds a commercial component as part of a mixed use building, which would provide commercial property tax revenues through the first 8 years, with the addition of residential property revenue based on 36 (not quite double) apartment units in years 8-22.

Options for 1.37 acre site	Assessed Value Year 1	City Revenue Through Year 8	City Revenue Through Year 22
Option 1: Construct 20 apartments with surface parking (no exemption given)	\$4,897,950.00	\$62,366.82	\$184,199.34
Option 2: Construct 20 apartments with surface parking (8 year exemption given)	\$4,897,950.00	\$0.00	\$121,832.54

Option 3: Construct 40 apartments with under building parking	\$9,795,900.00	\$0.00	\$243,665.09
Option 4: Construct 36 apartments with under building parking and 20% ground floor commercial (8-year exemption given, initial property tax for first 8 years applied to commercial space only)	\$9,795,900.00	\$3,591.42	\$247,256.51

Under the above scenarios, the City gains more gross property tax revenue over time by offering tax exemption for projects that produce a higher initial assessed value, assuming that the property’s income stream (i.e., apartment rents) will roughly correlate to building value. This assumes that the City increases tax rates by 1% annually as limited in state law. It does not capture the 8 years of lost time of this revenue (such as potential interest earned) or the one-time revenues related to building permits and sales tax on construction materials delivered to the site. It also doesn’t consider the higher construction costs of options 3 and 4 which would factor into somewhat higher assessed valuation. It also does not consider sales tax revenue from the creation of a commercial space under option 4.

Other Potential Program Additions

Additional requirements that the City Council may wish to consider for code or map amendments to enhance the tax abatement program include:

- In order to enable residents to reside in a project without owning a car, consider requiring projects to be located on existing or proposed transit corridors that provide easy access to transit facilities (i.e. located within ¼ mile of a transit stop, and include ADA/pedestrian access to that transit stop).
- Consider requiring that affordable housing units may not be treated differently from market-rate units in terms of their location within the development (e.g., cannot all be on the ground floor or next to dumpsters), and must receive the same levels of maintenance, furnishings and access to standard and optional amenities (e.g., rental storage units) as market-rate units.
- Consider directing staff to develop additional procedural requirements for inclusion in Chapter 3.48 POMC that address how a property owner may apply to have a property included within a tax abatement area. A well-defined request, review and approval process will prevent the appearance of favoritism or arbitrary decision making.

Staff Recommendation

This program and potential changes were discussed at the Land Use Committee meeting on July 2, 2019. At this meeting, the committee suggest a full Council discussion of a concept that would entail the creation of several different tax exemption areas, each tailored to the development challenges and goals of the individual areas.

- In some areas we could offer both 8- and 12-year tax exemption as we work to achieve multiple goals.
- We could tighten affordability thresholds in some or all areas where 12-year exemption is offered, and/or require that the affordable units be made permanently affordable.
- In other areas, we could only offer 8-year exemption with requirements for underground parking and/or mixed-use shopfront buildings. This alternative could be extended to all designated centers based on the long term revenue benefits to the city.
- In other areas we could offer 8-year exemption because sites include redevelopment or major infrastructure improvements.

Council should discuss this framework and which if any of the alternatives it wishes to pursue. Once direction is provided, staff can begin developing a new map establishing revised tax exemption zones, and bring it back to the Land Use committee for further review. Once the revised zones are identified, staff can write statements of purpose for each tax exemption zone which could be used when considering future map amendment requests from developers.

**Alternatives:** Numerous; discuss and provide direction to staff.

**Relationship to Comprehensive Plan:** The City’s multifamily tax abatement program supports a number of Comprehensive Plan goals and policies, including:

- Policy LU-1 Provide a variety of housing types and employment opportunities that meet the needs of diverse socioeconomic interests.
- Policy LU-17 Incentivize infill development to preserve and protect open space, critical areas and natural resources.
- Policy LU-28 In conjunction with the proposed Centers strategy, enhance downtown Port Orchard’s role as the center of the South Kitsap region, reflecting the following principles in development standards and land use plans:
  - Encourage land uses that support transit centers and promote pedestrian activity.
  - Promote a mix of uses, including retail, office, and housing.
  - Encourage uses that will provide both daytime and evening activities.
  - Support civic, cultural, and entertainment activities.
  - Provide sufficient public open space and recreational opportunities.
  - Enhance, and provide access to, the waterfront.
  - Develop enhanced design guidelines and design review requirements that promote attractive, pedestrian-scale development and redevelopment within the City’s historic downtown area.
- Policy HS-1 Consider programs to preserve or rehabilitate neighborhoods and areas that are showing signs of deterioration due to lack of maintenance or abandonment.
- Policy HS-4 Adopt zoning and development regulations that will have the effect of minimizing housing costs and maximizing housing options.
- Policy HS-7 Consider the creation of zoning and other land use incentives for the private construction of affordable and special needs housing as a percentage of units in multi-family development.

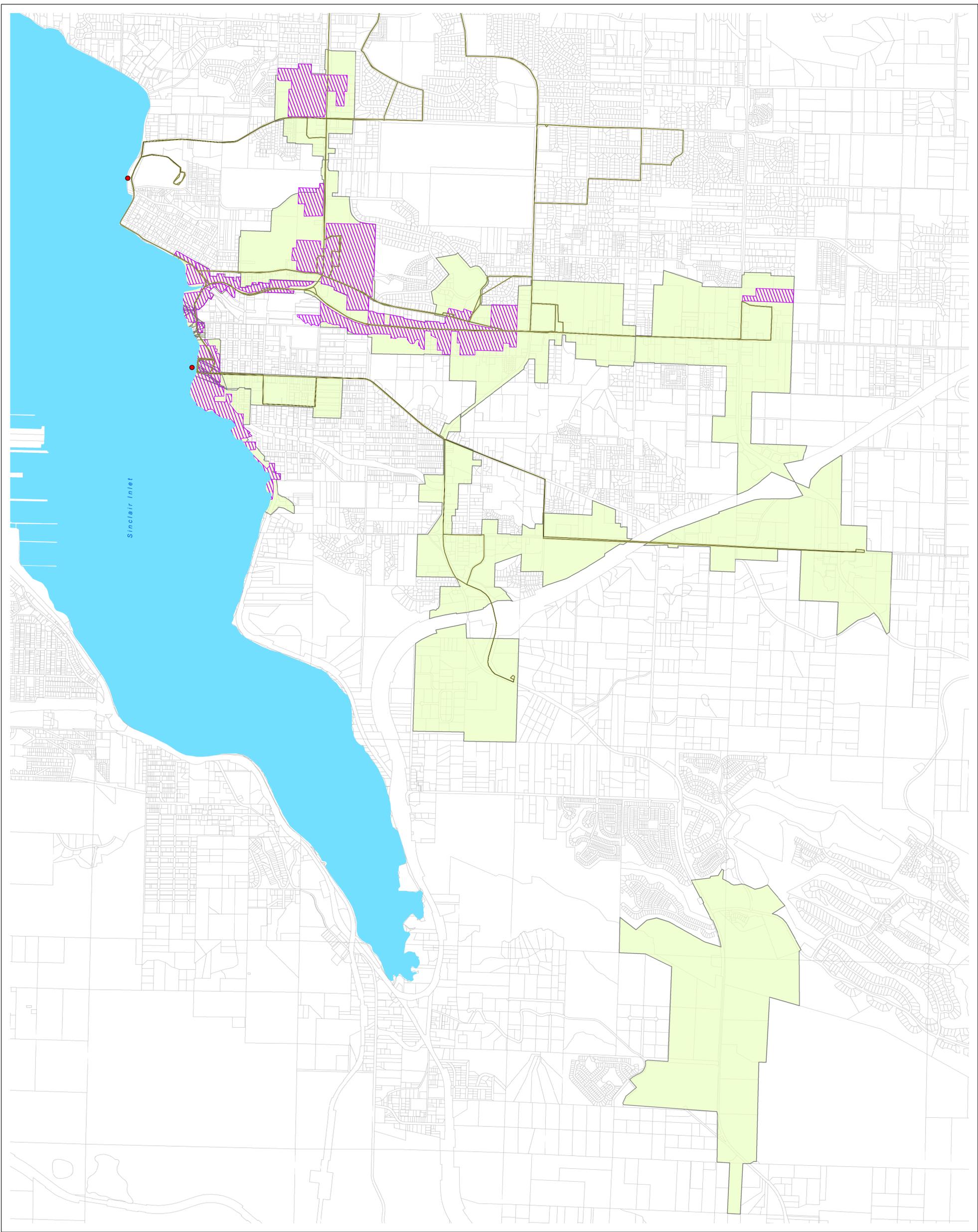
- Policy HS-8 Consider adopting incentives for development of affordable multi-family homes through property tax abatement in accordance with 84.14 RCW, focusing on designated mixed-use local centers with identified needs for residential infill and redevelopment.
- Policy HS-14 Implement zoning and development regulations which encourage infill housing on empty and redevelopable parcels.

**Recommendations:** Staff recommends that Council provide feedback to staff on the proposed options for potential revisions to the current tax exemption map and to the tax exemption regulations in Chapter 3.48 POMC.

**Attachments:** Tax Abatement Areas and Centers Map

# City of Port Orchard

- Tax Abatement Areas
- Centers
- Ferry Terminal
- Transit Routes





## City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** Update to Development Regulations (9 Lot Short Plats, Onsite Recreation Space, LDAP Requirements)

**Meeting Date:** July 16, 2019

**Time Required:** 10 minutes

**Attendees:** Nick Bond, Community Development Director

**Action Requested at this Meeting:** Provide feedback to staff on the proposed regulations.

**Issue:** The Department of Community Development has prepared several updates to Title 20 of the City’s development regulations, including: increasing the allowed number of lots in short plats from four to nine per RCW 58.17.020(6); requiring onsite recreation space in new single-family subdivisions; and clarifying submittal and processing requirements for land disturbing activity permit applications. The Planning Commission reviewed the proposed amendments, held a public hearing on June 4, 2019, and recommended that the Council approve the proposed amendments. The Land Use committee reviewed the amendments on July 1, 2019.

**Alternatives:** Revise the proposed regulations; do not adopt the regulations.

**Relationship to Comprehensive Plan:** N/A

**Recommendations:** Staff recommends that Council provide feedback to staff and review this item at the next regular Council meeting.

**Attachments:** Ordinances; Chapter 20.80 Redline; Chapter 20.86 Redline

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**ORDINANCE NO. 0##-19**

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, CLARIFYING REQUIREMENTS FOR MINOR LAND DISTURBING ACTIVITY PERMITS; AMENDING SECTIONS 20.22.020, 20.140.040, 20.140.060, 20.140.070, 20.140.080, AND 20.150.020(10) OF THE CITY OF PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City wishes to truncate the permit and review process for minor land disturbing activity and select tree cutting activities; and

**WHEREAS**, the City wishes to establish a means for the timely removal of danger trees that pose a threat to the public; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION 1:** Section 20.22.020 of the Port Orchard Municipal Code is hereby amended to read as follows:

**20.22.020 Determination of types – Table.**

(1) Determination of Proper Decision Type. The director shall determine the proper review procedure for all land use and development permit applications and actions. If there is a question as to the appropriate type of process, the director shall resolve it in favor of the higher process type number.

(2) Optional Consolidated Permit Processing. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual procedures option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure. If the individual procedure option is chosen, the applicant will be eligible for any fee reduction contained in the current fee schedule.

**Table 20.22.020 – Permit Review Type Classifications**

<b>Type I Director Decision Judicial Appeal</b>	<b>Type II Director Decision HE Appeal</b>	<b>Type III HE Decision Judicial Appeal</b>	<b>Type IV City Council Decision Judicial Appeal</b>	<b>Type V City Council Decision GMHB Appeal</b>
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<p>Building Permit<sup>1</sup>(Subtitle X of this title)  Binding Site Plan, Final (Chapter 20.94 POMC)  Preliminary Plat – Minor Modifications (Chapter 20.88 POMC)  Minor Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC20.150.100)  Boundary Line Adjustment (Chapter 20.84 POMC) Code Interpretation (Chapter 20.10POMC) Legal Nonconforming Permit (Chapter 20.54 POMC) Short Plat, Final (Chapter 20.86POMC)  Sign Permit (if SEPA not required) (Chapter 20.132POMC)</p>	<p>Short Plat, Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapters 20.86 and 20.96 POMC)  Temporary Use Permit (Chapter 20.58 POMC)  Binding Site Plan – Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapter 20.94 POMC)  Stormwater Drainage Permit (Chapter 20.150POMC)  Sign Permit (if SEPA required) (Chapter 20.132 POMC)  Shoreline Substantial Development Permit, Administrative (Chapter 20.164POMC)  Major Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC20.150.100)</p>	<p>Preliminary Plat, Preliminary Plat Major Modifications, Alteration of Final, Vacation of Final (Chapters 20.88 and 20.96 POMC)  Variance (Chapter 20.28 POMC)  Conditional Use Permit (Chapter 20.50 POMC)  Shoreline Substantial Development Permit, Conditional Use Permit, and No administrative Variance (Chapter 20.164 POMC)  Planned Residential Developments Comprehensive Sign Design Plan Permits Final Plat – Alteration or Vacation (Chapter 20.96 POMC)  View Protection Overlay District (VPOD) Variance (POMC 20.38.713)</p>	<p>Final Plat (Chapter 20.90 POMC)  Site-Specific Rezone without Comprehensive Plan Amendment (Chapter 20.42POMC)</p>	<p>Development Agreement (Chapter 20.26 POMC)  Comprehensive Plan Amendment – Land Use Map Amendment, Text Amendment (Chapter 20.04POMC)  Legislative Zoning Map Amendment (Chapter 20.06POMC)  POMC  Title 20 Code Amendment (Chapter 20.06POMC)  Annexations</p>
<p>Sign Variance (Chapter 20.132POMC)  Shoreline Permit Exemption (Chapter 20.164 POMC)  Temporary Use Permit, Extension (Chapter 20.58POMC)</p>	<p>Variance – Administrative (Chapter 20.28POMC)</p>			

Untyped review and decision actions: preapplication meeting (Chapter 20.24 POMC), design review board review and recommendation (POMC 20.38.228), tax exemption for multifamily development (Chapter 3.48 POMC), capacity reservation certificate (Chapter 20.180POMC), public works design variation, right-of-way permit (Chapter 12.04 POMC), street use permit (Chapter 12.24 POMC), water/sewer connection permit (Chapter 13.04 POMC).

<sup>1</sup> If a building permit application does not require SEPA review, no public notice is required. If a building permit application requires SEPA review, public notice shall be provided consistent with the requirements for Type II applications pursuant to Chapter 20.25 POMC.

**SECTION 2:** Section 20.140.040 of the Port Orchard Municipal Code is hereby amended to read as follows:

**20.140.040 Decision Type**

A land disturbing activity permit is either a Type I or Type II action depending on permit scope as described below and shall be reviewed and considered in accordance with the procedures for such actions as set forth in Subtitle II of this title and this chapter.

(1) Land disturbing activity permits for minor development as defined in POMC 20.150.020(11) and for projects limited to tree cutting shall be a Type I action.

(2) Land disturbing activity permits for major development as defined in POMC 20.150.020(11) shall be a Type II decision.

**SECTION 3:** Section 20.140.060 of the Port Orchard Municipal Code is hereby amended to read as follows:

**20.140.060 Permit – Form – Exemptions.**

(1) Permit Required. A land disturbing activity permit is required to be submitted for all land disturbing activity and must be obtained prior to the commencement of any land disturbing activity unless the activity is exempted in this section. A land disturbing activity permit shall be required regardless of any other permits issued by any other department or governmental agency who may be interested in certain aspects of the proposed work.

(2) Permit Form. Applications shall be on forms prescribed by the director and shall include such information as deemed necessary by the director to establish compliance with this chapter.

(3) Permit Exemptions. If a person or entity determines that a proposed land disturbing activity is exempt from obtaining a land disturbing activity permit under this chapter, the person or entity may consult with the department to confirm the determination or to ensure compliance with other applicable requirements of this code. A consultation may be requested in the form of a preapplication meeting.

(4) Permit Fee. Application fees shall be collected pursuant to the city's current fee schedule to compensate the department for the investigation, permit administration, plan review, and ongoing monitoring/inspection of all clearing and grading permit applications. Additional review fees required under this code may be applicable to individual land disturbing activity permit applications, including, but not limited to, shoreline management, SEPA, and critical areas review fees.

(5) Increased Fee for Work without a Permit. Whenever any work for which a land disturbing activity permit is required by this chapter has been commenced without first obtaining a valid permit, the city may double the application fee. This fee increase may be imposed in addition to any other enforcement procedures pursuant to this chapter.

(6) Any rockery or other retaining structure greater than four feet in height shall be permitted under a separate building permit.

(7) Emergencies. Emergency activities are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to property and that require remedial or preventative action in a short time frame. The person or agency undertaking such action shall notify the city and the director shall determine if the action taken is within the scope of the emergency action allowed in this section. After the emergency, the person or agency shall obtain the required Land Disturbing Activity Permit and ensure that the area of disturbance is brought into conformance with this chapter.

(8) Danger Tree Removal. Danger Trees shall not require a land disturbing activity permit provided that they are identified by a licensed arborist as damaged, diseased or a safety hazard due to potential root, trunk or primary limb failure prior to removal. Documentation of any danger tree designation provided to the City upon request. The city recommends that notification of danger tree removal along with providing documentation of the presence of a danger tree be provided to the city prior to removal.

**SECTION 4:** Section 20.140.070 of the Port Orchard Municipal Code is hereby amended to read as follows:

**20.140.070 Permit – Stormwater drainage permit required – Exemptions.**

(1) Stormwater Drainage Permit Required. Except as specifically exempt herein, the issuance of a stormwater drainage permit pursuant to Chapter 20.150 POMC shall be required for all activities requiring a land disturbing activity permit under this chapter.

(2) Exemptions. The following land disturbing activities do not require the issuance of a stormwater drainage permit; provided, that an exemption from issuance of a stormwater drainage permit under this section does not constitute an exemption from the other requirements of this chapter or Chapter 20.150 POMC:

(a) Excavation for utilities, or for wells or tunnels, under a separate permit.

(b) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt the placement of any fill material removed from such an excavation and shall not exempt any excavation beyond the limits of the basement or footing excavations nor exempt excavations having an unsupported height greater than five feet after the completion of such a structure.

(c) Agricultural crop management outside of critical drainage areas limited to the preparation of soil by turning, discing, or other means endorsed by the Kitsap conservation district.

(d) Excavation for cemetery graves.

(e) Landscape installation where fill is confined to less than one foot of topsoil and land disturbing activities are limited to less than one acre.

(f) The disposal of solid waste, wood waste, problem waste, and demolition waste authorized pursuant to Chapter 70.95 RCW, and regulations presently enacted or as may be amended or as specifically approved by the Bremerton-Kitsap County health district.

(g) Mining, quarrying, excavating, processing, and/or stockpiling of rock, sand, gravel, aggregate, or clay where established and provided by law and a permit for said activity has been issued by the state of Washington or the federal government, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous land.

(h) Exploratory excavations under the direction of a qualified civil engineer.

(i) Grading activities already approved by separate permit granted by any governing authority.

(j) Emergency sandbagging, diking, ditching, filling, or similar work during or after periods of extreme weather conditions when done to protect life or property.

(k) Maintenance activities within public rights-of-way performed by city personnel

(l) Tree cutting activities which remove less than 7,000 square feet of tree canopy area.

**SECTION 5:** Section 20.140.080 of the Port Orchard Municipal Code is hereby amended to read as follows:

**20.140.080 Permit – Submittal requirements.**

(1) General Requirements. Each application for a land disturbing activity permit shall be accompanied by plans and specifications and other supporting data, as applicable. The plans and specifications shall be prepared and signed by a civil engineer registered to practice in the

state of Washington. Plans and specifications for single-family residential construction and minor land disturbing activity permits shall not require to be prepared and signed by a licensed engineer unless deemed necessary by the city engineer.

(2) Soils Report. A soils report shall be prepared by a licensed soils or geotechnical engineer and shall cover all portions of the project within the engineer's expertise, including site history; geologic structures; surface conditions; subsurface conditions; recommendations for foundation support, site preparation, structural fill, slope stability, and mitigation; design parameters for retaining structures and structure backfill, surface and subsurface drainage, dewatering, excavation conditions, and hazards; seismic conditions, erosion, and sedimentation hazards and controls; use of on-site materials for structural fill and backfill; and pavement design. The soils or geotechnical engineer shall be retained as the engineer-of-record for the duration of the project. An application for a land disturbing activity permit for tree cutting meeting the definition of a minor development will not require a Soils Report unless deemed necessary by the city engineer.

(3) Grading Plan. Land disturbing activities that include grading and which meet the definition of a major development shall be required to have an approved engineered grading plan.

(4) Abbreviated Grading Plan. Land disturbing activities that include grading and which meet the definition of a minor development will require an approved abbreviated grading plan in lieu of an engineered grading plan. An abbreviated grading plan is a grading plan that does not require to be prepared and signed by a professional civil engineer.

(5) Erosion and Sedimentation Control. The grading plan shall include a temporary erosion and sedimentation control plan. The plan shall clearly indicate the construction sequence for establishment of all erosion and sedimentation control work, both temporary and permanent. The plan shall conform to all requirements and standards for erosion and sedimentation control set forth in this chapter.

(6) Critical Areas. If the land disturbing activity is proposed to take place in or adjacent to a critical area as regulated in Chapter 20.162 POMC, additional information as required by that chapter shall be submitted with the application.

(7) Tree Cutting. An application for a land disturbing activity permit for tree cutting meeting the definition of minor development will require an abbreviated tree removal plan in lieu of an engineered grading plan or abbreviated grading plan. Abbreviated tree removal plans must indicate the approximate location of the tree(s) to be removed, the species of tree(s) to be retained and removed, the diameter at breast height of each tree to be removed, and the relative location of adjacent (within 75 feet) trees to be retained, buildings, and/or improvements. Any abbreviated tree removal plan shall comply with POMC 20.129 if significant

trees are present on the property. If tree removal is proposed in critical areas or critical areas buffers, more detailed tree removal plans may be required by the director. Timber harvesting may require additional state permits prior to commencing work under an approved land disturbing activity permit.

**SECTION 6:** Section 20.150.020(10) of the Port Orchard Municipal Code is hereby amended to read as follows:

**20.150.020 (10) “L”**

“Land disturbing activity” shall mean any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography, including the creation and/or replacement of impervious surfaces. Land disturbing activities include, but are not limited to, demolition, construction, paving, clearing, grading, filling, excavation, and grubbing. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures. The cutting of trees less than 18” DBH, not located within any potential critical areas nor part of required landscape or stormwater infrastructure, is not considered a land disturbing activity.

“Land use permits and approvals” shall mean any use or development of land that requires city action in legislation, administration, or approval.

**SECTION 7: Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of the Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.

**SECTION 8: Effective Date.** This ordinance shall be in full force and effect five (5) days after posting and publication, as required by law. A summary of the Ordinance may be published in lieu of the entire Ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this \_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Robert Putaansuu, Mayor

ATTEST:

\_\_\_\_\_  
Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

\_\_\_\_\_  
Sharon Cates, City Attorney

\_\_\_\_\_  
Scott Diener, Councilmember

PUBLISHED: \_\_\_\_\_, 2019

EFFECTIVE DATE: \_\_\_\_\_, 2019

## ORDINANCE NO. XX-19

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING A NINE-LOT SHORT SUBDIVISION THRESHOLD PER RCW CHAPTER 58.17.020(6); REVISING CHAPTERS 20.12, 20.80 AND 20.86 OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY, CORRECTIONS, AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, the City's Comprehensive Plan was adopted on June 14, 2016 (Ordinance 014-16); and

**WHEREAS**, Title 20 (Unified Development Code) of the Port Orchard Municipal Code (POMC) was adopted on June 13, 2017 (Ordinance 019-17); and

**WHEREAS**, the City of Port Orchard has adopted a comprehensive plan and development regulations in compliance with Chapter 36.70A RCW (Growth Management Act); and

**WHEREAS**, POMC Chapter 20.12 currently defines a short subdivision (short plat) as having a maximum of four (4) lots, tracts, parcels, sites or divisions; and

**WHEREAS**, RCW 58.17.020(6) provides that a local government planning under RCW 36.70A.040 that has adopted a comprehensive plan and development regulations in compliance with RCW 36.70A may increase the maximum number of lots, tracts, parcels, sites or divisions within a short subdivision to nine (9); and

**WHEREAS**, the City Council desires to streamline land use review and permit processing, encourage the development of affordable housing, and support infill development of vacant and underdeveloped land within the city; and

**WHEREAS**, on March 12, 2019 the City Council adopted revised subdivision and building design standards to ensure the development of attractive and functional neighborhoods (Ordinance 011-19); and

**WHEREAS**, the City Council wishes to increase the short subdivision threshold to nine (9) lots, tracts, parcels, sites or divisions, consistent with RCW 58.17.020(6); and

**WHEREAS**, on May 10, 2019, the City provided the Department of Commerce with the required 60-day notice of the City's intent to amend Title 20 to increase the short subdivision threshold; and

**WHEREAS**, on May 20, 2019, the City issued a SEPA Determination of Non-Significance, and no comments or appeals were received; and

**WHEREAS**, the Planning Commission held a public hearing on June 4, 2019; and

**WHEREAS**, the increased short subdivision threshold requires revisions to Chapters 20.12, 20.80 and 20.86 POMC;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Findings.** The City Council hereby adopts the above recitals as findings in support of this ordinance.

**Section 2. POMC Chapters Amended – 20.12.** The amended definitions for “Plat – Preliminary Plat”, “Short Subdivision” and “Subdivision” found in POMC Title 20 – Unified Development Code, Chapter 20.12, are hereby revised to read as follows:

“Plat – Preliminary plat” means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and other elements of a subdivision consistent with the requirements of this title. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision of ten (10) or more lots.

“Short subdivision” means the division or re-division of land into nine (9) or fewer lots, tracts, parcels or divisions for the purpose of sale or lease.

“Subdivision” means the division or re-division of land into ten (10) or more lots, tracts, parcels, sites or divisions for the purpose of sale or lease, or transfer of ownership, and includes all re-subdivision of land.

**Section 3. POMC Chapters Amended – 20.80 and 20.86.** The amended chapters of POMC Title 20 – Unified Development Code, Chapters 20.80 and 20.86, attached as Exhibit 1 hereto and incorporated fully herein by this reference, are hereby adopted in their entirety.

**Section 4. Severability.** Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid by a court, board, or tribunal of competent jurisdiction, for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 5. Corrections.** Upon the approval of the City Attorney, the City Clerk is authorized to make any necessary corrections to this ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

**Section 6. Effective Date; Publication.** This ordinance shall take effect and be in full force and effect five days after publication, as provided by law. An approved summary of this ordinance consisting of the title shall be published in the official newspaper of the City.

**PASSED BY THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON,** at a regular meeting thereof this \*\*<sup>th</sup> day of \*\*\*, 2019, and SIGNED by the Mayor and attested by the Clerk in authentication of such passage this \*\*<sup>th</sup> day of \*\*, 2019.

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Robert Putaansuu, Mayor

ATTEST:

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Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM ONLY:

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Sharon Cates, City Attorney

**EXHIBITS:**

**Exhibit 1 - Amended POMC Chapters 20.80 and 20.86**

**CHAPTER 20.80**

**GENERAL PROVISIONS – SUBDIVISION CODE**

**Sections:**

- 20.80.010 Title.**
- 20.80.020 Authority.**
- 20.80.030 Purpose.**
- 20.80.040 Applicability.**
- 20.80.050 Exemptions.**
- 20.80.060 Consent to access.**
- 20.80.070 Limitation of liability.**
- 20.80.080 Severability.**

**20.80.010 Title.**

- (1) The ordinance codified in this subtitle shall be known as the City of Port Orchard subdivision code.
- (2) This chapter shall be entitled “General Provisions.” The provisions of this chapter shall apply to all chapters within this subtitle.

**20.80.020 Authority.**

This subtitle is adopted pursuant to the provisions of chapter 58.17 RCW and the general police powers granted to the City pursuant to chapters 35A.13 and 35A.63 RCW and other applicable laws.

**20.80.030 Purpose.**

The purpose of this subtitle is to provide rules, regulations, requirements, and standards for the subdivision of land, for obtaining binding site plans, and of the adjustment of existing lot lines within the City, ensuring:

- (1) That the highest feasible quality in subdivisions will be obtained;
- (2) That the public health, safety, general welfare, and aesthetics of the City shall be promoted and protected, complying with the provisions of Chapter 58.17 RCW;
- (3) That orderly growth, development, and the conservation, protection, and proper use of land shall be promoted;
- (4) That the proper provisions for all public facilities, including connectivity, circulation, utilities, and services, shall be made;
- (5) That maximum advantage of site characteristics shall be taken into consideration;

- (6) Undue and unnecessary burdens are not placed on either the applicant or the City; and
- (7) That the process shall be in conformance with provisions set forth in Port Orchard Municipal Code; PMC Title 20, Land Use Code; and the Port Orchard Comprehensive Plan.

**20.80.040 Applicability.**

- (1) The provisions of this subtitle shall apply to all lot line adjustments and the division of any land within the corporate limits of the City of Port Orchard for sale, lease, transfer, or building development into two (2) or more parcels, except as expressly stated in this subtitle.
- (2) Land use review procedures provided in chapter 20.80 POMC, Land Use Review Procedures, shall apply in addition to applicable provisions within this subtitle.
- (3) No person, firm, or corporation proposing to make, or having made, any division of land as described above within the City limits shall enter any contract for the sale of, or shall offer to sell, any part of the division without having first obtained its approval as a short plat, subdivision plat, or binding site plan in accordance with this subtitle, unless such agreement for sale complies with RCW 58.17.205.
- (4) All contiguous land shall be included in a plat application. Multiple applications or applications and/or exemptions shall not be utilized as a substitute for comprehensive subdividing in accordance with the requirements of this subtitle. The applicant shall certify that she/he has included all contiguous land in a plat application and that she/he does not own or otherwise have a legal interest in ownership of contiguous parcels.
- (5) Any land being divided into ~~ninefour~~ (94) or fewer parcels, lots, tracts, or sites shall conform to the short plat provisions of this subtitle. Nothing in this subtitle shall prevent a landowner who has short-platted a parcel into fewer than ~~ninefour~~ (94) lots from filing a short plat within a five (5) year period to create up to a total of ~~ninefour~~ (94) lots within the boundary of the original short plat. Any land being divided into ~~tenfive~~ (105) or more parcels, lots, tracts, or sites for any purpose, and any land which has been divided under the short plat process within five (5) years, shall conform to the provisions of the preliminary and final plat procedures of this subtitle. The only exception to this provision shall be those lands being subdivided through the binding site plan procedures of this subtitle.

**20.80.050 Exemptions.**

Pursuant to RCW 58.17.040, the following activities are not considered short plats or plats and the provisions of this subtitle shall not apply:

- (1) Cemeteries and other burial plots while used for that purpose;
- (2) Divisions made by testamentary provisions, or the laws of descent;
- (3) Divisions of land into lots or tracts classified for industrial or commercial use when the City has approved a binding site plan for the use of the land in accordance with this chapter;

- (4) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the city has approved a binding site plan for the use of the land in accordance with this subtitle;
- (5) Lot line adjustments made pursuant to this subtitle;
- (6) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless service" means any federally license personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters and support structures;
- (7) A division of land related to the acquisition or exchange of land by public agencies for public use, except human occupancy, including but not limited to subdivisions made for road construction purposes;
- (8) Portions of property deeded to the City for the limited purpose of providing a right-of-way and/or utility facilities, such as but not limited to the installation of linear utility facilities, such as electric power lines, telephone lines, water supply lines, sewer service lines, cable lines or other utility facilities of a similar or related nature; or a pumphouse, reservoir or well site; provided the remaining property is not reduced in size below the minimum square footage required by applicable zoning, that no conflict is created with any applicable design standards for the property, and that written approval from the Planning Director is received.
- (9) Division of land due to condemnation or sale under threat thereof by an agency or division of government vested with the power of condemnation; if sale is made under threat of condemnation, such threat must be evidenced by the government agency filing affidavit so stating with the County Auditor.

**20.80.060 Consent to access.**

All persons applying for approvals under this subtitle shall permit free access to the land subject to the application to all agencies with jurisdiction considering the proposal for the period of time extending from the date of application to the time of final action.

**20.80.070 Limitation of liability.**

It is the specific intent of this subtitle and procedures adopted under this subtitle to place the obligation of complying with the requirements of this subtitle upon the permittee, and no provision is intended to impose any duty upon the City, or any of its officers, employees, or agents. Nothing contained in this subtitle is intended to be or shall be construed to create or form the basis for liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from the failure of the permittee to comply with the provisions of this subtitle, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this subtitle or any procedures adopted under this subtitle by the City, its officers, employees, or agents.

**20.80.080 Severability.**

If any part, sentence, paragraph, subsection, section, or clause of this subtitle is adjudged unconstitutional, or held invalid, the remainder of the subtitle or the application of the provisions to other persons, property, structures, or circumstances shall not be affected. Whenever any condition or limitation is included in an order authorizing a planned development or any site plan approval, it shall be conclusively presumed that the authorizing officer or body consider such condition or limitation necessary to carry out the spirit and purpose of this subtitle or the requirement of some provision hereof, and to protect the public health, safety, and welfare, and that the officer or body would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

**CHAPTER 20.86**  
**SHORT SUBDIVISIONS**

**Sections:**

- 20.86.010 Purpose; scope.**
- 20.86.020 Decision type.**
- 20.86.030 Pre-application conference.**
- 20.86.040 Concurrent review.**
- 20.86.050 Burden of proof**
- 20.86.060 Application submittal requirements.**
- 20.86.070 Additional notice.**
- 20.86.080 Review criteria.**
- 20.86.090 Findings.**
- 20.86.100 Time limitation for final decision.**
- 20.86.110 Construction of improvements.**
- 20.86.120 Restriction on further division.**
- 20.86.130 Submission of final short plat for signature.**
- 20.86.140 Building permits will not issue until improvements are constructed or appropriate security is posted.**

**20.86.010 Purpose; scope.**

The purpose of the provisions in this chapter is to regulate the subdivision of land into ~~ninefour~~ (94) or fewer lots.

**20.86.020 Decision type.**

A short plat is a Type I decision and shall be processed in accordance with the procedures for such decision types as set forth in chapter 20.22 POMC.

**20.86.030 Pre-application conference.**

(1) For the purpose of expediting applications and reducing subdivision and site plan design and development costs, a developer may request a pre-application conference, pursuant to chapter 20.22 POMC, to discuss land use, site design, required improvements, and conformance with this chapter and additional applicable provisions of POMC Title 20, Land Use and Development Regulations.

(2) The pre-application conference is advisory only and neither the applicant nor City staff shall be bound by any determinations made therein.

**20.86.040 Concurrent review.**

Short subdivision applications may be processed concurrently with other required applications for planning approval. Multiple applications will be processed according to the requirements of chapter 20.86 POMC.

**20.86.050 Burden of proof.**

The burden of providing all information necessary to satisfy the requirements of this chapter shall be upon the applicant requesting the short subdivision. The decision of the Director as to the sufficiency of

information provided by an applicant shall be considered a final decision for the purposes of this chapter.

**20.86.060 Application submittal requirements.**

- (1) At a minimum, a short subdivision application shall include the documents set forth below and any other document or information deemed necessary by the Director, upon notice to the applicant. All documents shall be in the form specified by the Director and shall contain such information as deemed necessary by the Director.
- (2) The following materials shall be submitted to the City for a complete application for a short subdivision:
  - (a) Completed master permit form and payment of associated fees pursuant to chapter 20.86 POMC;
  - (b) All materials required pursuant to the Director, as well as an electronic version of the materials to be submitted to the City via an approved method for electronic submission of files.
- (3) The submittal requirements are not intended to determine if an application conforms to City of Port Orchard codes. They are used only to determine if all required materials have been submitted. A code-related review will occur after a complete application has been submitted.
- (4) The Director may waive any sections of the submittal requirements of this section if certain requirements, plans or reports are determined by the Director to be not reasonably necessary for review and approval of a given short subdivision application.

**20.86.070 Additional notice.**

In addition to the notice required for Type I applications pursuant to chapter 20.24.120 POMC, upon receipt of a complete short subdivision application, the Department shall provide the following additional notice as applicable:

- (1) If the proposed short subdivision is located adjacent to the right-of-way of a state highway, the Director shall give written notice of the application, including a legal description of the short subdivision and a location map, to the State Department of Transportation; and
- (2) If the proposed short subdivision is located in whole or in part in a flood control zone as provided in chapter 86.16 RCW, the Director shall give written notice of the application, including a legal description of the short subdivision and a location map, to the State Department of Ecology.

**20.86.080 Review criteria.**

The applicant for a short subdivision must demonstrate that the application complies with all of the following:

- (1) All applicable state statutory provisions, including, but not limited to, RCW 58.17.195;

(2) All applicable provisions of chapter 20.80 POMC, General Requirements for Subdivision Approval;  
~~and~~

(3) No environmental checklist shall be required prior to approval of a short subdivision application unless:

a. ~~Unless The~~a short subdivision falls within the provision of chapter 20.162 POMC, Critical Areas;

b. ~~or The short subdivision falls within the provision of~~ chapter 20.164 POMC, Shoreline Master Program; ~~or~~

~~a. The short subdivision contains more than 4 lots; and; no environmental checklist shall be required prior to approval of a short subdivision application.~~

~~b-c.~~

(3)(4) A short subdivision must not increase the likelihood of future applications for critical area buffer reductions or variances due to the creation of lots, parcels or tracts that are undevelopable or unusable without a buffer reduction.

#### **20.86.090 Findings.**

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

(1) All of the requirements in POMC 20.86.~~080~~~~XX~~, Review criteria, are satisfied;

(2) Pursuant to RCW 58.17.110:

(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 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

(b) The public use and interest will be served by the platting of the short subdivision and dedication.

#### **20.86.100 Time limitation for final decision.**

A short subdivision application shall be approved, approved with conditions, or denied ~~within thirty (30)~~ days after determination that a complete application has been submitted pursuant to chapter 20.24.~~080~~~~050~~, unless the applicant consents in writing to an extension of such time period or if the preparation of an EIS is required.

#### **20.86.110 Construction of Improvements.**

After approval of a short plat, the subdivider shall have five (5) years to construct all required public facilities. In lieu of construction within this time period, the subdivider may submit a bond, pursuant to chapter 20.96 POMC. City Council acceptance may be required for any dedications of land or improvements to the City.

**20.86.120 Restriction on Further Division.**

The mylar submitted to the City as provided in 26.15.100 below shall include a statement on the face of the short plat, pursuant to RCW 58.17.160, that land in a short subdivision may not be further divided in any manner within a period of five (5) years without the filing of a final plat; except that when the short plat contains fewer than ~~ninefour~~ (94) parcels, nothing in this section shall prevent the owner who filed the short plat from filing an alteration within the five (5) year period in order to create up to a total of ~~ninefour~~ (94) lots within the original short plat boundaries.

**20.86.130 Submission of Final Short Plat for Signature.**

Prior to the expiration of the five (5) year period for constructing improvements provided for in POMC 20.86.110, and as long as all public facilities required by the short subdivision approval are complete and the approval conditions have been satisfied, the subdivider shall submit a mylar (and/or related materials) of the approved short plat to the Director. The mylar and final short plat materials shall include all of the elements described in POMC 20.86.060. Within thirty (30) days of submission of these materials, the Director shall confirm that all improvements are complete, that the conditions have been performed, and that the mylar conforms to the requirements of this chapter. If the Director finds that all such requirements have been satisfied (or that the applicant has posted a bond pursuant to this chapter), the Director shall follow the procedure set forth in chapter 20.90.060 for recording of the short plat.

**20.86.140 Building permits will not issue until improvements are constructed or appropriate security is posted.**

If a short subdivision is approved subject to the construction of public facilities or the performance of conditions, no building permit shall be issued for any property within the boundaries of the short plat until actual construction of the public facilities (and, in the case of public facilities that will be dedicated to the City, until after inspection and acceptance of the same by the City), or full performance of the conditions. This prohibition on the issuance of building permits under this section shall not apply if the City has allowed the subdivider to post a bond or provide other security to the City in lieu of construction of the public facilities.

**ORDINANCE NO. XX-19**

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING NEW SECTION 20.100.130 OF THE PORT ORCHARD MUNICIPAL CODE TO PROVIDE REQUIREMENTS FOR ONSITE RECREATION SPACE IN NEW RESIDENTIAL SUBDIVISIONS; PROVIDING FOR SEVERABILITY, CORRECTIONS, AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, Title 20 (Unified Development Code) of the Port Orchard Municipal Code (POMC) was adopted on June 13, 2017 (Ordinance 019-17); and

**WHEREAS**, the City of Port Orchard may adopt amendments to the City’s development regulations pursuant to RCW 36.70A.106; and

**WHEREAS**, the City Council wishes to establish requirements for new residential subdivisions to provide onsite recreational space for their residents; and

**WHEREAS**, City staff have prepared a new section 20.100.130 of the Port Orchard Municipal Code to enact these requirements; and

**WHEREAS**, on May 10, 2019, the City provided the Department of Commerce with the required 60-day notice of the City’s intent to amend Title 20 to require new residential subdivisions to provide onsite recreation space; and

**WHEREAS**, on May 20, 2019, the City issued a SEPA Determination of Non-Significance, and no comments or appeals were received; and

**WHEREAS**, the Planning Commission held a public hearing on June 4, 2019;

**NOW, THEREFORE**, THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1. Findings.** The City Council hereby adopts the above recitals as findings in support of this ordinance.

**Section 2. New POMC Section - 20.100.130.** A new section 20.100.130 is added to Chapter 20.100 (Development Standards – Subdivision Design) of the Port Orchard Municipal Code as follows:

20.100.130 On-site recreation space for subdivisions.

(1) Purpose. The purpose of this chapter is to ensure that adequate, usable, passive and active recreational opportunities are provided for residents of new subdivisions.

(2) Applicability.

On-site recreation space shall be provided for new residential subdivisions consisting of ten or more new dwellings. The establishment of backyard cottages or accessory dwelling units shall not trigger requirements for additional on-site recreation facilities when those building types are constructed within an existing subdivision.

(3) On-site open space quantity requirements.

(a) On-site recreation space shall be provided in accordance with Table 20.100.130 (3).

Table 20.100.130 (3):

Number of Dwelling Units in Subdivision	Amount of on-site recreation space required per each dwelling unit
10-40	300 sq ft
41-100	250 sq ft
Units over 100	150 sq ft

\* To illustrate the implementation of Table 20.100.130 (3), a 110 lot subdivision would require 300 square feet of open space per unit for the first 40 units, 250 square feet of open space for the next 60 units, and 150 square feet of open space for the final 10 units.  $(40 \times 300) + (60 \times 250) + (10 \times 150) = 28,500$  square feet of required open space for a 110 lot subdivision.

(b) The requirements in Table 20.100.130 (3) may be reduced by up to fifty percent (50%) for residential development that is located within one-quarter mile walking distance of a public park. The director shall determine the amount of reduction based on the following:

- (i) The availability of safe pedestrian facilities connecting the development to the park;
- (ii) The ability of the park facilities to accommodate additional usage by residents of the development; and
- (iii) The number of park facilities located within one-quarter mile distance.

(4) On-site Open Space Design.

(a) On-site recreation open space shall be designed as follows:

- (i) On-site recreation open space shall be located in a separate tract from the residential dwellings; shall have an undivided ownership interest by the homeowners of the development; and shall have a deed restriction recorded for the tract that restricts the use of the tract to recreational uses;

(ii) At least forty percent (40%) of the total required on-site recreation open space shall be consolidated in one location within the development;

(iii) At least seventy-five percent (75%) of the total required on-site recreation open space shall be located outside of critical areas other than buffers identified in POMC 20.162;

(iv) On-site recreation open space shall be developed for active and passive uses. At least fifty percent (50%) of the on-site recreation open space shall be designed and improved for one or more active uses. When an area of on-site recreation open space is designed and improved for active uses other than improved pedestrian or bicycle paths with hard surfaces, the average width of the area shall be at least equal to half of the average length of the area. Active uses include, but are not limited to:

(A) Playgrounds developed with children's play equipment;

(B) Improved pedestrian or bicycle paths with hard surfaces;

(C) Sports fields (such as soccer or softball fields), with associated improvements;

(D) Indoor or outdoor sports courts (such as volleyball, basketball or tennis courts), swimming pools, and similar facilities;

(E) Picnic areas with permanent tables, benches or gazebos;

(F) Community clubhouse and meeting facilities;

(G) Community gardens for use by the residents;

(H) Plazas with lighting, artwork, and sitting space for pedestrians at four or more spaces for every required 100 square feet of area; and

(I) Other similar uses approved by the director.

(v) Passive uses include critical areas that cannot be developed, nature interpretive areas, bird watching facilities, unimproved trails, and similar uses approved by the director;

(vi) The following drainage facilities may be counted as on-site passive recreation space:

(A) Unfenced detention, retention and wet ponds, provided that pathways and viewing areas surround the pond;

(B) Stormwater treatment wetlands;

(C) Stormwater infiltration trenches and bioswales that serve more than one dwelling;  
and

(D) Vegetated areas located above underground detention facilities.

(vii) No on-site recreation open space tract shall contain less than 700 square feet in area;

(viii) On-site recreation open space shall have at least 50 feet of frontage on a public right-of-way or private street tract;

(ix) All recreation open space tracts shall be developed, landscaped and maintained so that a high level of visibility is provided from the public right-of-way or private street tract to playgrounds and other areas intended primarily for use by children;

(x) If a single active on-site recreation open space tract is provided, it shall be centrally located within the subdivision, so that it is within one-quarter mile walking distance for at least ninety percent (90%) of the dwelling units. If the subdivision area is too large for this standard to be met with one recreation open space tract, an additional recreation open space tract or tracts shall be required.

(xi) Access for pedestrians shall be provided from all dwellings within the development to the on-site recreation space through trails, sidewalks, pathways and other similar means of access; and

(xii) On-site recreation space shall not include privately owned yards.

**Section 3. Severability.** Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid by a court, board, or tribunal of competent jurisdiction, for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 4. Corrections.** Upon the approval of the City Attorney, the City Clerk is authorized to make any necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

**Section 5. Effective Date; Publication.** This ordinance shall take effect and be in full force and effect five days after publication, as provided by law. An approved summary of this ordinance consisting of the title shall be published in the official newspaper of the City.

**PASSED BY THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON,** at a regular meeting thereof this \*\*<sup>th</sup> day of \*\*\*, 2019, and SIGNED by the Mayor and attested by the Clerk in authentication of such passage this \*\*<sup>th</sup> day of \*\*, 2019.

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Robert Putaansuu, Mayor

ATTEST:

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Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM ONLY:

SPONSORED BY:

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Sharon Cates, City Attorney

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Scott Diener, Council Member



## City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** Zoning Map Corrections and Revisions

**Meeting Date:** July 16, 2019

**Time Required:** 10 minutes

**Attendees:** Nick Bond, Community Development Director

**Action Requested at this Meeting:** Provide feedback to staff on the proposed Zoning Map corrections and revisions.

**Issue:** A new Zoning Map was adopted by City Council in March 2019. Since that time, staff has become aware of several zone designations that require correction: churches that were accidentally missed when religious institutions were rezoned Civic & Institutional (CI); a park and a public works property that were misdesignated; an area on the west side of Mitchell Ave between Bay Street and Taylor that appears better suited for R3 residential development than the current R4 zoning because of the small lots and existing single-family development pattern; and a church that has requested to have its undeveloped parcels rezoned from CI to Commercial Mixed Use (CMU) so they can be potentially be sold for non-church development.

Public notice has been provided to property owners and other interested parties. The Planning Commission reviewed the proposed Zoning Map corrections and revisions, held a public hearing on June 4, 2019, and recommended approval. The Land Use Committee reviewed the zoning map on July 1, 2019. Any conflicts between zoning designations and the City’s Comprehensive Plan designations will be resolved with the 2020 Comprehensive Plan update.

**Alternatives:** Propose changes to the Zoning Map corrections and revisions; do not adopt Zoning Map corrections and revisions.

**Relationship to Comprehensive Plan:** Per RCW 36.70A.040(3), the City is required to adopt development regulations, including zoning requirements (such as the Zoning Map), that are consistent with and implement the City’s Comprehensive Plan.

**Recommendations:** Staff recommends that Council provide feedback to staff and review this item at the next regular Council meeting.

**Attachments:** Ordinance; Revised City Zoning Map; Closeup Maps of Zoning Revisions

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**ORDINANCE NO. \*\*\***

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO CITY'S ADOPTED ZONING MAP; ADOPTING AMENDMENTS TO THE ZONING MAP; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, on June 14, 2016, the City Council approved Ordinance 014-16, which adopted its 2016 Comprehensive Plan; and

**WHEREAS**, on March 12, 2019, the City Council adopted the 2019 City of Port Orchard Zoning Map; and

**WHEREAS**, after adoption of the 2019 Zoning Map, City staff noticed several zoning errors, and also received requests for revised zoning from several property owners; and

**WHEREAS**, the City Council wishes to correct the zoning errors and revise the zoning of certain properties on the Zoning Map, in accordance with the City's Comprehensive Plan and development regulations; and

**WHEREAS**, on May 10, 2019, a Notice of Hearing for a public hearing to be held by the Planning Commission on the proposed Zoning Map revisions was mailed to all property owners whose properties were proposed to have their zoning designations revised; and,

**WHEREAS**, on May 17, 2019, the Notice of Hearing was published in the City's newspaper of record, and the notice was provided to the public, agencies and other interested parties in accordance with the requirements of POMC Chapter 20.04.080; and

**WHEREAS**, on May 20, 2019, a SEPA Determination of Non-Significance was issued, and provided to the public, agencies and other interested parties in accordance with the requirements of POMC Chapter 20.04.080, and published in the newspaper and on the City website, and emailed to the Washington Department of Ecology; and

**WHEREAS**, on \*\*\*, the City Council's Land Use Committee considered the revisions to the Zoning Map and recommended forwarding them for review by the full Council; and

**WHEREAS**, on June 4, 2019, the Planning Commission held a public hearing on the Zoning Map revisions, and voted unanimously to recommended approval of the amendments to City Council; and

**WHEREAS**, on \*\*\*, 2019, the City Council held a public work-study meeting to review the

Zoning Code revisions and consider the recommendation of the Planning Commission; **NOW, THEREFORE**

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council hereby adopts the above recitals as findings in support of this Ordinance.

**SECTION 2.** The City Council finds that the amendments adopted by this Ordinance are consistent with the goals and policies of the City's adopted 2016 Comprehensive Plan and are consistent with the state Growth Management Act and other applicable law.

**SECTION 3.** The City Council finds that the amendments adopted by this Ordinance will not, individually or cumulatively, result in adverse effects to the public health, safety or welfare.

**SECTION 4.** The City Council finds that no adverse impacts to the environment are anticipated to result from the amendments adopted by this Ordinance.

**SECTION 5.** The City Council finds that the amendments adopted by this Ordinance are consistent with the land uses and growth projects which were the basis of the adopted Comprehensive Plan, are compatible with neighboring land uses and surrounding neighborhoods, and are not anticipated to cause adverse impacts to public services or facilities.

**SECTION 6.** In accordance with the above described Findings and Conclusions, the City Council hereby amends the City's Zoning Map as shown on Exhibit 1 of this Ordinance – Revised City Zoning Map.

**SECTION 7.** If any sentence, section, provision, or clause of this Ordinance or its application to any person, entity or circumstance is for any reason held invalid or unconstitutional, the remainder of the Ordinance, or the application of the provision to other persons, entities, or circumstances is not affected.

**SECTION 8.** This Ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by state law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this \*\*\*of \*\*\* 2019.

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Robert Putaansuu, Mayor

ATTEST:

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Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

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Sharon Cates, City Attorney

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Scott Diener, Councilmember

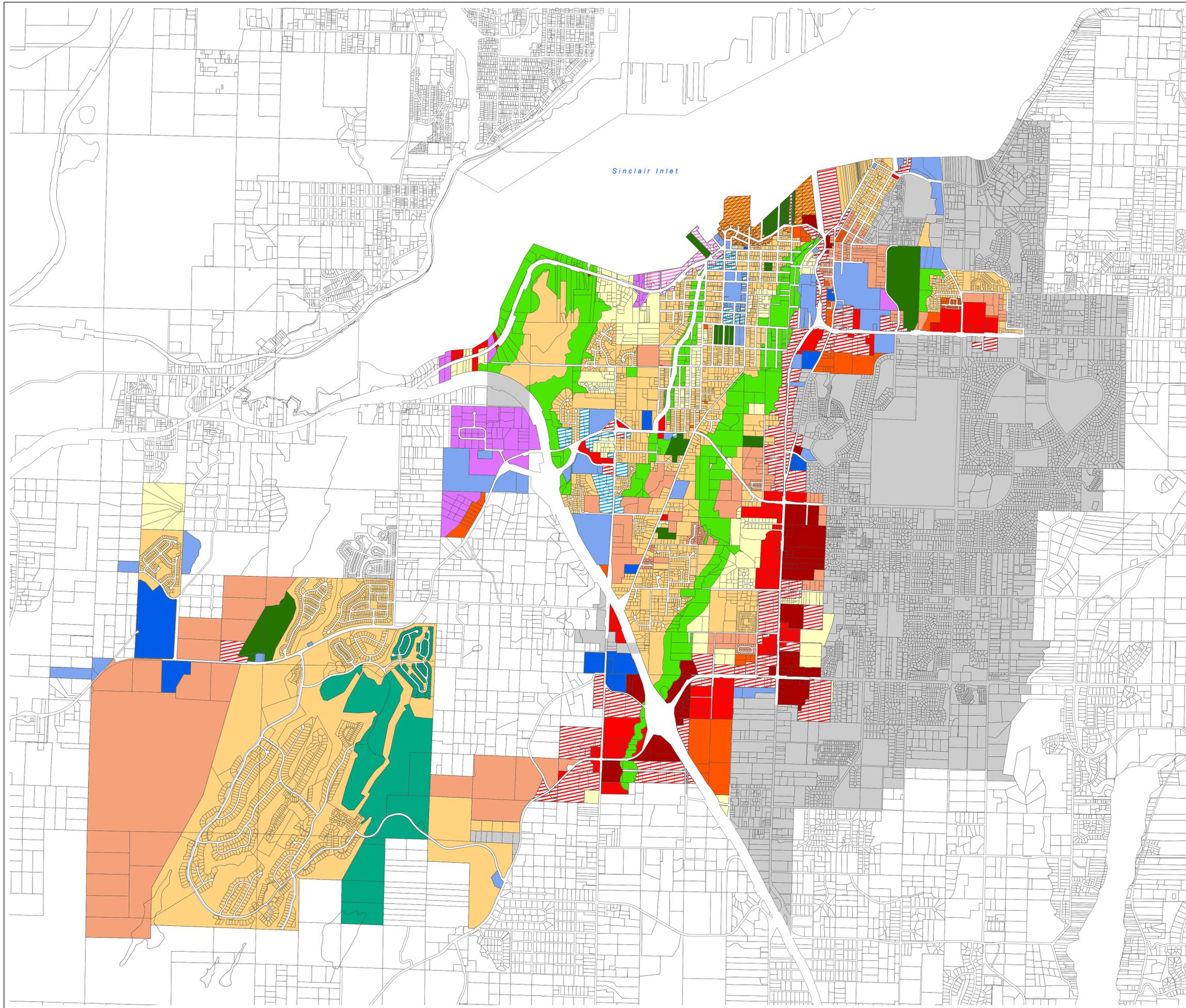
PUBLISHED:

EFFECTIVE DATE:

EXHIBIT: Revised Zoning Map



# CITY OF PORT ORCHARD 2019 ZONING MAP



- Business Professional Mixed Use (BPMU)
- Civic and Institutional (CI)
- Commercial Corridor (CC)
- Commercial Heavy (CH)
- Commercial Mixed Use (CMU)
- Downtown Mixed Use (DMU)
- Gateway Mixed Use (GMU)
- Greenbelt (GB)
- Light Industrial (LI)
- Neighborhood Mixed Use (NMU)
- Parks and Recreation (PR)
- Public Facilities (PF)
- Residential 1 (R1)
- Residential 2 (R2)
- Residential 3 (R3)
- Residential 4 (R4)
- Residential 6 (R6)
- Urban Growth Area**
- Port Orchard UGA



City of Port Orchard Department of Community Development  
 216 Prospect Street, Port Orchard, WA 98366  
 Phone: (360) 874-5533 Fax: (360) 876-4980  
[www.cityofportorchard.us](http://www.cityofportorchard.us)

This map was created from existing map sources, not from field surveys. While great care was taken in using the most current map sources available, no warranties of any sort, including accuracy, fitness, or merchantability accompany this product. The user of this map assumes responsibility for determining its suitability for its intended use. This map is not a substitute for field survey.

City of Port Orchard Official Zoning Map as adopted by Ordinance 02-18 on July 9, 2018

Robert Puzanau, Mayor

ATTEST:

Brandy Rineason, MMC, City Clerk  
 APPROVED AS TO FORM:

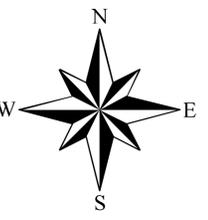
Sharon Gates, City Attorney

Sponsored by:

Scott Diener, Councilmember

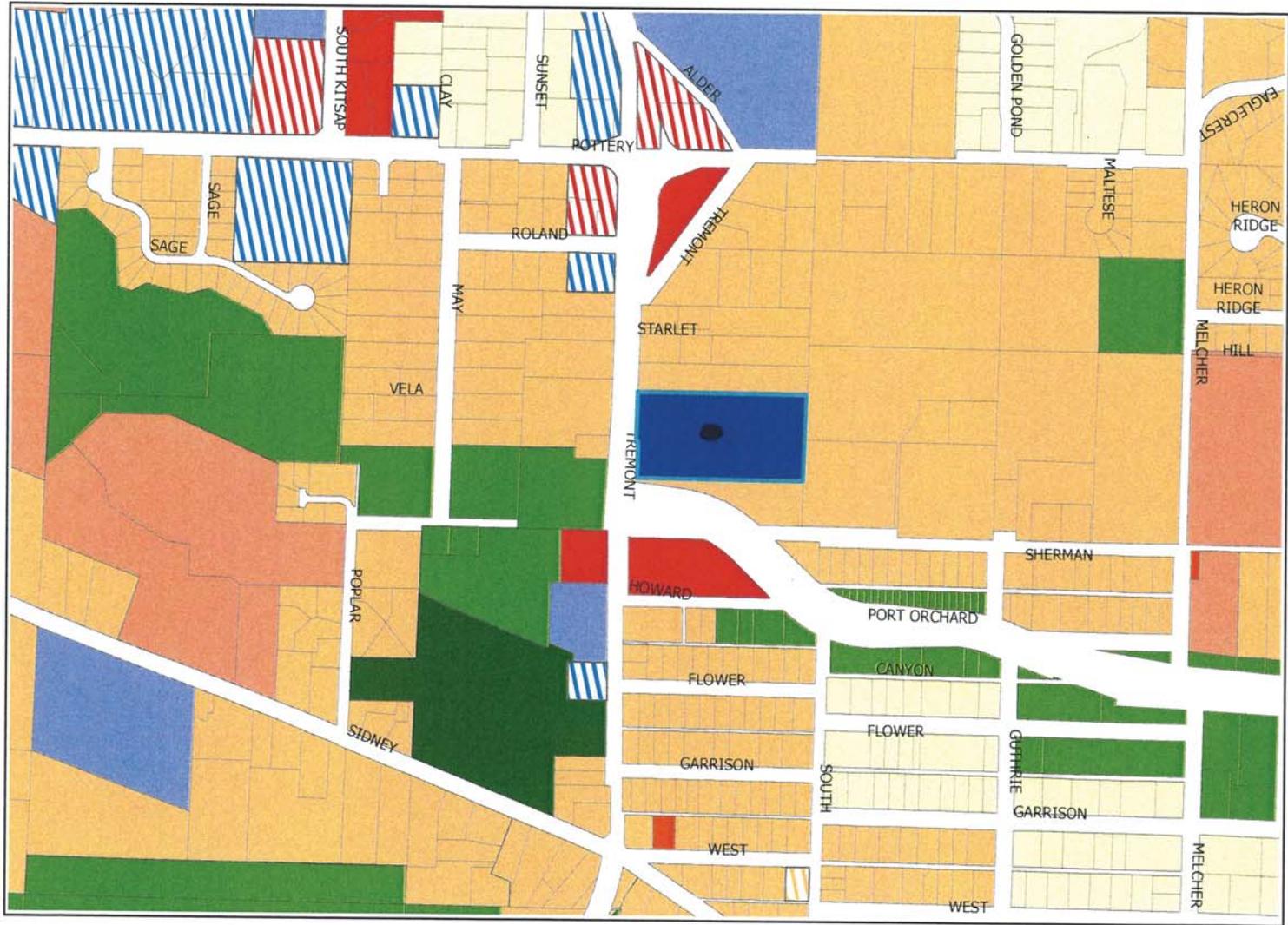
PUBLISHED: March 22, 2019  
 EFFECTIVE DATE: March 27, 2019

The official signed Zoning Map may be viewed at the City Clerk's office.



Date Saved: 7/5/2019 9:16:07 AM

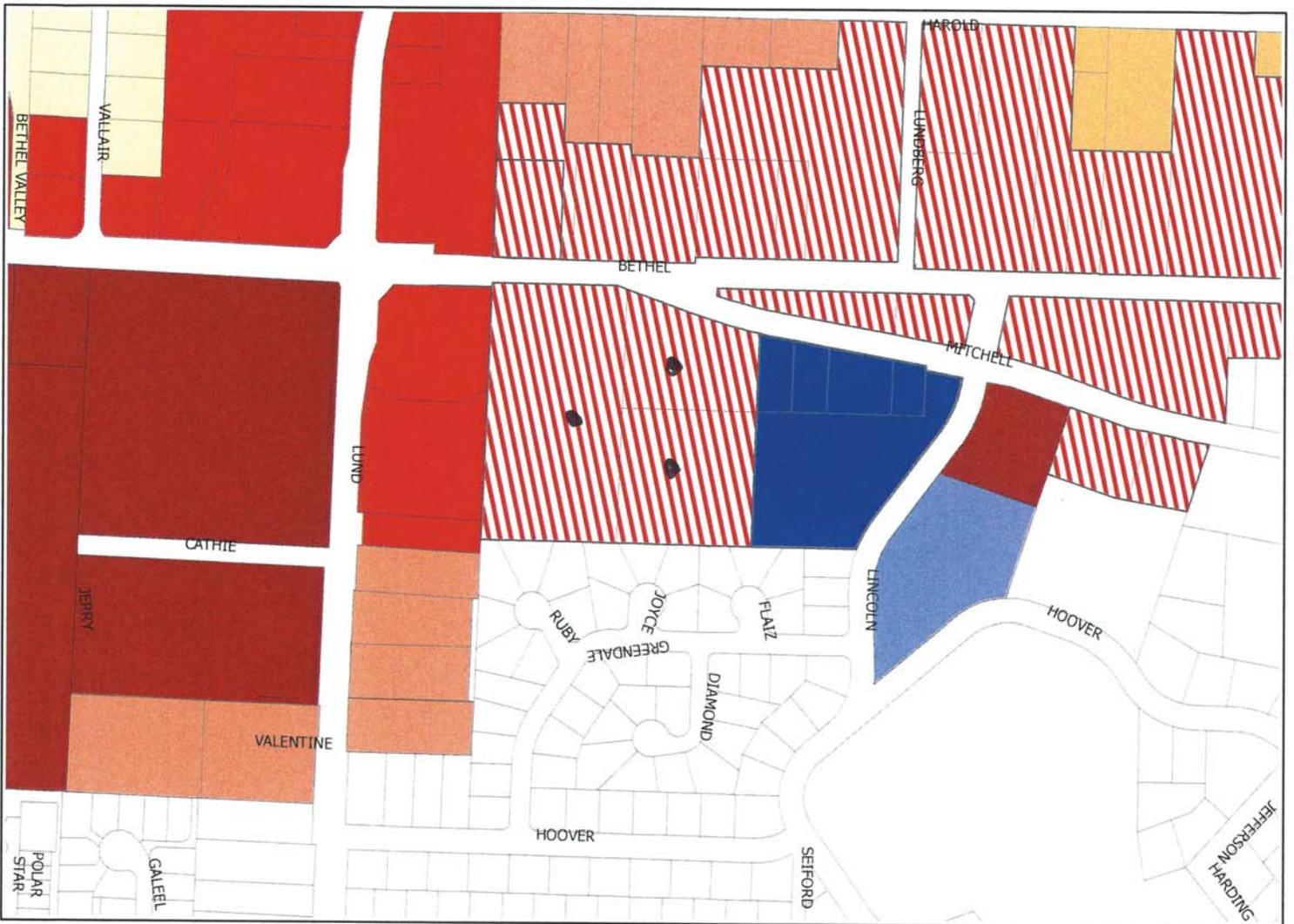
Bethany Lutheran Church  
 Tremont St  
 R2 to CI



- Business Professional Mixed Use (BPMU)
- Civic and Institutional (CI)
- Commercial Corridor (CC)
- Commercial Heavy (CH)
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- Residential 1 (R1)
- Residential 2 (R2)
- Residential 3 (R3)
- Residential 3 (R4)
- Residential 6 (R6)

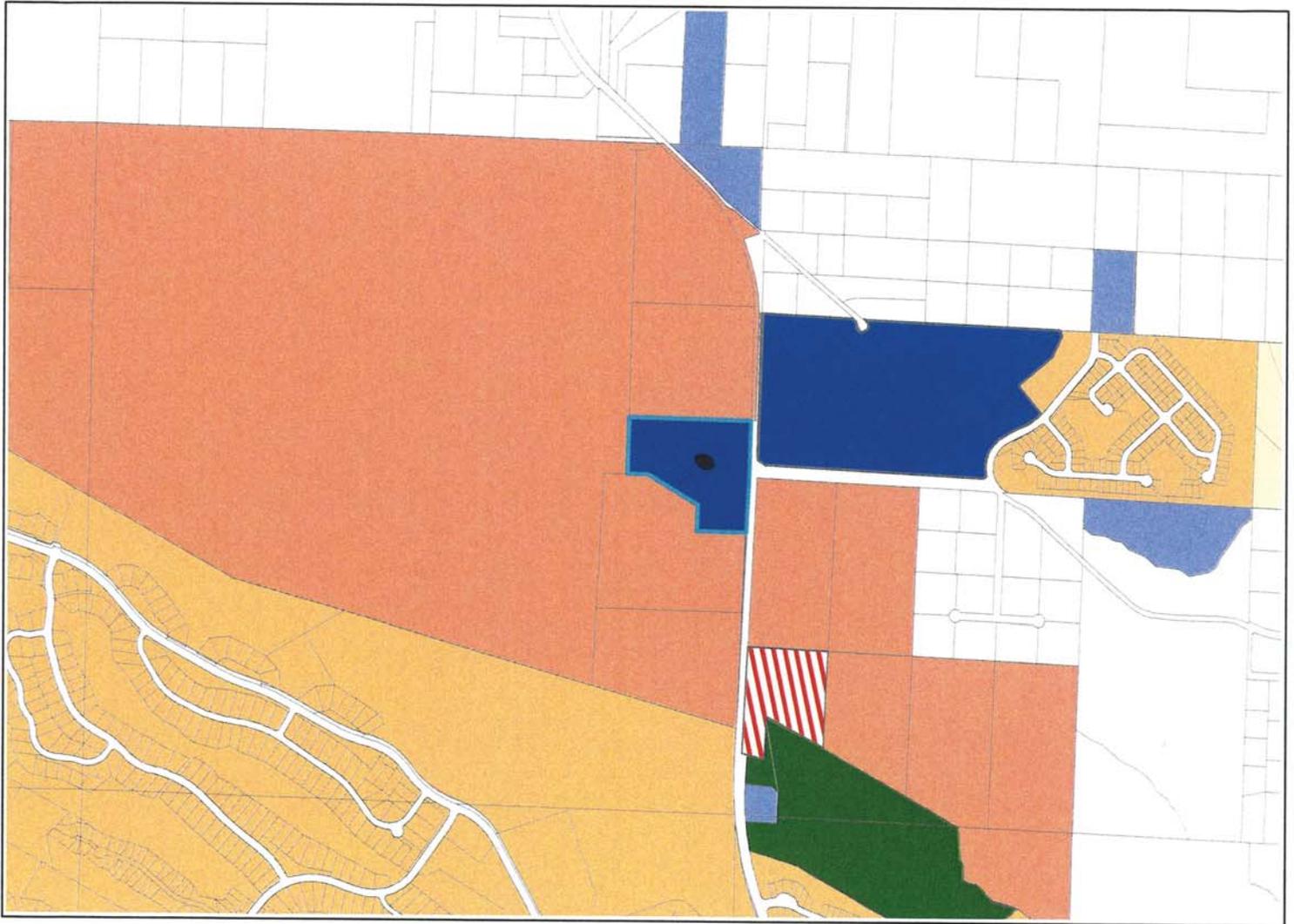
*Christian Life Center  
Bethel Rd  
CI to CMU  
Undeveloped parcels only.*

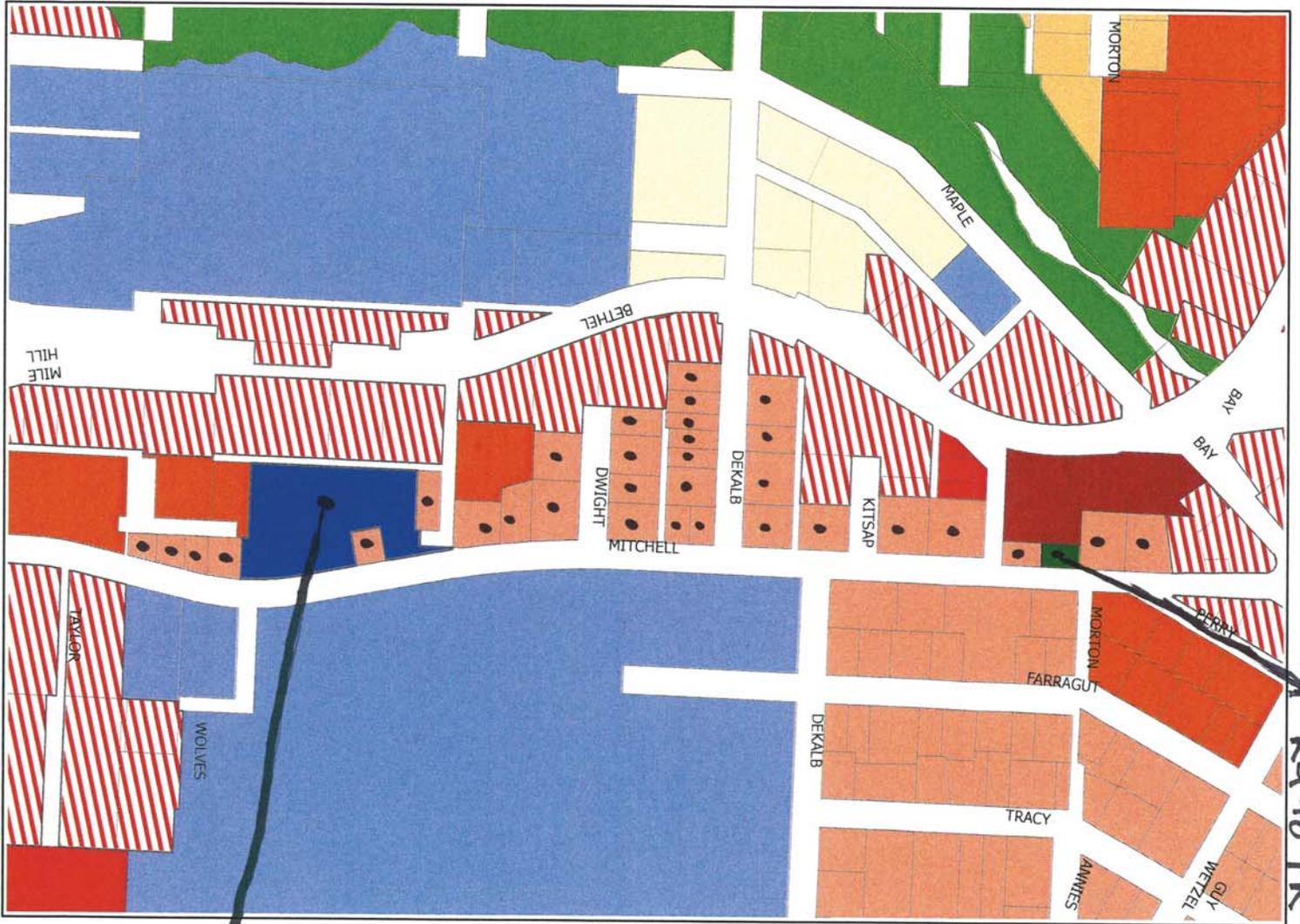
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-  Civic and Institutional (CI)
-  Commercial Corridor (CC)
-  Commercial Heavy (CH)
-  Commercial Mixed Use (CMU)
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-  Public Facilities (PF)
-  Residential 1 (R1)
-  Residential 2 (R2)
-  Residential 3 (R3)
-  Residential 3 (R4)
-  Residential 6 (R6)



Christ the Rock Church  
 Old Clifton Rd  
 R3 to CI

-  Business Professional Mixed Use (BPMU)
-  Civic and Institutional (CI)
-  Commercial Corridor (CC)
-  Commercial Heavy (CH)
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-  Residential 1 (R1)
-  Residential 2 (R2)
-  Residential 3 (R3)
-  Residential 3 (R4)
-  Residential 6 (R6)





Mitchell Ave Properties  
R4 to R3

City public works property  
R4 to CI

- Business Professional Mixed Use (BPMU)
- Civic and Institutional (CI)
- Commercial Corridor (CC)
- Commercial Heavy (CH)
- Commercial Mixed Use (CMU)
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- Residential 1 (R1)
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- Residential 3 (R4)
- Residential 6 (R6)